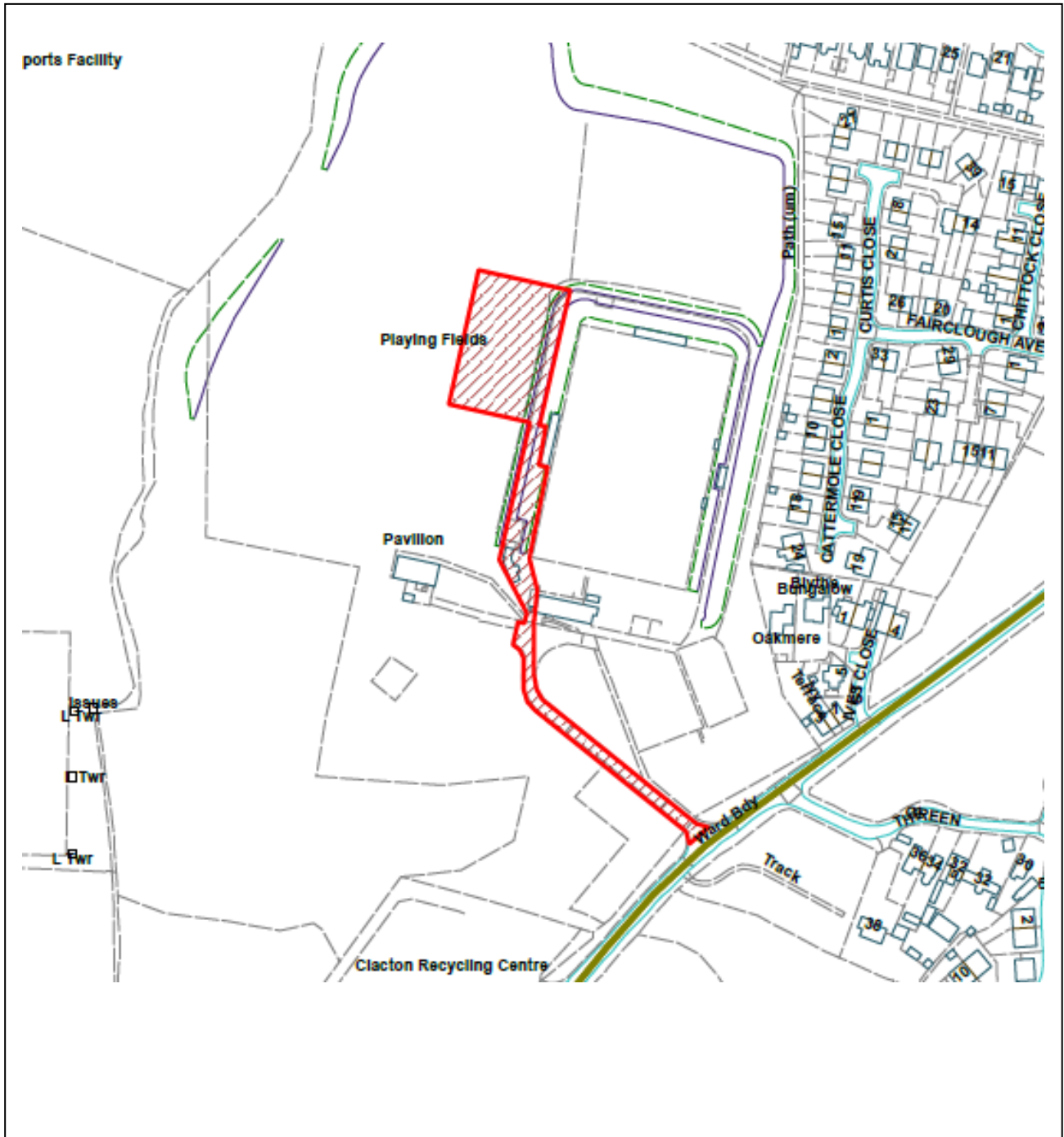


PLANNING COMMITTEE

05TH November 2024

REPORT OF THE DIRECTOR OF PLANNING

A.1. PLANNING APPLICATION – 23/00923/FUL – CLACTON FC RUSH GREEN ROAD CLACTON ON SEA CO16 7BQ



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Application:	23/00923/FUL	Expiry Date:	20th September 2023
Case Officer:	Naomi Hart	EOT Date:	25th September 2024
Town/ Parish:	Clacton Non Parished		
Applicant:	S Andrews - FC Clacton Community Benefit Society		
Address:	Clacton FC Rush Green Road Clacton On Sea Essex CO16 7BQ		
Development:	Extension to existing football club to provide additional all weather training pitch area.		

1. Executive Summary

- 1.1. The proposal is for the extension to the existing Clacton Football Club (FC) to provide an additional all weather training pitch area. The Artificial Grass Pitch (AGP) is proposed to be located on land which forms part of the Rush Green Safeguarded Open Space and is before the Planning Committee as the land is owned by Tendring District Council and because the proposal represents departure from the development plan.
- 1.2. Policy HP4 of the Local Plan 2013-2033 identifies areas of safeguarded open spaces to be protected. The policy states that development that would result in the loss of the whole or part of areas designated as Safeguarded Open Space will not be permitted unless the certain criteria are met. The proposal will result in the permanent loss of a section of safeguarded open space because the scheme includes a 4.5 metre fence around the proposed AGP, and its use is exclusively for Clacton FC members and other potential sport users while not including the wider public and removing this area of land from general recreational open space use. Whilst the proposal will benefit members of Clacton FC and other potential sport users that may be subject to commercial payment, access to the area by the wider general public would be permanently lost without replacement.
- 1.3. The proposal would bring some health benefits and benefits to Clacton FC and their members, making the club more agile in respect of their offer and equipping them with a much-needed facility. Against these benefits, the pitch will be sectioned off and the loss of the safeguarded open space will therefore be permanent. Sport England offer strong support despite the part loss of the safeguarded open space.
- 1.4. Furthermore, the proposed development will result in some visual harm due to the fencing and floodlighting proposed and its intrusion outwardly into the remaining open space. The landscaping proposed would be largely ineffective in mitigating this harm, and this weighs further against the proposal. Neutral elements include no harm to neighbouring amenity, there is considered to be sufficient parking provision and ECC Highways offer no objections subject to conditions. Similarly, ECC Ecology do not object to the proposal subject to conditions.
- 1.5. Taking all of the detailed considerations above into consideration, Officers have concluded that on this occasion the principle of development is not acceptable as it fails to comply with Policy HP4 of the Local Plan 2013-2033 and the health benefits and benefits to Clacton FC through the provision of this facility will not outweigh the loss of the safeguarded open space and the character harm. Accordingly, the planning application is recommended for refusal.

Recommendation: Refusal

- 1) That the Head of Planning and Building Control be authorised to refuse planning permission subject to the reason(s) as stated at paragraph 10.1, or varied as is necessary to ensure the wording is precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the reasons for refusal as referenced is retained; and,
- 2) The informative notes as may be deemed necessary.

2. **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 Local Plan 2013-33 and Beyond (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 made and the Minerals and Waste Local Plans adopted by Essex County Council.

3. **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. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

There are no neighbourhood plan(s) in place for this area.

4. **Planning Policy**

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

National:

National Planning Policy Framework December 2023 ([NPPF](#))
National Planning Practice Guidance ([NPPG](#))

Local:

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

SP1 Presumption in Favour of Sustainable Development
SP3 Spatial Strategy for North Essex
SP7 Place Shaping Principles

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

SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design

HP1 Improving Health and Wellbeing
HP2 Community Facilities
HP3 Green Infrastructure
HP4 Safeguarded Open Space

HP5 Open Space, Sports and Recreation Facilities

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

Supplementary Planning Documents

[Essex Design Guide](#)

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

5. **Relevant Planning History**

01/01946/TELCO M	Mobile telephone base station with a 15m high monopole mast, incorporating 3 no. antennas providing 3 no. sectors of cover, two 400mm and 1 no 600mm microwave dish, new equipment cabinet, compound	Prior Approval Not Required	17.12.2001
93/01057/FUL	(Rush Green Bowl, Rush Green Road, Clacton on Sea) Proposed toilet block	Approved	02.11.1993
95/00007/FUL	Extension to existing clubhouse and erect 2 No. portacabins	Approved	16.02.1995
99/00822/FUL	Electric lighting to youth training pitch	Approved	26.08.1999
99/00823/FUL	New football stand	Approved	26.08.1999
99/01134/FUL	New entrance porch to existing clubhouse	Approved	15.09.1999
19/00235/FUL	Proposed replacement floodlights and spectator rail.	Approved	23.04.2019

6. **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/>.

Sport England

19.09.2024 (Latest Comments)

In our most recent formal response to the consultation dated 19th July 2024, an objection was made as a statutory consultee because the amended 'Site Layout' showed tree planting sited on the natural turf playing field around three sides of the proposed artificial grass pitch (AGP). Concerns were raised about the potential impact of the tree planting on the ability to mark out football pitches on the remaining playing field area to the west and south of the AGP. It was

suggested that a revised playing pitch layout be provided which demonstrated how football pitches could still be accommodated if the tree planting was implemented as proposed. In response to this objection the applicant has now submitted further information about the impact on the surrounding playing field. I am now in a position to review our position on the application based on the further information that has been submitted. This response should be treated as superseding our previous formal responses to the consultation on this application.

Summary

Statutory consultee role

Sport England raises no objection to this application as a statutory consultee which is considered to meet exception 5 of our adopted Playing Fields Policy and paragraph 103 of the NPPF subject to a planning condition being imposed relating to artificial grass pitch certification as set out in this response:

Non-statutory consultee role

The principle of the development is supported as a non-statutory consultee and advisory comments are made on technical issues such as hours of use, lighting and noise.

Sport England - statutory consultee role and policy

We understand that you have consulted us as a statutory consultee in line with the above Order. Therefore, we have considered the application in light of the National Planning Policy Framework (NPPF), in particular paragraph 99, and Sport England's Playing Fields Policy, which is presented within our 'Playing Fields Policy and Guidance Document': www.sportengland.org/playingfieldspolicy

Sport England's policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of:

- all or any part of a playing field, or
- land which has been used as a playing field land remains undeveloped, or
- land allocated for use as a playing field

unless, in the judgement of Sport England the development as a whole meets with one or more of five specific exceptions. The exceptions are provided in the Annex to this response.

The proposal and impact on playing field

The proposal involves the siting of a floodlit artificial grass pitch (AGP) with a 3G surface that would be designed principally for football training use by Clacton Football Club but would have markings for 7v7 and 5v5 football pitches. The AGP would be sited on part of Clacton FC's playing field to the west of the club's first team stadium pitch. Tree planting is proposed on three sides of the AGP which would encroach onto the playing field.

Assessment against Sport England's Playing Fields Policy and NPPF

As the proposal relates to the provision of a new outdoor sports facility on the existing playing field it can be considered against exception 5 of the above policy (see Annex to this response). I have therefore assessed the proposal against the above policy to determine whether the proposals meet exception 5.

Sports Development Benefits

In summary, the proposed floodlit AGP would provide a modern all weather surface that would be capable of intensive use throughout the year for training, matches and coaching. The facility is intended principally for meeting the club's training needs. At present, the club trains on multiple facilities across the Clacton area, some of which are unsuitable for training use and some of the teams do not train due to the lack of suitable or affordable facilities. The lack of dedicated training facilities places pressures on the natural turf pitches on the club's site which results in the quality and carrying capacity of these pitches being adversely affected which is pertinent as the pitches have qualitative issues due to the playing field being a former landfill site. As well as Clacton FC's use, the AGP would also be made available to other clubs and community groups to use when not required by the club especially during the daytime and outside of the football season.

I have consulted the Football Foundation (who represent the FA and Essex County FA) who has advised that they are supportive of the principle of the club developing facilities to meet their needs. The rationale for the project has been explained in the information that has been submitted in support of the application. The design and layout of the AGP would also broadly accord with the FA's design guidance on AGPs.

Impact on Playing Field

In relation to the impact on the playing field, the AGP would be sited to the west of the football club's first team stadium pitch. The rationale for the siting of the AGP in this location is as follows:

- The existing fencing around the adjoining stadium pitch could be extended to incorporate the AGP.
- The siting would be further away from residential properties than other potential locations on the club site and therefore would prevent or minimise any residential amenity impacts.
- This area is understood to have been granted planning permission for floodlighting the natural turf playing field in the past for training use.

The playing pitch layouts that has recently (September 2024) been provided have shown that the AGP and tree planting could be sited on the playing field without affecting the senior football pitch that is currently marked out immediately to the west as this could be realigned slightly to accommodate the proposals. While there would no longer be sufficient space to the south of the AGP to accommodate a small 5v5 football pitch due to the tree planting it would appear that this area has not been marked out for playing pitches in recent years due to the poor ground conditions in this area. No existing football pitches would therefore be affected and the prejudicial impact on space for marking out additional pitches would be limited.

Sport England's position

Given the above, Sport England withdraws the objection set out in our previous response dated 19th July 2024 and raises no objection to the application because it is considered to accord with exception 5 of our Playing Fields Policy and paragraph 103 of the NPPF. This position is strictly subject to the following condition being attached to the decision notice should the local planning authority be minded to approve the application:

- Artificial Grass Pitch Certification: A condition requiring the submission and approval by the local planning authority (in consultation with Sport England) of certification that the artificial grass pitch has met the FIFA Quality Standard accreditation or equivalent International Artificial Turf Standard (IATS) requirements prior to first use of the artificial grass pitch. This is justified because AGPs can only be sanctioned for FA affiliated community football match use where the pitch has been tested to meet these requirements. As the club proposes to use the AGP for mini soccer league matches it will need to meet this the FIFA Quality standard. Further details of the FIFA standard is on FIFA's website at <https://www.fifa.com/technical/football->

technology/standards/footballs/fifa-quality-marks-explained. As a pitch can only be tested for certification when it is completed it would not be possible to request the information to be provided at planning application or pre-commencement stages. Following meeting the tests, the facility will need to be registered on the Football Foundation's Register of Football Turf Pitches <https://footballfoundation.org.uk/3g-pitch-register> to enable it to be sanctioned for FA affiliated community football match use. The Essex County FA can provide further advice to the applicant upon request. It is requested that the following condition and informative be imposed (which is based on condition 9b of our model conditions schedule https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport?section=playing_fields_policy):

"Use of the artificial grass pitch shall not commence until: (a) certification that the Artificial Grass Pitch hereby permitted has met the FIFA Quality accreditation or equivalent International Artificial Turf Standard (IATS); and (b) confirmation that the facility has been registered on the Football Foundation's Register of Football Turf Pitches; have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development is fit for purpose and sustainable, provides sporting benefits and to accord with Development Plan Policy **. Informative. The applicant is advised that the pitch should be tested every three years by an accredited testing laboratory in order to achieve and maintain FIFA Quality accreditation.

If the LPA is minded to approve the application without imposing the above condition then Sport England objects to the application as it is not considered to accord with any of the exceptions to our Playing Fields Policy or paragraph 103 of the NPPF.

If you wish to amend the wording of the condition or use another mechanism in lieu of the condition, please contact us to discuss. Sport England does not object to amendments to conditions, provided they achieve the same outcome and we are involved in any amendments.

Should the local planning authority be minded to approve this application without the above condition, then given Sport England's subsequent objection the Town and Country Planning (Consultation) (England) Direction 2021 requires the application to be referred to the Secretary of State via the National Planning Casework Unit.

Sport England - Non Statutory Role and Policy

The Government, within their Planning Practice Guidance (Open Space, Sports and Recreation Facilities Section) advises Local Planning Authorities to consult Sport England on a wide range of applications. <https://www.gov.uk/guidance/open-space-sports-and-recreation-facilities-public-rights-of-way-and-local-green-space>

This application falls within the scope of the above guidance as it relates to development which creates opportunities for sport. Sport England assesses this type of application in line with its planning objectives and with the National Planning Policy Framework (NPPF). Sport England's planning objectives are to PROTECT existing facilities, ENHANCE the quality, accessibility and management of existing facilities, and to PROVIDE new facilities to meet demand. Further advice is provided in Sport England's Planning for Sport guidance which can be found here: <https://www.sportengland.org/facilities-and-planning/planning-for-sport/planning-for-sport-guidance/>.

As a non-statutory consultee, without prejudice to our position as a statutory consultee set out above, Sport England would wish to make advisory comments on the following matters:

Principle of the Development

Principles 6 and 7 of Sport England's Planning for Sport guidance relate to the 'Enhance' objective and in summary support improvements to existing sports provision where they are needed (principle 6) and encourage/secure wider community use of existing and new sports provision (principle 7). The proposed development would provide an enhanced sports facility that would offer potential to make a contribution towards meeting community sports facility needs in the Clacton-on-Sea area for the reasons set out above. The proposals are therefore considered to meet principles 6 and 7 of the guidance. Sport England would therefore wish to confirm its support for the principle of the proposed development as a non-statutory consultee.

Hours of Use and Sports Lighting

The proposal for the AGP to include sports lighting is welcomed and considered essential as this will offer significant sports development benefits in terms of facilitating use by the community during peak periods of demand. Without suitable sports lighting, it would not be possible for the facility to meet the needs that it has been designed to address. While Sport England would not require a planning condition to be imposed relating to the hours of use of the AGP or its sports lighting, it is acknowledged that the Council may wish to impose such a condition in order to address potential impact on residential amenity or the environment. If planning permission is granted, it is recommended that any condition that may be imposed by the Council relating to the hours of use of the lighting and the use of the AGP is not overly restrictive. In this regard, it is advised that peak community use of AGPs on similar sites usually extends until 10.00 p.m. on weekday evenings. If the Council wishes to impose a planning condition restricting the hours of use of the AGP or its sports lighting, consideration should be given to using condition 14 from our model conditions schedule.

It should be noted that if the Council sought to remove the sports lighting or impose significant restrictions on the hours of use of the AGP or its lighting in the evenings this may affect our position on the planning application as the potential sport related benefits would be diminished plus it may affect the feasibility and sustainability of the project. If such an approach is to be taken it is requested that Sport England be advised before the planning application is determined to provide an opportunity to review our position on the planning application.

If the design of the lighting scheme is material to the assessment of the planning application, I would recommend that consideration be given to Sport England's 'Artificial Sports Lighting' guidance note <https://www.sportengland.org/guidance-and-support/facilities-and-planning/design-and-cost-guidance/artificial-lighting> and the FA's Guide to 3G Football Turf Pitch Design and Layouts <https://www.thefa.com/get-involved/player/facility-development-and-technical-guidance>.

Noise

If noise generated from the use of the AGP is an issue in the determination of the planning application, Sport England has published a guidance note on the planning implications of AGP acoustics. This is intended to aid in developing a more consistent approach when assessing the noise associated with AGP use and to provide some rules of thumb when assessing noise impact. If applicable, it is recommended that this guidance is considered to inform any assessment of noise impact as it has been tailored to assist with the consideration of this issue. This can be downloaded from our website at <https://www.sportengland.org/guidance-and-support/facilities-and-planning/design-and-cost-guidance/outdoor-surfaces>.

Please note that this response relates to Sport England's planning function only. It is not associated with our funding role or any grant application/award that may relate to the site.

If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agendas, report(s) and committee date(s). We would be grateful if you would advise us of the outcome of the application by sending us a copy of the decision notice.

Annex

The Five Exceptions to Sport England's Playing Fields Policy

Exception 1

A robust and up-to-date assessment has demonstrated, to the satisfaction of Sport England, that there is an excess of playing field provision in the catchment, which will remain the case should the development be permitted, and the site has no special significance to the interests of sport.

Exception 2

The proposed development is for ancillary facilities supporting the principal use of the site as a playing field, and does not affect the quantity or quality of playing pitches or otherwise adversely affect their use.

Exception 3

The proposed development affects only land incapable of forming part of a playing pitch and does not:

- reduce the size of any playing pitch;
- result in the inability to use any playing pitch (including the maintenance of adequate safety margins and run-off areas);
- reduce the sporting capacity of the playing field to accommodate playing pitches or the capability to rotate or reposition playing pitches to maintain their quality;
- result in the loss of other sporting provision or ancillary facilities on the site; or
- prejudice the use of any remaining areas of playing field on the site.

Exception 4

The area of playing field to be lost as a result of the proposed development will be replaced, prior to the commencement of development, by a new area of playing field:

- of equivalent or better quality, and
- of equivalent or greater quantity, and
- in a suitable location, and
- subject to equivalent or better accessibility and management arrangements.

Exception 5

The proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field.

The full 'Playing Fields Policy and Guidance Document' is available to view at: www.sportengland.org/playingfieldspolicy

Essex County Council Ecology

15.07.2024 (Latest Comments)

Thank you for re-consulting Place Services on the above application.

No objection subject to securing biodiversity mitigation and enhancement measures

Summary

We have reviewed the newly submitted Preliminary Roost Assessment (Matthew Game, June 2024) relating to the likely impacts to bat roosts.

We also re-reviewed the non-ecological documents submitted by the applicant in support of this application.

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

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

The mitigation measures identified in the Preliminary Roost Assessment (Matthew Game, June 2024) 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 bats.

We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 180d of the National Planning Policy Framework (2023). 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 (as amended).

Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013.

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

Recommended conditions

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Roost Assessment (Matthew Game, June 2024) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

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

2. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

"A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;

- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter."

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (as amended).

ECC Highways Dept

16.07.2024 (Latest Comments)

The revised information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on the submitted material. It is noted that the amended proposed Site Layout Plan shows an increase in the size of the application site and includes the provision for new planting on the perimeter of the site, again the proposal site is set well back from the highway. As with the original supporting information no changes are proposed to the established vehicular access off Rush Green Road or to the internal off-street parking within the site. In relation to the amended proposals the Highway Authority has no additional comments to make, therefore:

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. Prior to the first use of any external lighting / floodlighting within the development site, the light source shall be so positioned and shielded, in perpetuity, to ensure that users of the highway are not affected by dazzle and/or glare, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that users of the highway are not subjected to glare and dazzle from lighting within the development in the interest of highway safety and in accordance with Policy DM1.

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.

Informative:

1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

2: 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.

Environmental Protection

25.07.2024 (Latest Comments)

Thank you for your consultation regarding the proposed development above. The Environmental Protection Team's comments are given below:

Contaminated Land: Given the site is located on historic, registered contaminated land, the EP team are requesting that a Watching Brief be conditioned on any subsequent approval and adhered to throughout the construction phase. We request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
2. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
3. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
4. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.

8. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
10. A photographic record will be made of relevant observations.
11. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be:
 - o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment;
 - o treatment of material on site to meet compliance targets so it can be re-used;
 - o removal from site to a suitably licensed landfill or permitted treatment facility.
12. A Verification Report will be produced for the work.

REASON: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is to ensure the risks from land contamination to the site workers and future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

Construction Activities: In order to minimise potential nuisance caused by demolition/construction works, Environmental Protection recommend that the following hours and actions be adhered to, should the application be approved;

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.
- No materials produced as a result of the site development or clearance shall be burned on site.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

REASON: to protect the amenity of nearby residential premises.

Tree & Landscape Officer

10.07.2024 (Latest Comments)

The amended Proposed Site Layout Plan shows an increase in the size of the application site and makes provision for new planting on the perimeter of the site

At the present time the plan shows only indicative details and location of planting.

Should planning permission be likely to be granted then details of plant species, specification and quantities can be secured by a planning condition. Alternatively, this information could be provided prior to the determination of the application.

7. Representations

7.1. Parish / Town Council

Clacton is non parished.

7.2. Neighbour / Local Representations

No letters of representation have been received.

8. Assessment

Site Context

- 8.1. The application site relates to a parcel of land located to the south western side of Clacton Football Club, Rush Green Road, Clacton on Sea. The application site is located within Rush Green Safeguarded Open Space.
- 8.2. To the east of the application site, beyond Clacton Football Club are dwellings which are located along Cattermole Close. Approximately 300 metres to the west of the application site is Bishops Park which consists of Market Field College, Tendring Education Centre, Sigma Sixth Campus and West Clacton Library. The site also comprises of three tennis courts and a football pitch. To the south of the application site is the Groundsman Flat.
- 8.3. The application site falls within the Settlement Development Boundary for Clacton on Sea within the adopted Local Plan 2013-2033.

Description of Proposal

- 8.4. This application seeks planning permission for the proposed extension to the existing football club to provide an additional all weather training pitch area. The 3G Artificial Grass Pitch (AGP) will measure approximately 37 metres by 63 metres. The pitch will be bounded by 4.5 metre perimeter fencing with a double leaf gate which will form an enclosure around the pitch's perimeter as well as 4 x 12 metre high LED floodlights.
- 8.5. The applicant has confirmed that the Football club is open 7 days a week 9am – 10pm. The proposed pitch will impose the same opening days and times.

Principle of Development

- 8.6. Paragraph 102 of the National Planning Policy Framework (NPPF 2023) states that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well being of communities, and can deliver wider benefits for nature and support efforts to address climate change. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.
- 8.7. This application is to extend the existing football club to provide an all weather training pitch. Clacton Football Club and the application site (where the training pitch is to be located) are both located with Rush Green Safeguarded Open Space.
- 8.8. The key and most important local plan policy insofar as the principle of development is concerned is Policy HP4 of the Tendring District Local Plan 2013-2033.
- 8.9. Policy HP4 states that development that would result in the loss of the whole or part of areas designated as Safeguarded Open Space, as defined on the Policies Map and Local Maps will not be

permitted unless the following criteria are met (criteria first followed by the officer assessment under the said criteria in *Italic*):

- a. The site is replaced by the provision of new site at least equal in quality and size and accessible to the community which the existing site serves;

The proposal does not seek to replace the safeguarded open space which is to be lost by this development and will not be accessible to the wider public, therefore failing to meet this criteria.

- b. It is demonstrated that there is no longer a demand for the existing site;

No evidence has been provided to demonstrate that there is no longer a demand for the existing site (as safeguarded open space) and therefore fails to meet this criteria.

- c. The site is not appropriate for other open space functions;

No evidence has been provided to demonstrate that other open space functions have been explored (and found to be not appropriate) by the applicant and therefore the proposal fails to meet this criteria.

and

- d. The development of the site would not result in the loss of an area important to visual amenity.

The application site is adjacent to the existing Football Club which is currently unfenced and accessible to the wider public. Around the perimeter of the proposed pitch will be a 4.5 metre high fence which will remove public access to the safeguarded open space. Although the proposed pitch would be a community benefit to a select number of members of the public (i.e. Clacton FC members and other users associated directly or indirectly with Clacton FC), it would represent land removed from the general access to the public and their enjoyment without any form of replacement. It is considered that the introduction of the pitch as well as the proposed fencing would result in the loss of an area important to visual amenity.

- 8.10. The principle of development is therefore not supported by Policy HP4 and Paragraph 102 of the NPPF 2023. The remainder of the assessment will now turn to the other relevant material planning considerations including statutory consultee responses.

Expansion of Existing Sporting Facility

- 8.11. Policy HP1 of the Local Plan states that the Council will work to improve the health and wellbeing of residents in Tendring. Policy HP5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types.
- 8.12. Sport England are a statutory consultee on this planning application as the proposal affects an existing playing field. Sport England were originally consulted on this application and provided their formal consultation however insufficient information was provided and a holding objection was submitted. The applicant provided a response with additional information to try and overcome the objection and Sport England objected again due to insufficient information being provided in relation to the design and layout of the pitch. Further additional information was provided and Sport England removed their holding objection on the basis that the proposal will comply with exception 5 of Sport England's adopted Playing Field Policy (as set out in their latest consultation response). The 'exception 5' criteria that Sport England relies on in support of their position is based on when a proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field. The area of safeguarded open space that makes

up the application site is only informally used as a playing field during the times when Clacton FC (and other members of the public) are using it as football playing field. Officially the site is safeguarded open space and there is no change of use planning permission in existence on the site authorising the use of the site as a playing field, whether that is a football playing field or any other playing field. For these reasons the weight that can be given to the Sport England comments is reduced.

- 8.13. In addition to the above, after discussions with the applicant in regards to the principle of development, concerns were raised from Officers in regards to the lack of ecological surveys and landscaping to help screen the proposed development. The applicant provided an ecological survey and indicative landscaping to help soften the appearance of the development to overcome Officers concerns. Sport England were re-consulted and raised concerns that the indicative landscaping would encroach into the 'realigned senior pitch to the west'. The applicant after discussions directly with Sport England provided an amended plan demonstrating that the proposal as well as the landscaping would retain a sufficient distance to the senior pitch. Sport England were reconsulted and have no objections subject to conditions.
- 8.14. As a result, Policy HP1 and HP5 of Tendring District Local Plan 2013 – 2033 lend support to the proposal.
- 8.15. The proposed floodlit Artificial Grass Pitch (AGP) would also provide a modern all weather surface that would be capable of intensive use throughout the year for training, matches and coaching. The facility is intended principally for meeting the club's training needs. At present, the club trains on multiple facilities across the Clacton area, some of which, it has been argued, are unsuitable for training use and some of the teams do not train due to the lack of suitable or affordable facilities. The LPA accepts that the lack of dedicated training facilities places pressures on the natural turf pitches on the club's site which results in the quality and carrying capacity of these pitches being adversely affected which is pertinent as the pitches have qualitative issues due to the playing field being a former landfill site. As well as Clacton FC's use, the applicant explained that the AGP would also be made available to other clubs and community groups to use when not required by the club especially during the daytime and outside of the football season.
- 8.16. The proposal is clearly to expand the Clacton FC and to provide an additional facility for Clacton FC members, and clubs and individuals directly or indirectly associated with Clacton FC. However a section of safeguarded open space to the wider public will be permanently lost in exchange for an engineered 3G pitch, which will only be available for a certain members of the community as set out above. The weight that can be afforded to the benefits as set out in the paragraphs above is therefore reduced. These benefits will be returned in the planning balance and conclusion section and be weighed against any harmful elements/areas of policy conflict.

Impact to Character of the Area

- 8.17. Paragraph 135 of the NPPF (2023) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 8.18. Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the quality of existing places and their environs. Policy SPL3 and LP4 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout which create a unique sense of place.
- 8.19. This application seeks to extend the existing football club to provide an additional all weather training pitch area. This will include 4.5 metre fencing, 4 x 12 metre high floodlight columns and goal storage

areas. The proposed pitch will be located to the south west of the existing Clacton Football Club grounds and located within Rush Green Safeguarded Open Space.

- 8.20. The pitch measures approximately 63 metres by 45 metres. Whilst its siting would function well for the Football Club in connection with the existing facilities, it will protrude out into the existing open space in a jarring manner and affect the public area as a whole in terms of its visual impact. It is considered that due to the 4.5 metre fencing located around the perimeter of the pitch, the proposal will be a prominent and dominant feature within the heart of open space, acting as a visual barrier across the area and as a result will cause visual harm to the character of the area. Discussions were had with the applicant and amended plans were provided which demonstrates that the pitch has been relocated slightly to the south as well as indicative landscaping to the North, South and West of the site which helps to soften the proposed fencing and overall development. It is considered that the indicative landscaping will help reduce the visual harm, however landscaping of this nature can take a very long time to establish itself, and the proposed floodlighting (four in total) would be the most prominent of that being proposed from wider views. Floodlighting is a typical addition to a 3G pitch such as the one proposed and Officers acknowledge that these floodlights are necessary to ensure that the pitch can be used during winter months (and to make the investment stack up from a financial perspective). However, the floodlights will naturally be visible from certain views and will be prominent in the localised landscape. Again, the landscaping proposed would largely be ineffective during in the short and medium term, and even longer term the floodlighting will continue to be visible due to their height. The proposal will therefore conflict with policies SP7 and SPL3 of the Local Plan.

Impact to Neighbouring Amenities

- 8.21. Paragraph 135 of the National Planning Policy Framework (2023) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 8.22. Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 8.23. To the east of the application site, beyond Clacton Football Club site are dwellings which are located along Cattermole Close. Approximately 300 metres to the west of the application site is Bishops Park which consists of Market Field College, Tendring Education Centre, Sigma Sixth Campus and West Clacton Library. The site also comprises of three tennis courts and a football pitch. To the South of the application site is the Groundsman Flat, although there will be views of the proposal from the neighbouring building, due to the distance and the high quality landscaping scheme which will be put forward as part of the discharge of condition application, the proposed pitch is not considered to cause any significant impact upon the neighbouring amenities. Due to the location of the proposed pitch as well as the proposed landscaping which will help to screen the proposal, it is not considered to cause any significant impact upon the wider neighbouring amenities.
- 8.24. Tendring District Councils Environmental Health Team have been consulted on this application and have stated that given the historic, registered contaminated land, the team are requesting a watching brief is conditioned and adhered to throughout the construction phase. The team have also recommended working hours for construction works to minimise any potential nuisance caused by the construction works.

Highway Safety

- 8.25. Paragraph 115 of the National Planning Policy Framework 2023 seeks to ensure that safe and suitable access to a development site can be achieved for all users, whilst Paragraph 104 requires

that streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

- 8.26. Adopted Policy CP1 (Sustainable Transport and Accessibility) of the Tendring District Local Plan 2013-2033 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people.
- 8.27. There are no changes proposed to the established vehicular access off of Rush Green Road or to the internal off street parking within the site. The site consists of an existing car park which serves the football club and public open space. No additional parking spaces are provided as part of the proposal. Essex Parking Standards states that for an outdoor sport pitch, 20 spaces are required for one pitch. In the applicant's response to Sports England, it has been outlined that the proposed pitch will be used for roughly the same number of users as they currently have. However, in the winter months, due to the weather conditions this will likely see an increase in the number of users, maintaining the same number of users in the summer months.
- 8.28. It is noted that there are approximately 58 parking spaces serving the existing facilities and whilst it is noted that there is no additional parking provided for this application. There is an overspill car park located to the east of the existing car park which can also provide additional parking. It is concluded that as the proposal is to extend the existing sport facilities of Clacton FC and ECC Highways has not raised an objection to the proposal in terms of highway safety, on balance, the unchanged parking provision compared to the existing situation is considered acceptable.

Trees and Landscaping Impacts

- 8.29. The application site currently forms part of the recreation ground and is set to grass. The boundary of the application site with the football ground is demarcated by an established coniferous hedge. Although the hedge provides a good screen to the football ground, it is in poor condition. The hedge is not an attractive feature in its setting and is not considered to be a significant constraint on the development potential of the land. As part of this application, the hedgerow is to be removed which is not considered to have a significant impact on the character or appearance of the locality.
- 8.30. Due to concerns raised in regards to the 4.5 metre high fencing, the floodlights and the location of the proposed pitch jutting into the public open space the applicant provided amended plans to demonstrate indicative landscaping to the North, South and West of the application site to help screen the 4.5 metre fencing and the proposed development particularly due to the open nature of the site. For the reasons set out in the Impact to character section above, the soft landscaping will be ineffective in providing the required screening however a soft landscaping condition can be imposed to secure these details in the event of an approval.

Renewable and Energy Conservation Measures

- 8.31. Paragraph 116 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.
- 8.32. Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.
- 8.33. for electric cars, and potentially additional renewable features. No details, however, are provided within the application submission. Therefore, in the event of an approval it will become reasonable

and necessary to include a planning condition requiring a scheme, together with a timetable to be submitted for the consideration and installation of these measures, as such a condition is capable of addressing these policy requirements.

Biodiversity and Geodiversity

- 8.34. Paragraph 186 of the NPPF states that, when making planning decisions local planning authorities need to assess whether significant harm to biodiversity could result from the development. The NPPF goes on to state the hierarchy that should be applied to mitigate any harm to ecology that is identified. Paragraph 180 of the NPPF requires that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value. TDLP Policy PPL4 states that proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.
- 8.35. This report addresses the distinct legal requirements, ensuring a comprehensive analysis of the ecology and biodiversity impacts of the proposal in line with regulatory standards.

General duty on all authorities

- 8.36. The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.
- 8.37. This development is subject to the general duty outlined above. The proposal is for a football pitch on a site currently utilised as part of safeguarded open space. Although indicative landscaping has been demonstrated on the proposed plans, a condition will be imposed to ensure that full landscaping details are provided to secure planting. An informative recommending the applicant is strongly encouraged to improve the biodiversity of the site through appropriate additional planting and wildlife friendly features is included.
- 8.38. Therefore, the development on balance and with consideration of the impact of the development and baseline situation on site, may be likely to conserve and enhance biodiversity interests.

Biodiversity net gain

- 8.39. Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. The minimum requirement is for a 10% net gain in biodiversity value achieved on a range of development proposals. The application was submitted prior to the introduction of this requirement and this can not be imposed in law on this basis.

Protected Species

- 8.40. In accordance with Natural England's standing advice the application site and surrounding habitat have been assessed for potential impacts on protected species. The proposal includes for a football pitch on part of the wider school playing field. The impacts to protected species have been carefully addressed within the report above, and it is considered that the proposal is unlikely to adversely impact upon protected species or habitats.
- 8.41. Paragraph 180(d) of the National Planning Policy Framework (2023) states that planning policies and decisions should contribute to and enhance the natural and local environment by minimising

impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 186(a) of the NPPF adds that 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.

- 8.42. Adopted Policy PPL4 (Biodiversity and Geodiversity) states that as a minimum, there should be no significant impacts upon any protected species, including European Protected Species and schemes should consider the preservation, restoration or re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations.
- 8.43. ECC Place Services Ecology were originally consulted on this application and raised a holding objection due to insufficient ecological information on European Protected Species, including Bats. The applicant provided a Preliminary Roost Assessment which includes a ground level bat tree assessment. The assessment concluded that the trees within and adjacent to the proposed site have negligible value for roosting bats due to the lack of potential roost features. The report recommends the installation of two bat boxes on mature trees around the site boundaries which will provide roosting habitats for bats.
- 8.44. ECC Place Services Ecology were reconsulted on the Preliminary Roost Assessment and are satisfied that there is sufficient ecological information available. In the event of an approval the proposed mitigation measures as set out in the ecology assessment will be imposed as conditions to conserve and enhance protected and priority species particularly bats. The team also support the proposed reasonable biodiversity enhancements which will need to be confirmed within a Biodiversity Enhancement Strategy and this can also be a condition in the event of an approval.
- 8.45. In accordance with the overarching duty outlined above, this development, subject to conditions is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

9. Planning Balance and Conclusion

- 9.1. The proposal is for the expansion of an existing sporting facility on safeguarded open space and the proposal will bring forward considerable health benefits for its users. Moreover, a 3G pitch will clearly improve the facilities that Clacton FC have on offer and allows for more widespread usage including during wet winter months, which will cast the health benefits even wider.
- 9.2. Against these benefits clear policy conflict has been identified in terms of the principle of development (in particular the permanent loss of portion of safeguarded open space) and character harm that will ensue as a result of the expansion, the 4.5m fence and the floodlighting. These harmful element attracts significant weight in the overall planning balance because it results in clear policy conflict in terms of the former, including the permanent loss of safeguarded open space, and moderate policy conflict in terms of character harm as set out within the body of the report.
- 9.3. All other third party representations, including those from technical consultees and members of the public have been carefully considered, and where necessary, considered as part of the officer assessment of this scheme. It is considered that the revised proposals, subject to the imposition of conditions, have addressed all other technical policy matters. The application site and area is also located in a sustainable location in one of the districts Strategic Urban settlements. All these elements are neutral in the planning balance.
- 9.4. Overall, the proposals benefits are modest especially when judged against the fact that a fairly large proportion of safeguarded open space will be permanently lost to the wider public contrary to the Local Plan that has full weight. The adverse impacts as identified above, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework. The

proposal would conflict with the development plan as a whole, and there are no other considerations including the provisions of the Framework which outweigh this finding.

10. Recommendation

10.1. The Planning Committee is recommended to refuse planning permission.

10.2. Reason for Refusal

Paragraph 102 of the National Planning Policy Framework (NPPF, December 2023) states that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.

Policy HP4 of the Local Plan 2013-2033 aims to protect open spaces as defined on the Policies Map and Local Maps. The policy states that development that would result in the loss of the whole or part of areas designated as Safeguarded Open Space, as defined on the Policies Map and Local Maps will not be permitted unless the following criteria are met;

- The site is replaced by the provision of new site at least equal in quality and size and accessible to the community which the existing site serves,
- It is demonstrated that there is no longer a demand for the existing site
- The site is not appropriate for other open space functions
- The development of the site would not result in the loss of an area important to visual amenity.

The proposed development, if approved, would reduce public accessibility to part of Rush Greens Safeguarded Open Space, reducing public benefit for recreation and wider community benefit. No evidence has been provided to demonstrate that the tests of Policy HP4 can be satisfied, including provision for a new site, or no longer a demand for the existing site and other open space functions. Moreover, the proposed expansion, including a 4.5 metre perimeter fencing and floodlighting, while removing public access, will result in a harmful protrusion of the pitch into the remaining safeguarded open space. The proposal would result in the loss of an area important to visual amenity and public views of the protected area. The proposal is therefore contrary to Policies HP4, SP7 and SPL3 of the Local Plan 2013-2033 and Paragraphs 102 and 135 of the NPPF 2023.

10.3. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reason(s) set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (accounting for any updated or amended documents):

- Drawing No. 04 Revision 01 - AGP Layout
- Drawing No. P01F - Proposed Layout

- Drawing No. P02b - Pitch Layouts
- Additional Information - Flood Lighting and Pitch Details - Scanned 28/07/23
- Amended Lighting Design Report - Dated 23/08/2023
- Preliminary Ecology Roost Assessment Inc. Ground Level Bat Tree Assessment – Dated 21/06/2024

11. Additional Considerations

Equality Impact Assessment

- 11.1. 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.
- 11.2. 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.
- 11.3. 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

- 11.4. 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.
- 11.5. 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).
- 11.6. 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

- 11.7. 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.

12. Background Papers

- 12.1. 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/>.