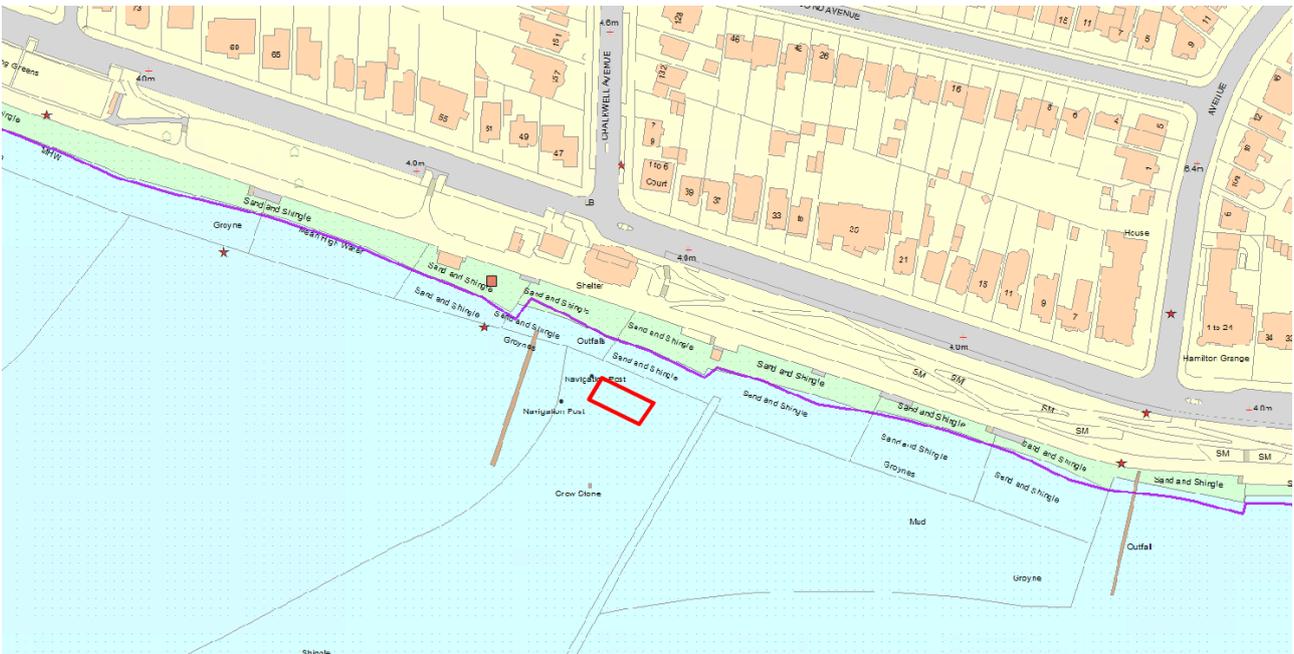


Reference:	21/00229/FUL	
Application Type:	Full Application	
Ward:	Chalkwell	
Proposal:	Install temporary art sculptures comprising 15 wooden posts 2m – 2.8m tall with painted resin sculptures fixed to the top in the tidal sands near Chalkwell Beach	
Address:	Chalkwell Beach, Chalkwell Esplanade, Westcliff-On-Sea	
Applicant:	M Freeman	
Agent:	R Warren of SKArchitects	
Consultation Expiry:	1st April 2021	
Expiry Date:	12th April 2021	
Case Officer:	Abbie Greenwood	
Plan Nos:	596-P02C, 596-P12E, 596-P16A, 596-P17B Planning Statement by SKArchitects titled ‘Isaac Cordal Art Installation in the Chalkwell Tidal Sands – Rev B’ Isaac Cordal Waiting for Climate Change Design Statement Estuary 2021 Festival Overview Photomontage of installation Risk Assessment and Method Statement By Metal Copy of Public Liability Insurance Construction Method Statement reference 596-08-19 Rev A Chalkwell Beach Foreshore Shadow Habitats Regulations Assessment by Essex Ecology Services Ltd dated Feb 2021 Timeline for Installation of Artwork	
Recommendation:	GRANT PLANNING PERMISSION	



1 Site and Surroundings

- 1.1 The site for the proposed installation is on Chalkwell Beach due south of Chalkwell Shelter and due north of The Crowstone. It is located at the waterline between the breakwaters.
- 1.2 Nearby to the north east is the recently constructed wide concrete ramp onto the beach. This access point would be used for the machinery needed to install the structure. It is also used for a range of other purposes.
- 1.3 The site is located on the mudflats which have a number of local, national and international nature designations including RAMSAR, SSSI, Special Protection Area and local nature reserve. This area is particularly recognised for its importance as a feeding ground for over wintering waders. The site is located within the tidal zone. The site falls within Seafront Character Zone 4 as defined by policy DM6. The foreshore is recognised as an important open space and recreational resource under policy CP7.

2 The Proposal

- 2.1 The proposal seeks to install a temporary art installation on the beach as part of the Estuary Festival 2021. The installation comprises 15 wooden posts of 14cm in diameter and between 2.5m and 2.8m tall set 2m apart which will have small figures attached to the top. The installation is called 'Waiting for Climate Change' and has been designed by Spanish Artist Isaac Cordal. The installation is described as follows



The characters are equipped with mobile phones and diving equipment. Prepared for an emergency, they absently watch the water level rise as the tide comes in. Cordal creates these sculptures as a commentary about stereotypes of individuals from various backgrounds confronting the issue of climate change in their differing ways.

Waiting for Climate Change will challenge in a humorous way our often passive relationship to climate change and spark discussions around the climate emergency and raising sea levels among the the general public visiting the Chalkwell Beach during the Festival.

2.2 The posts are proposed to be installed between 20th and 22nd April and would be removed on the 1st and 2nd of October. The associated festival will run from 22nd May until 13th June. The sculptures will be affixed to the top of the posts between 20th May and 1st October.

2.3 The Estuary 2021 Festival is a large-scale arts festival that celebrates and acknowledges the lives, landscapes and histories of the spectacular Thames Estuary. Taking place on the river itself, and along the 83 miles of South Essex and North Kent coastline, it is an ambitious programme of artworks and events which will respond to the themes resonant to the Estuary, including the climate emergency, industrialisation, military and imperial legacies, environmental protection and challenges, as well as the rich and often overlooked stories of its diverse communities and settlements. Installations are also proposed at Chalkwell Park, Southend Pier and High Street, Gunners Park and East Beach.

3 Relevant Planning History

3.1 No planning history.

4 Representation Summary

Public Consultation

4.1 19 neighbouring properties were consulted and a site notice posted. 5 letters of representation have been received raising the following summarised issues:

- Concern that the installation will attract many people which may encourage more people to visit the seafront and conflict with the social distancing requirements and queries on how is the Council going to control non-compliance?
- Lack of parking for visitors.
- Safety concerns for swimmers, children, families, visitors, from strong currents and wind etc. The poles will be dangerous to children banging into them.
- Negative impact on fragile beach, water and foreshore, pollution issues, and concerns previous structures in this location have been destroyed by strong tides and bad weather.
- Design unacceptable.
- Harm to amenity of this area and its users.
- The poles could be re-sited onto the grassed area behind the beach.
- High tides may cover the 2m – 2.8m poles which will be a hidden danger.
- Impact operations of rescue dingy which also uses the same stretch of beach and ramp.

Officer Comment: These concerns are noted and those that represent material planning considerations have been taken into account in the assessment of the application. However, they are not found to represent a reasonable basis to refuse planning permission in the circumstances of this case.

Foreshore Manager

- 4.2 Potential concerns about health and safety in relation to water navigation and hazards to bathers from submerged posts have been addressed by moving the installation closer to the shore, the proposed installation of a number of green buoys to warn craft away from the area and increasing the height of the posts so that they remain above the surface of the water at all times.

Highways Team

- 4.3 There are no highway objections to this proposal. The installation of the work should be carried out in accordance with the construction method statement. The proposal will have to be approved by the Local Flood Authority. The applicant maybe required to apply for an appropriate highways license should vehicles need to access over the highway.

Flood Engineer (Local Flood Authority)

- 4.4 No objections in principle provided that the installations are installed before May and removed after September as this is the bathing water testing season as we cannot have sediment disturbance during this period because there is a risk that remobilisation of sediment has the potential to release bacteria into the water column which can negatively impact the bathing water samples taken by the Environment Agency.

Licenses will need to be obtained from the Marine Management Organisation (MMO) and Natural England.

Environmental Health

- 4.5 No objections subject to the implementation of the construction method statement which includes measures to mitigate from noise and vibrations during installation, and a condition controlling construction hours.

Culture including Focal Point Gallery

- 4.6 This application is supported by the Culture Team and the Focal Point Gallery.

Asset Management

- 4.7 No objections to the proposal. The applicant will need to agree an appropriate lease or licence for the installation as the site is within Council owned land.

Parks

- 4.8 The proposed art installation site is directly adjacent to the Southend Marshes which is a designated SSSI and RAMSAR site. There should be no negative impact to the surrounding environment, including the designated SSSI and RAMSAR sites, during all stages of development.

4.9 Natural England

Having considered the application details and having regard to the shadow Habitat Regulations Assessment prepared by Essex Ecology Services Ltd, Natural England are satisfied that the proposed temporary development is unlikely to have any adverse impact on the notified and qualifying features of the Benfleet and Southend Marshes SSSI, the Benfleet and Southend Marshes SPA and Ramsar, the Outer Thames Estuary SPA or the Essex Estuaries SAC. However, the following conditions are recommended:

- The installation should be temporary and in place for no longer than the timespan indicated in the submitted details.
- The installation and removal of the posts should be carried out in strict accordance with the submitted details and in a manner which minimises disturbance and dispersal of buried sediment as there are potentially contaminants in buried sediment that are toxic to foraging birds.
- The location of the art installation should avoid any eelgrass beds.
- The installation and removal of the posts should take place on the dates indicated in the submitted method statement.

Chalkwell Lifeguards

4.10 This proposed timber artwork structure at Chalkwell Beach is a very exciting project for the town and a once in a lifetime opportunity for our local community and visitors to be involved in and be at the heart of the Estuary 21 art celebrations this summer. Whilst our Club Committee members still have some concerns and reservations, it has been unanimously decided to withdraw all our objections to this planning application.

Customer Liaison Group

- 4.11
- Concern over the installations proximity to the beach access ramp the impact this may have on operations of rescue dinghy team working out of the shelter.
 - Concern that it will result in a reduction of beach available to visitors - this area can get very busy.
 - Concern that the installation may be a danger to water users and that that currents and winds may add to this risk.

4.12 The application was called to committee by Councillor Folkard and Councillor Walker.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2019) and the National Design Guide (2019)
- 5.2 Core Strategy Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (The Environment and Urban Renaissance), CP6 (Community Infrastructure), CP7 (Sport, recreation and Green Space)

5.3 Development Management Document Policies DM1 (Design Quality), DM2 (Low carbon development and efficient use of resources), DM3 (The Efficient and effective use of land), DM6 (The Seafront), DM15 (Sustainable Transport Management)

5.4 Design & Townscape Guide (2009)

5.5 Community Infrastructure Levy (CIL) Charging Schedule (2015)

6 Planning Considerations

6.1 The main considerations in relation to this application are the principle of the development, design and impact on the character of the wider area, impact on ecology, traffic and transportation issues, impacts on amenity, health and safety considerations and CIL

7 Appraisal

Principle of Development

7.1 *'Securing a vibrant and well served culture and tourism industry within the town'* is a key objective of the Core Strategy (objective VI).

7.2 The Core Strategy also makes reference to the Cultural Strategy for Southend on Sea "Making Culture Count" which provides an overarching strategic vision for the development of Southend's cultural sector. Its aims and objectives seek to improve health, regenerate the town, increase participation and life-long learning and develop communities through the use and promotion of culture. Its vision is to develop a cultural infrastructure and facilities which are recognised as being of regional significance and which offer demonstrable benefits to everyone who lives in, works in or visits the Borough.

7.3 Policy CP1 of the Core Strategy recognises the economic benefit that Culture has for the Borough.

7.4 Policy KP1 supports development on the seafront which seeks to *'enhance the Seafront's role as a successful leisure and tourist attraction and place to live, and make the best use of the River Thames, subject to the safeguarding of the biodiversity importance of the foreshore.'*

7.5 Policy DM6 actively supports the principle of public art on the seafront. In relation to development in this location it states:

'4. Development within or near the Seafront Area must not detrimentally impact upon the Thames Estuary's openness or views across and backdrops to the River Thames and Southend's beaches.'

5 Proposals are required to demonstrate that:

- (i) Such facilities will not detrimentally reduce the amount of beach available for public use or public accessibility to the foreshore; and*
- (ii) They provide an adequate means of access to the foreshore*

(iii) They contribute to the positive appreciation of natural resources and biodiversity of the foreshore by visitors and users.'

- 7.6 The proposal is seeking planning permission for a temporary sculpture on the beach. This will support the Boroughs objectives to promote tourism and culture in the town.
- 7.7 The installation comprises 15 poles topped with small statues. The poles are each only 14cm in diameter and will be set 2m apart so it will be possible to walk between the poles. It is considered that this ability to interact with the installation will contribute to the enjoyment of the beach in this location.
- 7.8 The installation will be sited towards the end of the breakwater within the mud/shallow water so it will not reduce the amount of sand for visitors to sit. The proposal will be seen in views from the promenade but the photomontage submitted with the application confirms that it will still be possible to view the estuary between the poles. It is also noted that the seafront is very extensive and the proposal will have a relatively minimal impact on the extent of public views.
- 7.9 The site has been chosen to be close to the ramp to enable access for all members of the community. The installation is seeking to provoke a debate about natural resources and climate change which includes the appreciation of natural resources. The detailed ecology implications are considered in more detail below.
- 7.10 The site is located within the tidal area but has been designed to be water compatible. It will not contribute to flood risk in the area.
- 7.11 Overall it is considered that the proposal satisfies the requirements of Policy DM6 and other relevant development plan policies relevant to the principle of such a structure.
- 7.12 The principle of the proposal is therefore acceptable subject to the detailed consideration set out below.

Design and Impact on the Character of the Area

- 7.13 Paragraph 124 of the NPPF states *'The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'*
- 7.14 Policy DM1 of the Development Management Document states that *"all development should add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features."*
- 7.15 The proposed art installation, which seeks to raise awareness of climate change in a creative manner, is by an internationally known artist and will be part of a regional estuary arts festival. The work will contribute to the cultural offer of the seafront and provide a temporary focal point for the foreshore.

- 7.16 The installation is of a limited scale and uses natural materials. It is considered to be compatible with the character of the seafront in this location. The design, scale, form and layout of the proposal is considered acceptable and policy compliant in respect of design and character matters.

Impact on Amenity

- 7.17 Local and national planning policies and guidance seek to secure high quality development which protects amenity. Policy DM1 of the Development Management Document specifically identifies that development should protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight. Further advice on how to achieve this is set out in the Council's Design and Townscape Guide.
- 7.18 The proposal is located on the beach and is therefore remote from neighbouring properties. The installation will attract visitors to the area but it is considered that this will generally be as part of linked trips to the seafront and will not in itself lead to a significant increase in the level of noise and disturbance in this location. The proposal is therefore considered to be acceptable and policy compliant in terms of its impact on neighbour amenity and the amenity of the users of this area.

Traffic, Transportation and Safety Matters

Highways and Parking

- 7.19 The proposal does not include any provision for visitor parking but it is noted that there is public parking nearby and it is considered that visitors will likely view the installation as part of linked trips to the seafront in many instances. The Council's Highway Officer has not raised any objections to the proposal on parking grounds.
- 7.20 It is noted that this parking is currently closed to visitors due to Covid 19 restrictions but it is envisaged that this parking will be in use by the time that the festival is due to commence on 22nd May.

Construction Management including Contamination

- 7.21 Policy CP6 requires new development to demonstrate that it will not jeopardise health and wellbeing of local residents and visitors to Southend.
- 7.22 A Construction Method Statement has been submitted which sets out how the art work will be installed. This states that the poles will be mechanically driven into the ground by a 360 track at low tide. It is noted that the site is at potential risk of unexploded ordnance (UXO). The planning statement confirms that an UXO specialist will be employed to probe the site and supervise the works during the installation. The Council's Highways Officer has raised no objections to this proposal provided the development is installed according to this recommendation. This can be controlled by condition.
- 7.23 Possible concerns have been raised by the Council's Flood Engineer in relation to bathing water quality testing which is carried out by the Environment Agency between May and September. It is important that there is no disturbance of sediment during this period. The application therefore proposes to carry out the installation and removal of the

posts outside of this timeframe. This is secured by the conditions recommended.

Public Safety

- 7.24 Concerns have been raised that the installation may attract large groups of visitors which could compromise social distancing. As noted above the installation will not be complete until 22nd May and it will be located in a wide open outside space. A timeline submitted with the application confirms that this is after the date for the anticipated opening of outdoor attractions (12th April) and the increase to a 30 person limit on outdoor gatherings (17th May). It is also noted that Council Community Officers have been deployed to the seafront and will be on hand to ensure that social distancing is undertaken appropriately if this is considered to be an issue at this time. More generally, it is not considered appropriate to assume that people will break whatever pandemic related restrictions may be in place at the time when determining a planning application. If people did break the law this would be a matter for the police and this concern is not considered to constitute a justifiable reason for refusal of the application.
- 7.25 In order to avoid navigational hazards for boats and other users of the water the installation has been moved closer to the shore into the area between the breakwaters. A line of safety buoys is proposed on the south seaward side. The Council's Foreshore Manager has confirmed that this has mitigated earlier safety concerns about potential conflicts with boats and users of the water. He has not raised any objections to the proposal or location on health and safety grounds.
- 7.26 A Risk Assessment has also been submitted with the application which demonstrates that the applicant has considered all potential conflicts and put in place mitigation measures to minimise any risks. These mitigation measures can be secured by condition. Although it is not a planning matter the applicant has also provided proof of public liability insurance.
- 7.27 Overall, it is considered that the proposal is a rare opportunity for a nationally significant temporary art installation in the Borough, and, whilst it is not possible to entirely remove the chance of accidents associated with any development, the risks here have been fully assessed and are considered to be low. The proposal is therefore considered to be acceptable and policy compliant in this regard.

Impact on Ecology

- 7.28 Policy DM6 1 states that 'All development within the Seafront Area will incorporate measures which will:
- (i) Limit any adverse impacts and where possible enhance the biodiversity interests of the local nature reserves and coastal and marine environment; and*
 - (ii) Protect the valuable natural amenity areas of International, European, national importance.*
- 7.29 The site is located on the mudflats which have a number of local, national and international nature designations including RAMSAR, SSSI, Special Protection Area and local nature reserve. A Habitats Assessment has been submitted with the application.

This concludes that, given the location and timescales for installation/removal, there are not anticipated to be any significant impacts relating to disturbance of key species or any deterioration of habitats. There may be some minor and localised disturbance during installation but this is not considered to be significant.

- 7.30 Natural England have reviewed the proposal and have not raised any objections subject to conditions around timing and method of installation. The proposal is considered to be acceptable and policy compliant in regards to impact on ecology subject to these conditions.

Community Infrastructure Levy (CIL)

- 7.31 The site does not involve the creation of floorspace therefore CIL is not relevant to this proposal.

8 Conclusion

- 8.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The principle of an art installation on the seafront is supported by policy and the proposal would have an acceptable impact on the character and appearance of the seafront site, street scene and the locality more widely. The impact on the amenities of neighbouring occupiers and users of the site and wider area are also acceptable. There would be no materially adverse traffic, parking or highways impacts caused by the proposed development. The proposal would have an acceptable impact on ecology and safety. This application is therefore recommended for approval subject to conditions.

9 Recommendation

- 9.1 **MEMBERS ARE RECOMMENDED TO GRANT PLANNING PERMISSION subject to the following conditions:**

01 The development hereby permitted shall be for a limited period only from the date of this permission until the 3rd October 2021. At the end of this period the development hereby permitted shall be entirely removed from the site and the land restored to its condition before the development took place.

Reason: For the avoidance of doubt and in the interests of amenity in accordance with the National Planning Policy Framework (2019) and Policies KP1 and KP2 of the Core Strategy (2007).

02 The development hereby permitted shall be carried out in accordance with the following approved plans 596-P02C, 596-P12E, 596-P16A and 596-P17B.

Reason: To ensure that the development is carried out in accordance with the provisions of the Development Plan.

03 The materials for the sculpture shall be natural timber posts and resin sculptures.

Reason: To safeguard the visual amenities of the area, in accordance with Core Strategy (2007) policies KP2 and CP4, Development Management Document (2015) Policy DM1 and advice contained within the Southend Design and Townscape Guide (2009).

04 Notwithstanding the details set out elsewhere in this application and permission the posts hereby approved shall only be installed prior to the 1st May 2021 and removed after the 30th September 2021.

Reason: To ensure that the installation and removal works does not harm biodiversity and give rise to sediment disturbance within the bathing water testing season which runs from May to September.

05 The development shall be installed in full accordance with the details set out in the Construction Method Statement by SKArchitects reference 596-08-19 Rev A, or any other Construction Method Statement that has been previously submitted to and approved in writing by the Local Planning Authority, and in a manner which minimises disturbance and dispersal of buried sediment. The location of the posts shall avoid any eelgrass beds.

Reason: This condition is needed in the interests of traffic safety and the amenities of the area and to prevent dispersal of contaminants in buried sediment pursuant to Policies KP1, CP3 and CP4 of the Core Strategy (2007) and Policies DM1, DM6 and DM15 of the Development Management Document (2015).

06 The development hereby approved shall be carried out in full accordance with the mitigation measures set out in the Risk Assessment and Method Statement by Metal and these mitigation measures shall remain in place throughout the lifetime of the installation.

Reason: This condition is needed in the interests of safety pursuant to Policies CP4 and CP6 of the Core Strategy (2007) and Policies DM1 and DM6 of the Development Management Document (2015).

07 The eight 180mm diameter green safety marker buoys, as detailed on plan reference 596-P12E and in the Risk Assessment by Metal, shall be in place from the installation of the first pole and remain in situ until the last pole is removed.

Reason: This condition is needed in the interests of safety pursuant to Policies CP4 and CP6 of the Core Strategy (2007) and Policies DM1 and DM6 of the Development Management Document (2015).

08 Construction Hours for the installation and removal of the development hereby approved shall be restricted to 8am – 6.30pm Monday to Saturday and not at all on Sundays or Bank Holidays.

Reason: In the interests of the amenities of neighbours pursuant to Policy CP4 of the Core Strategy (2007) and Policy DM1 of the Development Management Document (2015)

Informatives:

01 The site is owned by the Council and therefore a formal installation licence/lease will be required on the land. This will be subject to obtaining all necessary statutory consents and internal approvals. Please contact Antony Daniels antonydaniels@southend.gov.uk This needs to be completed prior to installation. The proposal may also require a Marine licence from the Marine Management Organisation (MMO) further details on this can be found here <https://www.gov.uk/guidance/construction-alteration-or-improvement-of-works>

02 The applicant is advised that a Highways Licence may be required. Please contact martinwarren@southend.gov.uk

03 You should be aware that in cases where damage occurs public during construction works to the highway in implementing this permission that Council may seek to recover the cost of repairing highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the Borough.

04 You are advised that as the proposed development does not involve the creation of new floorspace it benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.