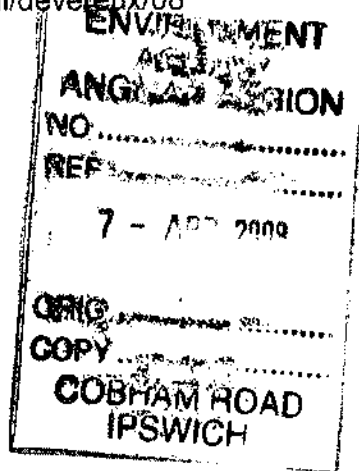


Your Ref:
Our Ref: GW/14/134/ MI/devereux/08
Date: 02 April 2008



Essex County Council



Merle Leeds,
Environment Agency,
Eastern Area,
Cobham Road,
IPSWICH,
Suffolk
IP3 9JE

Tony Ciaburro
Director for Development, Highways
and Transportation
Essex County Council
County Hall
Chelmsford
Essex CM1 1QH

Dear Madam,

**BIODIVERSITY INTERTIDAL HABITAT CREATION SCHEME
AT KIRBY LE SOKEN
FOOTPATH 23 THORPE LE SOKEN; AND FOOTPATHS 32 AND 36
FRINTON AND WALTON**

Thank you for your letter of 11th March 2008 with enclosures.

Footpaths 23 Thorpe le Soken, 32 (very short section) and 36 Frinton and Walton are relevant to this proposed scheme. These footpaths are recorded on the top of the existing sea wall on the County Council's Definitive Map of Public Rights of Way kept under the auspices of the Wildlife and Countryside Act 1981. There are no recorded widths in the accompanying Statement but it would be taken that the paths occupy the full available width of the seawall.

In relation to the proposed diversion routes themselves, it is always advisable to seek the minimum movement of the path(s) required to secure a reasonable diversion. The attached extract from the Definitive Map has been marked to show the proposals as understood and would amount to the closure of footpath 23(A-B) and footpath 32(B-C) with the exchange route A-J-K-C or option A-J-K-L. In respect of footpath 36, the diversion proposal as understood would be the closure of H-E with the exchange route being H-G; or the closure of D-H-E with the exchange route G-F-D. There would appear to be a permutation of footpath creations E-F; E-M-N-F; and N-O.

Taking the diversions first, an initial look at the proposals would suggest that there is a need for a cautious approach, even though the overall scheme may have much to commend.



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- 1) The long distance seaward views are an essential part of the amenity of the existing routes and must be safeguarded as far as possible when considering the diversions. It is not absolutely clear how such views could be retained unless all the new routes are on top of embankments, even taking into account the slight rise in the back land. The views for example might be obscured by the sections of the original abandoned sea walls in the foreground. No doubt a site inspection would assist to clarify the position.
- 2) A key issue relates to the appropriate Order making powers (and therefore the anticipated level of objections that may be received). This would be dependant upon whether all the breaches in the sea wall would be engineered breaches requiring planning permission. If so, this would clearly need to be evidenced in the planning permission and describe the breaching in a controlled manner of the existing sea wall at the 3 locations concerned. This would be necessary, in addition to referring to the construction of the new counter wall works, because the diversion of the footpaths may only take place when it is necessary to enable the development to be carried out. There would be nothing, for example, to prevent the construction of the counter walls without deliberately destroying the existing sea wall. Therefore, clear reference in any planning application and subsequent consent to controlled destruction of the sea wall means that the diversions could go ahead, subject to any necessary approvals, under the Planning Act powers. The significance of this is that it would be far easier to justify the making of Public Path Orders under these powers than under Section 119 Highways Act 1980, given the statutory tests involved.
- 3) Regarding the proposed footpath creations, I am checking our records to ensure that no claims have been lodged under the Definitive Map Review, particularly as the route along the section of sea wall to the east (E-J) linking to Rigdons Lane may have been walked for an uninterrupted period exceeding 20 years. Other aspects of the Creation scheme would need to consider the precise proposed routes and obviously the highway authority would not want to accept routes that would incur a significant maintenance liability in terms of flooding/bridges or other structures.

I will revert to you in due course in relation to any claimed paths but in the meantime would welcome any comments you have regarding, in particular, points 1 and 2 above.

If the proposed diversion routes are to be promoted under the Planning Act powers, then Tendring District Council would be the relevant Order Making Authority. I have therefore copied this letter to Mr Bill Reeves, Solicitor at Tendring District Council. A copy has also been sent to the Public Rights of Way Officer at the County Council's East Area Office at Colchester.

I look forward to hearing from you.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Garry White', written over the typed name below.

Garry White (Definitive Map Manager)

Please reply to Garry White
Telephone: 01245 437563
Internet: www.essexcc.gov.uk
Email: garry.white@essex.gov.uk

creating a better place



Mr M. Fulcher
Tendring District Council
Weeley Council Offices
Thorpe Road
Weeley, Essex
CO16 9AJ

Our ref: IMAN001351
Date: 21/02/2008

Dear Mr Fulcher,

Re: Devereux Farm Habitat Creation - Scoping Consultation Document

The Environment Agency is undertaking an Environmental Impact Assessment for habitat creation at Devereux Farm, near Kirby-le-Soken, in Essex. It is proposed that the site will be used to create important intertidal habitats to replace those likely to be lost from the Essex coast as a result of sea level rise in the future.

The enclosed Scoping Consultation Document has been produced so that the potential impacts of the proposed habitat creation scheme may be identified and further assessed in an Environmental Statement. The Environmental Statement will form part of a Planning Application that will be submitted to the Local Planning Authority.

As part of the scoping process, it is important to obtain the opinions of various stakeholders on the project as a whole, and more specifically on the potential environmental opportunities and constraints that have been identified. In order for you to provide informed comments, I have enclosed a CD containing a copy of the Devereux Farm Habitat Creation Scoping Consultation Document. I would be grateful if you could return your comments to the address below by 14th March, 2008.

If you have any queries regarding the habitat creation project, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read "P. Doktor".

PETER DOKTOR
Environment Agency
National Environmental Assessment Service

direct dial: 01473 706578
email: peter.doktor@environment-agency.gov.uk

Norwich Office, 79 Thorpe Road, Norwich, Norfolk, NR1 1EW
Customer services line: 08708 506 506
Email: enquiries@environment-agency.gov.uk
www.environment-agency.gov.uk

Natural England
Harbour House, Hythe Quay, Colchester, Essex CO2 8JF
Tel 01206 796666 Fax 01206 794466
www.naturalengland.org.uk

Mr Peter Fletcher
Tendring District Council
Council Offices
Weeley
Essex
CO16 9AJ

Our ref EE/2907/KK

5 December 2009

Dear Mr Fletcher

Proposed new access track for Horsey Island, new counterwall for flood protection to the east of the site, plus improvements to an existing counterwall to the west of the site and 2 breaches in the seawall to allow creation of intertidal habitat

Thank you for your letter consulting Natural England, regarding the above. Coastal habitats on the Essex coast are under major threat from coastal squeeze as a consequence of rising sea levels and hard defences, preventing natural habitat retreat. Overall, this scheme will bring many benefits to biodiversity by replacing some of the intertidal habitat that has already been lost, as well as helping to achieve Essex Biodiversity Action Plan targets. Natural England has no objection to this proposal, though we have set out some advice below.

Regulation 48 (3) of The Conservation (Natural Habitats, &c.) Regulations 1994.

We understand that this proposal is for the required engineering works (a new counterwall for flood protection to the east of the site, plus improvements to an existing counterwall to the west of the site and 2 breaches in the seawall) to allow for creation of new intertidal habitats.

The proposal site lies within the Hamford Water Site of Special Scientific Interest (SSSI) designated under Section 28 of the 1981 Wildlife and Countryside Act (as amended), which underpins the Hamford Water Special Protection Area (SPA), designated under Article 4(1) of the Directive 79/409/EEC on the Conservation of Wild Birds (the 'Birds Directive') and Ramsar site under the 1971 Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat.

Hamford Water SSSI unit number 8 encompasses the whole of Horsey Island and is currently in unfavourable condition caused by coastal squeeze. The mudflats and saltmarsh provide feeding habitats for internationally important numbers of brent geese, black tailed godwits, redshank and curlew; the improved grass fields of Horsey Island is an important high tide roost for these species.

Likely effect of the proposal on the European and/or international site

The development outlined in the current application is directly connected with the management of the above sites for nature conservation. The creation of new intertidal

habitats should enhance the SPA interests, providing a larger area of habitat and more resilience to continuing sea level rise, as well as counteracting previous degradation as a result of coastal squeeze.

Natural England are confident that the proposed development is not likely to have a significant effect either alone, as it is directly connected with the management of the SPA, or in combination with other plans or projects; an appropriate assessment will not therefore be required.

We see from the construction of works schedule that work is intended to take place from January 2009. The wintering period is when birds are at their most vulnerable and Natural England would recommend that caution is taken to ensure that no disturbance to wintering birds feeding on the adjacent mudflats occurs. Any loud construction work, such as concrete removal, should ideally be timed to avoid the sensitive wintering and breeding seasons and take place in August/September. To ensure that there are no adverse effects, we would recommend that construction should not take place during the wintering period (October – March) as part of the mitigation package and included as a planning condition.

Wildlife and Countryside Act 1981, as incorporated by the Countryside and Rights of Way Act 2000

The proposed scheme will improve the condition of Unit 8 of Hamford Water SSSI and consequently we support these works.

We are pleased to see the following mitigation and enhancement measures proposed and would recommend that they are adopted as planning conditions should the application be granted:

- The area will be entered into the agri-environment Higher Level Stewardship scheme.
- That new footpaths will be constructed on site, in advance of the old footpaths being fragmented by breaching the sea wall.
- Replacement habitats such as hedgerows or transitional grassland will be planted on higher ground and that current hedgerows will be kept in situ during the breach.

If you have any queries or require further information, please do not hesitate to contact me again.

Yours faithfully



Catherine Kelly
Planning and Green Infrastructure Adviser
Four Counties Government Team

catherine.kelly2@natural.England.org.uk
Tel: 01206 796666

Essex County Council
Environment, Sustainability and Highways
County Hall
Chelmsford
Essex

EssexWorks.

For a better quality of life

P Fletcher

Martin Forth
Tendring District Council
Council Offices
Weeley
Essex
CO16 9AJ

Your Ref:
Our Ref: A/HEM/AMG/614/3
Date: 02 December 2008

Dear Martin

RE: 08/01501/FUL Devereux Farm, Walton Road, Kirby le Soken

Thank you for consulting the Historic Environment Management Team (HEM) of Essex County Council Historic Environment Branch on the above planning proposal.

The Essex Historic Environment Record (HER) shows that the proposed development lies within an area of known archaeological features including a red hill (EHER 3527) and decoy pond (EHER 17236). A recent archaeological evaluation of the new access track commissioned by the Environment Agency revealed below ground archaeological remains of medieval and possibly prehistoric origin. It is likely that further archaeological remains survive in the area of the proposed development and that these will be disturbed or destroyed if the development were to proceed.

For this reason we would recommend a planning condition in line with DoE Planning Policy Guidance Note 16: Archaeology and Planning (PPG16) along the following line:

Recommendation: Excavation

'No development or preliminary groundworks of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority'

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. This will comprise monitoring, followed by excavation if archaeological deposits are identified. A



Essex County Council

brief outlining the level of archaeological investigation will be issued from this office on request. The District Council should inform the applicant of the recommendation and its financial implications.

If you have any questions please do not hesitate to contact me.

Yours sincerely,

Adrian Gascoyne
Senior Historic Environment Officer
01245 437293

PF

W.E. Webb—Honorary Footpath Secretary

**Essex Area Ramblers
Tendring District**

The Ramblers

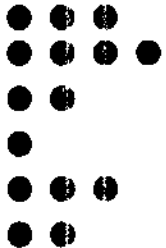
www.essexarearamblers.co.uk

www.tendringramblers.co.uk



“Castell”
15 Upland road
West Mersea
Colchester
CO5 8DX

Tel/fax
01206 382890



RECEIVED
11 DEC 2008

Tendring District Council
Planning Dept.
(Att'n Martin Forth)
Council Offices
Weeley. CO16 9AJ

30 November 2008

Dear sir,

Planning Application 08/01501/FUL--Devereux Farm, Kirby-le-Soken.

Reference your letter of 18th Nov, 2008, addressed to Jaywick Lane, which has been passed to me for comment.

It is noted that the applicants have acknowledged the existence of Frinton and Walton public footpath 36, which will need to be diverted , but I am surprised that the proposed FP changes are not included for action in the first phase of development, since the grant of planning permission does not entitle developers to obstruct a public right of way.

Since the proposed site work is scheduled to commence in January 2009, it would be expected that preliminary discussions with respect to right of way changes would be under-way. We have seen no such evidence to date and look forward to more detailed information than is currently available.

I have been trying to access information on this scheme for the last three or four days on the www.tendringdc.gov.uk site and have been continually told that no information on either 08/01501/ful or Devereux Farm was available. Is there some problem with the set-up?

Yours faithfully,

W.E.Webb

Essex County Council
Robert Overall
Executive Director
Environment, Sustainability & Highways
County Hall
Chelmsford
Essex CM1 1QH



PF
Essex County Council

RECEIVED
24 NOV 2008

Tendring District Council
Council Offices
Weeley
Clacton-on-Sea
Essex CO16 9AJ

Date: 21 November 2008
Our Ref: E,S&H/P&T/SD/MM/TEN/1501/08
Your Ref: 08/01501/FUL

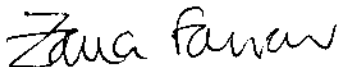
Dear Sir/Madam

LOCATION: DEVEREUX FARM, WALTON ROAD, KIRBY LE SOKEN, FRINTON ON SEA

I acknowledge that the above application has been received by the Development Control team at County Hall. The officer dealing with the application is Martin Mason and he will be contacting you in the near future.

Due to the scale and complexity of the application, I would kindly request an extension of time in order to provide our comments.

Yours faithfully



Zana Farrow
Strategic Development Officer

Please reply to : **Martin Mason**
Telephone: 01245 437299
Internet: www.essex.gov.uk
Email: martin.mason@essex.gov.uk



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TENDRING DISTRICT COUNCIL

To: *From*
Mr Mike Badger

From: *To*
Planning
Please ask for Mr Peter Fletcher

Dated: 18 November 2008

PLANNING APPLICATION: INTERNAL CONSULTATION

APPLICATION NO: 08/01501/FUL

PROPOSAL: New access track for Horsey Island, new counterwall for flood protection to the east of the site, plus improvements to an existing counterwall to the west of the site and 2 breaches in the seawall to allow creation of intertidal habitat.

LOCATION: Devereux Farm Walton Road Kirby Le Soken Frinton On Sea

I enclose for your information one copy of the above application and plan(s).

If you have any comments to make on this application I must receive them within the next 14 days in accordance with government advice. If they are not received during that period I will assume that you have no observations and will recommend that the application be determined in the absence of any comment.

Please return the application form and plan(s).

Observations please set out below:-

whilst the basic principles of the proposal are supported I did not see an assessment of possible local impacts adjacent to the site. For instance are the adjacent boating channels and Moorings affected by a change in the dynamic stability of the tidal inlet? & would this be insignificant as far as Tichmarsh Marina is concerned? It would be Erosion and or Deposition will occur as a result of this work.

Name *John Ryan* Date *20/11/08*

Essex County Council
Planning & Transportation
Environment, Sustainability & Highways
County Hall
Chelmsford
Essex CM1 1QH



Essex County Council

Mrs J Haig-Thomas
Kirby Le Soken Village Preservation Society
Kirby Hall
Kirby Le Soken
Essex CO13 0GD

Date: 5th February 2009
Our Ref: ES&H/P&T/TEN/15
01/08
Your Ref:

CC Vicky Presland – East Area Office
Peter Fletcher – Tendring District Council

Dear Mrs Haig-Thomas

Devereux Farm Habitat Creation Scheme

Thank you for your letter of 23rd January 2009, which has been forwarded from our East Area Office.

In our recent recommendation to Tendring District Council, we suggested that were Tendring District Council minded to grant planning consent then they attach the following requirement:

- ◆ Prior to commencement of the development details of any works which may affect the Public Right of Way network shall be submitted to and approved in writing by the Local Planning Authority in conjunction with the Highway Authority. The approved details shall be implemented to the satisfaction of the Local Planning Authority and Highway Authority prior to completion of the development

If Tendring District Council grant planning consent and include the above as a condition, we will ensure your comments are given consideration.

May I suggest you now contact Peter Fletcher, the Planning Officer at Tendring District Council, to ascertain how he intends to deal with this application and whether he is minded to recommend that the Local Planning Authority grant planning consent.

I hope this is of assistance.

Yours sincerely

Karen Preston
Strategic Development Officer
Planning & Transportation

Telephone: 01245 437105
Email: karen.preston2@essex.gov.uk



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Your Ref: 08/01501/FUL
Our Ref: ES&H/P&T/TEN/1501/08
Date:- 21st January 2009



Essex County Council

CC: (by email) planning.services@tendringdc.gov.uk
Cllr M Page, Orchard House, 101 Hall Lane, Walton on Naze,
Essex CO14 8HW
Development, Highways and Transportation – East Area
Office

Robert Overall
Executive Director for Environment,
Sustainability & Highways

To: **Peter Fletcher**
Tendring District Council
Council Offices
Weeley
Essex CO16 9AJ

County Hall
Chelmsford
Essex CM1 1QH

Recommendation

Application No. TEN/1501/08

Applicant Environment Agency

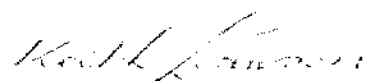
Site Location Devereux Farm, Walton Road, Kirby le Soken, Frinton on Sea

Proposal New access track for Horsey Island, new counterwall for flood protection to the east of the site, plus improvements to an existing counterwall to the west of the site and 2 breaches in the seawall to allow creation of intertidal habitat

The Highway Authority would not wish to raise an objection to the above application subject to the following:

- ◆ Prior to commencement of the development details of any works which may affect the Public Right of Way network shall be submitted to and approved in writing by the Local Planning Authority in conjunction with the Highway Authority. The approved details shall be implemented to the satisfaction of the Local Planning Authority and Highway Authority prior to completion of the development
- ◆ Measures shall be provided to ensure no mud and/or debris is deposited on the public highway by any vehicle associated with construction of the proposal. Details to be agreed with the Local Planning Authority and Highway Authority

Continued....



.....
Executive Director for Environment,
Sustainability & Highways
Enquiries to Martin Mason
Telephone: 01245 437138
Fax: 01245 280356
Email: martin.mason@essex.gov.uk

Notes:

- ◆ The above is required to ensure the proposal complies with the County Council's Highways and Transportation Development Control Policies, as originally contained in Appendix G of the Local Transport Plan 2006/2011 and refreshed by Cabinet Member Decision dated 19 October 2007
- ◆ All highway related details shall be agreed with the Highway Authority

PF

Your Ref: 08/01501/FUL
Our Ref: ES&H/P&T/TEN/1501/08
Date:- 21st January 2009



Essex County Council

CC: (by email) planning.services@tendringdc.gov.uk
Cllr M Page, Orchard House, 101 Hall Lane, Walton on Naze,
Essex CO14 8HW
Development, Highways and Transportation – East Area
Office

Robert Overall
Executive Director for Environment,
Sustainability & Highways

To: **Peter Fletcher**
Tendring District Council
Council Offices
Weeley
Essex CO16 9AJ

County Hall
Chelmsford
Essex CM1 1QH

Recommendation

Application No. TEN/1501/08

Applicant Environment Agency

Site Location Devereux Farm, Walton Road, Kirby le Soken, Frinton on Sea

Proposal New access track for Horsey Island, new counterwall for flood protection to the east of the site, plus improvements to an existing counterwall to the west of the site and 2 breaches in the seawall to allow creation of intertidal habitat

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Continued....

Executive Director for Environment,
Sustainability & Highways
Enquiries to Martin Mason
Telephone: 01245 437138
Fax: 01245 280356
Email: martin.mason@essex.gov.uk

Notes:

- ◆ The above is required to ensure the proposal complies with the County Council's Highways and Transportation Development Control Policies, as originally contained in Appendix G of the Local Transport Plan 2006/2011 and refreshed by Cabinet Member Decision dated 19 October 2007
- ◆ All highway related details shall be agreed with the Highway Authority

Peter F

Tendring District Council
Development Control
Thorpe Road
Weeley
Clacton-on-Sea
CO16 9AJ

Our ref: AE/2008/107165/01-L01
Your ref: 08/01501/FUL
Date: 17 December 2008

For attention of Peter Fletcher

Dear Sir

NEW ACCESS TRACK FOR HORSEY ISLAND, NEW COUNTERWALL FOR FLOOD PROTECTION TO THE EAST OF THE SITE, PLUS IMPROVEMENTS TO AN EXISTING COUNTERWALL TO THE WEST OF THE SITE AND 2 BREACHES IN THE SEAWALL TO ALLOW CREATION OF INTER TIDAL HABITAT DEVEREUX FARM WALTON ROAD KIRBY LE SOKEN FRINTON ON SEA

Thank you for submitting details in relation to the above planning application. We have considered the application and have NO OBJECTION to the proposal. We wish to make the following comments.

Flood Risk

The proposed development will only be acceptable if the following measure(s) as detailed in the Flood Risk Assessment submitted with this application are implemented and secured by way of a planning condition on any planning approval granted.

Condition

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures detailed within the FRA:

1. Counter walls shall be constructed to prevent adjacent flood cells from flooding and to ensure that the standard of protection afforded to Kirby-le-Soken is not reduced.
2. All counter walls shall be fully constructed before any breaching of the tidal defences occurs.

Reason

1. To ensure the appropriate standard of protection is available prior to the breaching of any defences.
2. To ensure that the standard of protection afforded to Kirby-le-Soken is not reduced.

Biodiversity

We support the plans for intertidal habitat creation at this site.

Counterwall clearance and hedge and scrub removal should all be undertaken outside of the bird breeding season, March – August inclusive. Where access is required to the site and along the counterwall a suitably qualified ecologist should be employed as a watching brief to ensure that no ground nesting birds are killed or disturbed and their nests are not destroyed or damaged.

Reptile mitigation will be required at the area where the breach is planned. It is advised that the counterwall in this area is mown from February onwards in order to render the area unattractive to reptiles to ensure that the site is reptile free before work commences.

The plans for additional planting of sea hog's fennel along the areas of suitable habitat are supported. It is understood that there is to be additional monitoring of the site to identify any impacts on the SPA due to the proposals.

Environmental Management.

The applicant will be required to apply for one or more exemptions under the Environmental Permitting (England and Wales) Regulations 2007, namely paragraphs 7 and/or 9 and 19.

Further details and applications forms can be accessed on the following website address:

<http://www.environment-agency.gov.uk/business/1745440/1745496/1906135/1985714/?lang= e>

Emergency procedures must be in place in the event of oil spillages during the excavation/construction activities. Oil should be stored in secured and bunded tanks.

Yours faithfully

Andrew Hunter
Planning Liaison Officer
Planning Liaison Team

Direct dial 01473 706749

cc Merle Leeds, Environment Agency