



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

to
**CENTRAL AREA PLANNING COMMITTEE
23 JANUARY 2019**

Application Number	FUL/MAL/18/01365
Location	South Embankment Northey Island Maldon
Proposal	Removal of concrete blocks facing embankment. Infilling of borrow ditch and lowering of embankment to allow saltmarsh habitat creation behind (0.15ha). Construction of closing bank to prevent flooding to adjacent field to east. Repair to section of embankment to west.
Applicant	Mrs Nina Crabb - The National Trust
Agent	Mrs Nina Crabb - The National Trust
Target Decision Date	12/02/19
Case Officer	Kathryn Mathews
Parish	MALDON EAST
Reason for Referral to the Committee / Council	Major application Member call-in by Councillor Miss Miriam R Lewis in the public interest - particularly concerned about the conflict with our SMP and the adopted "hold the line" position. Member call-in by Councillor Mrs Brenda D Harker in the public interest. Member call-in by Councillor Stephen J Savage at the request of Maldon Town Council and public interest.

1. RECOMMENDATION

APPROVE subject to the conditions (as detailed in Section 8 of this report).

2. SITE MAP

Please see overleaf.

South Embankment Northey Island
 FUL/MAL/18/01365



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 Maldon District Council 100018588 2014


 MALDON DISTRICT COUNCIL

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Scale:	1:2,500
Organisation:	Maldon District Council
Department:	Department
Comments:	Central Area Committee
Date:	04/01/2019
MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The project would be located at the South Embankment of Northey Island which runs from the island's causeway towards the southeast, parallel to Southey Creek. The project area is defined by the existing South Embankment, with a borrow ditch to the north/landward side along with an area of grassland grazed by cattle; there is saltmarsh to the south/seaward side. The South Embankment is a grassed earth embankment armoured with 'Essex blocks' (precast concrete blocks bound with bitumen/asphalt) on its seaward side. Part way along the South Embankment there is a sluice with a tidal flap valve that drains water (rainwater and seawater overtopped to the ditch) to the estuary. There are two dwellings on the Island.
- 3.1.2 The site is located within the following designated sites:- Blackwater Estuary Ramsar site, Blackwater Estuary Special Protection Area (SPA), Blackwater Estuary SSSI, and Blackwater Estuary Special Area of Conservation. These sites all fall within the wider designation of the Blackwater, Crouch Roach and Colne Estuaries Marine Conservation Zone (MCZ).
- 3.1.3 The proposal is for the removal of concrete blocks facing the embankment, infilling of the borrow ditch and lowering of the embankment to allow saltmarsh habitat creation behind (approximately 0.15ha). The proposal also includes the construction of a closing bank to prevent flooding of the adjacent field to the east and repairs to a section of embankment to the west.
- 3.1.4 The proposal consists of the following elements:
- Stripping topsoil from South Embankment and within the borrow ditch.
 - Existing trees/scrub and fencing (barbed wire fence) to be removed. Top soil to be re-used and fencing will be re-instated
 - Removing existing concrete blocks and disposal off-site
 - Lowering crest level of 150m of the South Embankment by around 1m to allow periodic tidal inundation – sections of the Embankment will be retained at either end to protect low lying land to the east and prevent inundation at the landward end of the causeway at the western end (a 'low point' of the existing Embankment immediately adjacent to the Causeway would also be raised)
 - Infilling existing borrow ditch reusing material from the crest lowering to a depth of around 1m
 - Reusing soils to create an undulating land profile in-keeping with natural ground
 - Construct 18m of new Closing Bank towards south-eastern end of site to tie-in to natural high ground – crest level +4.00 to +4.66, crest width 1.5m and 1:4 sides
- 3.1.5 To prevent the need to import or export material from the site, an additional length of Embankment (20m) to the east for potential lowering and additional areas for infilling have been included within the application site but would only be included within the proposed works on site if needed.

- 3.1.6 The aim of the works is to create new higher-level saltmarsh (approximately 750sq.m.) and transitional saltmarsh/terrestrial habitat (approximately 950sq.m.) to enable natural adaption to long term sea level rise. It is understood that the South Embankment is currently contributing to fronting salt marsh loss due to coastal squeeze. The area of the application site is stated as being 1.01ha
- 3.1.7 Access to the site would be via Mundon Road, South Chase Farm and across the tidal causeway. The applicant envisages that site workers/visitors will park at the existing informal parking area on the landward side of the causeway – a maximum of five at a time. Plant and machinery would arrive by road on a low-loader or by water and then be driven across the causeway to the island. Excavators are to be used for the proposed earthworks.
- 3.1.8 The application is accompanied by a Design and Access Statement including Planning Statement (14 June 2018) and the following documents (a brief summary of their contents is provided):

Habitats Regulations Assessment Screening Report June 2018

Concludes that the works will not have a likely significant effect, either alone or in combination, with other plans and projects on the qualifying features or conservation status of the Blackwater Estuary (Mid Essex Phase 4) SPA and Ramsar site, or the Essex Estuaries SAC.

Contamination Risk Assessment 12 June 2018

The only likely issue is with the bitumen which binds the gaps between the existing Essex block and contains low grade asbestos but this would be removed by specialist contractors.

Construction Environmental Management Plan 28 June 2018

This document is to be reviewed as work progresses and includes 1) timing of work 2) measures to prevent disturbance, pollution or impacts on habitats and 3) details of mitigation measures.

Water Framework Directive Compliance Assessment 12 June 2018

- The WFD applies to all water bodies that have the potential to be affected by a scheme.
- The nearest water bodies are the Blackwater transitional water body and Essex gravels groundwater body.
- The bitumen which binds the gaps between the existing Essex block contains low grade asbestos but would be removed by specialist contractors.
- The compliance assessment includes three stages (screening, scoping and impact assessment) and concludes that there is no potential to adversely affect the water bodies subject to mitigation measures to be included within the Construction Environmental Management Plan.

Tree Identification Survey 25 June 2018

No trees are to be removed only a discontinuous line of a small number of Hawthorn and Blackthorn scrub to the rear of the existing Embankment.

Landscape and Visual Impact Assessment June 2018:-

The site is within the Northey Island Drained Estuarine Marsh Local Character Area and open views across the Estuary, including Northey Island, are possible all along the coastline although vegetation obscures views in some locations. Overall, the proposal would have a neutral impact on the landscape as the construction period would be temporary (3 months) and the proposal would not fundamentally alter any characteristic of the landscape – the elements which involve raising ground levels will tie into higher ground and would be no higher than existing embankments.

Extended Phase 1 Ecological Assessment October 2015 and Extended Phase 1 Habitat Survey 25 June 2018 (updates the 2015 Assessment):-

Unlikely there would be significant effects on legally protected habitats or species including water voles, common birds and common reptiles subject to mitigation measures being in place such as removal of existing vegetation outside the bird nesting season.

Flood Risk Assessment 12 June 2018:-

The project involves a planned increase in flood risk but the rising land to the rear of the Embankment will limit inundation further landward (north). The proposal is in-keeping with defences elsewhere around Northey Island, the flood risk to adjacent land is not predicted to increase, the application site represents a very small part of the Estuary, tidal flood risk elsewhere in the Estuary would not be affected and the land is likely to be inundated in the future in any event as the Environment Agency is not going to maintain the Embankment which is already in a poor condition – the proposal will manage and control flood risk.

Archaeological Survey Programme

A pre-works magnetometer survey is to be carried out to identify the potential for buried objects within the footprint of the earthworks. In addition, a programme of archaeological monitoring and recording will take place during any works involving ground disturbance in the form of an archaeological watching brief and/or by means of implementing a protocol for reporting archaeological finds.

- 3.1.9 The Crown Estate has confirmed (May 2018) that it has no ownership interests that could affect, or be affected by, the proposed works and it is understood that an application for a Marine Licence for the proposed works was made in June 2018 to the Marine Management Organisation.

3.2 Conclusion

- 3.2.1 It is considered that the proposal is acceptable having assessed the principle of the development, the impact on the character and appearance of the area, the impact on the amenity of the occupiers of local residences, highway issues, contamination, nature conservation, flood risk/drainage and archaeology.

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2018 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 102-111 Promoting sustainable transport
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places
- 148-169 Meeting the challenge of climate change, flooding and coastal change
- 170-183 Conserving and enhancing the natural environment
- 184-192 Conserving and enhancing the historic environment

4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:

- Policy S1 - Sustainable Development
- Policy S8 - Settlement Boundaries and the Countryside
- Policy D1 - Design Quality and Built Environment
- Policy D2 - Climate Change & Environmental Impact of New Development
- Policy D3 - Conservation and Heritage Assets
- Policy D5 - Flood Risk and Coastal Management
- Policy N1 - Green Infrastructure Network
- Policy N2 - Natural Environment, Geodiversity and Biodiversity
- Policy T1 - Sustainable Transport
- Policy T2 - Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Essex Design Guide
- Car Parking Standards
- Maldon District Design Guide (MDDG)

5. MAIN CONSIDERATIONS

- 5.1 It is considered that the main issues which would require consideration as part of the determination of this planning application are the principle of the development, the impact on the character and appearance of the area, any impact on the amenity of local residents, highway issues, contamination, nature conservation and flood risk/drainage. Archaeology would also be a relevant material consideration.

It has already been determined (reference SCR/MAL/18/00322) that the development does not require an Environmental Impact Assessment. The Marine Management Organisation has also determined that an EIA is not required under the Marine Works (Environmental Impact Assessment) Regulations 2007.

5.2 Principle of Development

- 5.2.1 Policy S1 refers to the NPPF's presumption in favour of sustainable development and makes specific reference to the local economy, housing growth, effective use of land, prioritising development on previously developed land, design, the environment, sustainable communities, the effects of climate change, avoiding unjustified development in flood risk areas, the historic environment, local infrastructure and services, the character and appearance of development, and minimising the need to travel.
- 5.2.2 Subject to the assessment of the proposal against all relevant material considerations, as set out below, it is not considered that the proposal, due to its nature, scale and extent, is unacceptable in principle.

5.3 Design and Impact on the Character of the Area

- 5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 5.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF.

The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-

- Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
- Height, size, scale, form, massing and proportion;
- Landscape setting, townscape setting and skylines;
- Layout, orientation, and density;
- Historic environment particularly in relation to designated and non-designated heritage assets;
- Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
- Energy and resource efficiency.

- 5.3.3 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).

- 5.3.4 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.3.5 The proposal would have an impact on the character and appearance of the estuarine environment which is sensitive to change. The application submitted has been accompanied by a Landscape Visualisation Impact Assessment (LVIA). The Maldon District Landscape Character Assessment identifies Northey Island as being a distinct landscape character area - Northey Island Drained Estuarine Marsh. The sea walls, ditches and dykes are identified as 'key characteristics' of this character area and the area as being highly sensitive to change. The Landscape Strategy Objectives include conservation of features that contribute to local distinctiveness which obviously includes the ditches and dykes as key characteristics. Managed realignment should aim to maintain as much of the characteristic landscape features as possible.
- 5.3.6 Officers agree with the conclusions of the LVIA submitted i.e. that the proposal would have a neutral impact on the landscape as the construction works would be temporary, the proposal is of limited geographical extent in the context of the Estuary and the proposal would not fundamentally alter any characteristic of the landscape – the elements which involve raising ground levels will tie into higher ground and would be no higher than existing embankments.
- 5.3.7 The loss of existing vegetation would have a negative impact on the character and appearance of the area but, due to its nature and extent, this impact would not be significant enough to justify a refusal of planning permission.

5.4 Impact on Residential Amenity

- 5.4.1 Policy D1 requires that all development must protect the amenity of surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.4.2 It is understood that there are two dwellings on the Island but that neither of which are located in close proximity to the part of the Island which would be subject to the proposed works. Therefore, subject to the imposition of conditions to cover the construction period to minimise noise, pollution and disturbance, it is not anticipated that the proposal would have a materially adverse impact on the amenity of the occupiers of these dwellings. Furthermore, based on the Flood Risk Assessment submitted, these dwellings will be at no greater risk of flooding as a result of the proposed works.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposal, inter alia, to sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP

seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

- 5.5.2 The proposal would only give rise to highway safety and parking issues during the construction works. Machinery and equipment required to carry-out the works would need to be delivered to the site but there would be no import/export of material to/from the site. Parking for workers' vehicles would be provided within an existing informal parking area at the landward end of the causeway and the applicant has advised that there would be no more than five vehicles parked at any one time. Essex County Council Highways have raised no objection to the proposed works.
- 5.5.3 Based on the above, no objection is raised to the proposed on the basis of access, parking or highway safety.

5.6 Flood Risk and Drainage

- 5.6.1 Policy D5 of the Local Development Plan sets out the Council's approach to minimising flood risk. Policy S1 requires that new development is either located away from high risk flood areas or is safe and flood resilient when it is not possible to avoid such areas.
- 5.6.2 Based on the Environment Agency website, with respect to Flood Risk, at least part of the site lies within tidal Flood Zone 3 (high risk). Part of the site also appears to be at high risk from surface water flooding and at risk of flooding from reservoirs. The development would be classified as 'water compatible' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. The application has been accompanied by a Flood Risk Assessment.
- 5.6.3 The Environment Agency has raised no objection to the proposals as the area of saltmarsh habitat is small and any issues are likely to be short term in nature. The Agency has advised that there could be slightly more siltation initially as a result of the proposed change with the removal of the sea wall. However, this effect is unlikely to be significant due to the size of the application site in relation to the larger tidal prism and currents of the wider Blackwater estuary. The Agency states that the *'proposal presents an opportunity to create saltmarsh which offsets short term increases in sediment mobilisation. Saltmarsh and intertidal habitats are lost over time due to sea level rise. This particularly happens in front of seawalls when erosive forces of currents rebound off these hard walls and scour out saltmarsh. In addition, the steepness of the walls themselves means there is no allowance for any natural rolling forward of the saltmarsh and intertidal habitats on to higher ground (often known as coastal squeeze). Whilst there is a small short term risk of more mobile sediment in the first couple of years, the proposed development is an opportunity to create saltmarsh and intertidal habitat which will allow more natural processes to resume, thus reducing saltmarsh and mudflat erosion in the longer term. The estuary processes will soon return to an equilibrium. In the longer term, without realignment sites creating opportunities such as these, more sediment is likely to be mobilised as saltmarsh is eroded into loose, mobile mud. This removal of a short length of seawall gives a small opportunity to create more stable, higher saltmarsh where sediment can be allowed to build up sustainably and stabilize rather than be lost to the tide.'*

- 5.6.4 There is a ‘hold the line’ policy for flood defences for the part of the Blackwater Estuary within which Northey Island is located and Northey Island has not been identified as an area for managed retreat as part of the Essex and Suffolk Shoreline Management Plan (SMP2). The proposal would be in conflict with this ‘hold the line’ policy.
- 5.6.5 In response to this issue, the applicant argues that the proposed works are compliant with the intent of the SMP2. They advise that the proposed new Closing Bank will provide flood and erosion defence to the fields to the east (thereby protecting existing commercial interests (tenanted farm land) and properties) and that the need to vary from the SMP2 policy in this case is twofold:-
- (1) Given the Environment Agency’s formal advice that it will no longer maintain the embankment, there is a need to manage the inevitable embankment failure and subsequent tidal inundation in a pro-active and controlled manner.
 - (2) Given the net loss of inter-tidal habitat from the Blackwater Estuary, there is a need to create new areas of these habitats that will be sustained into the future.
- 5.6.6 Furthermore, the SMP2 is a non-statutory document intended to inform land use planning decisions in areas potentially at risk from sea flooding and coastal erosion and which identifies a generic shoreline management policy of ‘Hold the Line’ of existing defence for Northey Island as a whole. It is also noted that the Environment Agency has not raised any objections to the proposal.
- 5.6.7 The proposal would be contrary to the SMP2 policy for the management unit, but the proposal has been supported by evidence of the need to vary from it and that there would be no adverse impact on the estuary, environment, ecology and the flood risk to others. The SMP2 is a non-statutory, aspirational document, but is used to inform future management options for the coast as well as planning matters. On this basis, given the small scale of the works in relation to the Estuary as a whole and that the proposed works would only affect the flood risk associated with the applicant’s own land, it is not recommended that planning permission is refused in this case due to conflict with the ‘hold the line’ policy for this part of the Blackwater Estuary.
- 5.6.8 The Emergency Planner recommends that a condition is imposed requiring a flood warning and evacuation plan which is recommended below for the construction period.

5.7 Nature Conservation

- 5.7.1 Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District’s green infrastructure network.
- 5.7.2 Policy S8 states that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty.
- 5.7.3 Policy D1 requires that, amongst other things, all development must respect and enhance the character and local context and make a positive contribution in terms of

the natural environment particularly in relation to designated and non-designated sites of biodiversity/geodiversity value (criterion f).

- 5.7.4 Policy N1 states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure.
- 5.7.5 Policy N2 states that, any development which could have an adverse impact on sites with designated features, priority habitats and/or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.
- 5.7.6 The site adjoins the Blackwater Estuary and is within nationally and internationally designated sites for nature conservation. The application is accompanied by an Ecological Assessment which concludes that it is unlikely there would be significant effects on legally protected habitats or species including water voles, common birds and common reptiles subject to mitigation measures being in place such as the removal of existing vegetation outside the bird nesting season. The application is also accompanied by a Habitats Regulation Assessment which concludes that the works will not have a likely significant effect, either alone or in combination, with other plans and projects on the qualifying features or conservation status of the Blackwater Estuary (Mid Essex Phase 4) SPA and Ramsar site, or the Essex Estuaries SAC.
- 5.7.7 Natural England has no objection to the proposal and are generally supportive of the scheme to create new intertidal and saltmarsh habitat. However, they draw attention to the implications of a recent ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of People Over Wind and Sweetman vs Coillte Teoranta (ref: C 323/17). The case relates to the treatment of mitigation measures at the screening stage of a HRA when deciding whether an appropriate assessment of a plan/project is required. The Court's Ruling goes against established practice in the UK that mitigation measures can, to a certain degree, be taken into account at the screening stage.
- 5.7.8 Natural England have advised that, provided the appropriate Habitats Regulations Assessment is undertaken by the Local Planning Authority, as Competent Authority in this case, and the development is undertaken in strict accordance with the details submitted, it is not likely to damage the interest features for which the site has been notified. However, this is on the basis of the mitigation measures as outlined, in particular the restriction of works to outside of the period October-March. Natural England also seek clarification as to whether the works are as a result of necessary and direct management of the site and the definitive justification as to why the proposal is needed.
- 5.7.9 Officers have carried-out an independent HRA which reaches the conclusion that Based on the above, it is considered that the proposal would not have an adverse impact on nature conservation.

5.8 Other Matters

Contamination

- 5.8.1 One of the requirements of Policy D2 of the LDP is that, where appropriate, development will include measures to remediate land affected by contamination.
- 5.8.2 NPPF paragraph 170 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 178).
- 5.8.3 The Contamination Report which accompanies the application concludes that the only likely contamination issue is with the bitumen which binds the gaps between the existing Essex blocks which contain low grade asbestos but this would be removed by specialist contractors. The Environmental Health Officer has raised no objections to the proposal.
- 5.8.4 On the basis of the above, it is considered that the proposed works should not result in any adverse contamination issues.

Archaeology

- 5.8.5 Policy D3 requires that, where development might affect geological deposits, archaeology or standing archaeology, an assessment from an appropriate specialist source should be carried out.
- 5.8.6 Essex County Council Archaeology have advised that the proposed development site is located on the southern edge of Northey Island and that the Environmental Screening Report submitted with the application has identified the site as having potential for archaeological remains, relating both to the history of the marsh and Northey Island and to the Battle of Maldon and the adjacent Registered Battlefield. The submitted report recommends archaeological monitoring and recording of the groundworks and the setting-up of a protocol of reporting any further features or finds that may be uncovered. ECC Archaeology are in favour of this approach and recommend that, as archaeological features are both fragile and irreplaceable, a full archaeological condition for archaeological monitoring and recording is attached to the planning consent. This is in line with advice given the NPPF.
- 5.8.7 Based on this advice, subject to the imposition of a condition requiring a full archaeological investigation, it is considered that the proposal is acceptable from an archaeology perspective.

Essex and Suffolk Water

- 5.8.8 Councillor S J Savage has suggested that there is a need to secure a financial S106 contribution as part of the current proposal towards the cost of dredging which Essex and Suffolk Water pay for every year due to their Langford works. He suggests that the current proposal would add to the silt held in suspension and needing to be dredged as the Island is *'fast disappearing on the other side'*. However, Essex and Suffolk Water have not commented on the proposal and, as already referred to above, the Environment Agency has advised that the *'proposal presents an opportunity to*

create saltmarsh which offsets short term increases in sediment mobilisation. ...Whilst there is a small short term risk of more mobile sediment in the first couple of years, the proposed development is an opportunity to create saltmarsh and intertidal habitat which will allow more natural processes to resume, thus reducing saltmarsh and mudflat erosion in the longer term. The estuary processes will soon return to an equilibrium. In the longer term, without realignment sites creating opportunities such as these, more sediment is likely to be mobilised as saltmarsh is eroded into loose, mobile mud. This removal of a short length of seawall gives a small opportunity to create more stable, higher saltmarsh where sediment can be allowed to build up sustainably and stabilize rather than be lost to the tide. The issue of the need for dredging is a private matter between the National Trust and Essex and Suffolk Water.

5.8.9 Based on the above, it is considered that a financial contribution towards the cost of dredging by Essex and Suffolk Water is neither necessary nor reasonable.

6. ANY RELEVANT SITE HISTORY

- **SCR/MAL/18/00322** - Request for a Screening Opinion to determine the requirement for an Environmental Impact Assessment (EIA) for Retention of 30m of embankment at Northey Island causeway, with local raising of crest level at a low point. Construction of a new closing bank to tie in the high ground. Lowering crest of 'South embankment' to allow periodic tidal inundation onto small area of backing land to create salt marsh and transitional habitat. Infill borrow ditch behind 'South embankment' – EIA not required 27/04/2018

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Maldon Town Council	Objects as would result in further loss of the island	Noted but, as the Environment Agency will no longer be maintaining the South Embankment, it is predicted that the Embankment will not continue to protect the Island from inundation in any event

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Highways	No objection	Noted

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County SUDS Team	No objection provided that a permeable surface is used for the car park	Noted – the car park is an existing informal area which is not proposed to be physically altered as part of the proposal
Essex County Archaeology	Recommends a full archaeological condition for archaeological monitoring and recording is attached to the planning consent.	Noted – refer to section 5.9 of report
Natural England	To follow	Refer to section 5.8 of report
Environment Agency	No objections to the proposals as the area of saltmarsh habitat is small and any issues are likely to be short term in nature.	Noted – refer to section 5.7 of report
Anglian Water Services	No response	
Essex and Suffolk Water	No response	
Public Footpath Officer	No response	
RSPB	No response	
Essex Wildlife Trust	No response	

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection but would be helpful if notice could be given of when the works are to take place as this department takes shellfish samples at various locations on a monthly basis as part of the monitoring for bed classification purposes.	Noted – refer to section 5.9 of report. An informative could be added to any planning permission granted relating to giving notice of the works commencing
Emergency Planner	Development within Flood Zone 3 so recommends a condition requiring a flood warning and evacuation plan	Noted – refer to section 5.7 of report

7.4 Representations received from Interested Parties

- 7.4.1 **One** letter was received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Will impact on their farming activities at South House Farm and Northey Island and no proper consultation has occurred	Noted but these are matters to be resolved privately by the objector with the National Trust. The application has been publicized by the local planning authority as required.

8. PRE-COMMENCEMENT CONDITIONS

- 8.1 Pre-commencement conditions (relating to flood risk, archaeology and construction management) are recommended and the applicant/agent was written to on 7 January 2019 to advise of the intention to use these conditions. If no response or no objection is received by 21 January 2019, the Local Planning Authority is able to impose the suggested conditions.
- 8.2 It is considered that the pre-commencement condition relating to flood risk is necessary on the grounds that, as the site lies within an area of high flooding probability, a Flood Warning and Evacuation Plan for the construction period, is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.
- 8.3 It is considered that the pre-commencement conditions relating to archaeology are necessary on the grounds that, as the site lies within an area of archaeological potential, a full archaeological condition for archaeological monitoring and recording, is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.
- 8.4 It is considered that the pre-commencement condition relating to a construction management plan is necessary on the grounds that, as the site lies within an area of flood risk and significant nature conservation interest, a construction environmental management plan is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

9. PROPOSED CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Location plan; Block plan; PB7778-1001 rev.P3; PB7778-1002 rev.P1; PB7778-1005 rev.P1; PB7778-1011rev.P1; PB7778-1010revP1 and the mitigation measures in the supporting documents: Contamination Risk Assessment 12 June 2018, Water Framework Directive Compliance Assessment 12 June 2018, Extended Phase 1 Ecological Assessment October 2015 and Extended Phase 1 Habitat Survey 25 June 2018.
REASON To ensure that the development is carried out in accordance with the details as approved.

- 3 No works shall take place until a Flood Warning and Evacuation Plan has been fully implemented in accordance with details which shall have been submitted to and gained the prior written approval of the local planning authority.
REASON As the site is located within Flood Zone 3, in the interests of minimising flood risk, in accord with Policies S1 and D5 of the Maldon District Approved Local Development Plan (MDALDP) and the NPPF.
- 4 No development including any site clearance or groundworks of any kind shall take place within the site until an archaeological assessment by an accredited archaeological consultant to establish the archaeological significance of the site has been submitted to and approved in writing by the local planning authority. Such archaeological assessment will inform the implementation of a programme of archaeological work.
REASON As the site lies within an area of known archaeological potential, in accordance with Policy D3 of the MDALDP and NPPF.
- 5 No development of any kind shall take place within the site until the implementation of a programme of archaeological recording from an accredited archaeologist has been secured in accordance with a written scheme of investigation which has been submitted to and gained the prior written approval of the local planning authority. The development shall be carried out in a manner that accommodates the approved programme of archaeological work.
REASON As the site lies within an area of known archaeological potential, in accordance with Policy D3 of the MDALDP and the NPPF.
- 6 Other than temporary fencing during the construction period, no new fencing or other means of enclosure shall be erected within the site unless details of the location, height, materials and design of the fencing has been submitted to and gained the prior written consent of the local planning authority. The development shall be completed in accordance with the approved details.
REASON In the interest of the character and appearance of the area in accordance with policies D1, S1 and S8 of the approved Local Development Plan and guidance contained within the NPPF.
- 7 No floodlighting or other external form of illumination of the site shall be undertaken, during construction or operation, without the express consent of the local planning authority.
REASON In order to minimise light spillage in the interests of the character and appearance of the rural area within which the site is located and the adjoining wildlife habitats, in accordance with the NPPF and Policies D1, N1 and N2 of the MDALDP.
- 8 No construction works shall be carried out during the months of October to March (inclusive) unless details of the works, along with any necessary measures to mitigate the impact of the works on the internationally and nationally designated sites (SPA, Ramsar and SSSI), have been submitted to and gained the prior approval in writing of the local planning authority. The work shall be completed in accordance with the approved details.
REASON In order to ensure that the development does not result in significant effects on, in accordance with the NPPF and Policies N1 and N2 of the MDALDP.
- 9 No development including any site clearance or groundworks of any kind shall take place until an up-to-date version of the Construction Environmental Management Plan 28 June 2018 has been submitted to and approved in writing

by the local planning authority. The development shall be carried-out in accordance with the approved Plan.

REASON To prevent disturbance pollution and impacts on habitats in accordance with Policies S1, S8, D1, D5, N1 and N2 of the MDALDP and the NPPF.

INFORMATIVES

1. The Council's Environmental Health Team have advised that it would be helpful if notice could be given of when the works are to take place as that department takes shellfish samples at various locations on a monthly basis as part of the monitoring for bed classification purposes.