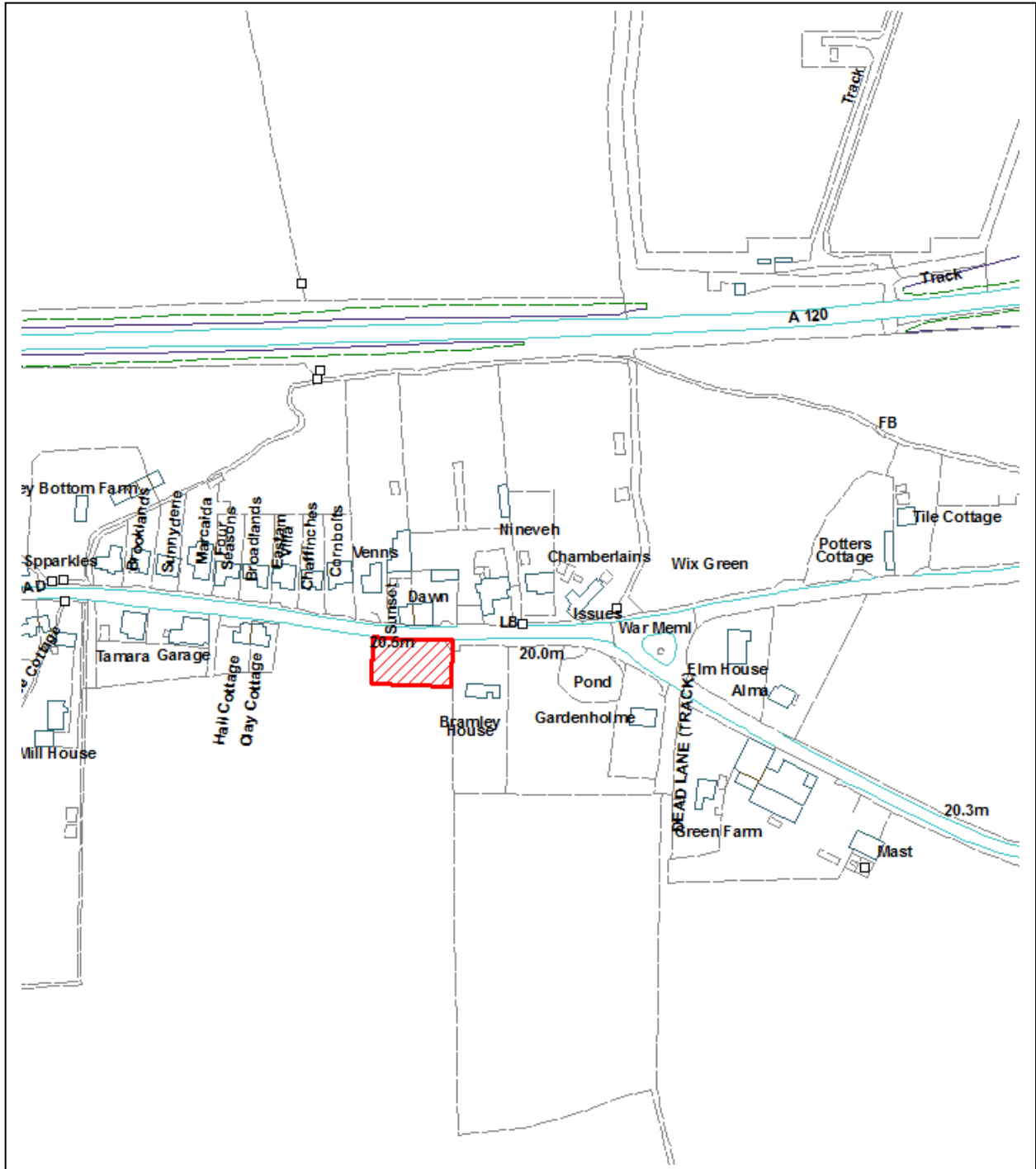


PLANNING COMMITTEE

28 AUGUST 2019

REPORT OF THE HEAD OF PLANNING

**A.2 PLANNING APPLICATION – 19/00685/FUL – LAND AT HARWICH ROAD, WIX, CO11
2SA**



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Application: 19/00685/FUL

Town / Parish: Wix Parish Council

Applicant: Mr Steve Harmer

Address: Land at Harwich Road, Wix, CO11 2SA

Development: Proposed construction of two pairs of semi-detached dwellings

1. Executive Summary

- 1.1 Councillor M Bush has called for the application to be determined by Planning Committee due to Wix having a limited range of services, the four dwellings would negatively impact upon the street scene, the impacts to neighbouring properties through loss of privacy and loss of light, and the future road flooding risks.
- 1.2 The application site is located outside the settlement development boundary of Wix in the saved Tendring District Local Plan (2007) but within in the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The principle of residential development is therefore acceptable in this location.
- 1.3 The proposed design and layout of the dwellings is considered to be acceptable within this location, and will also not harm the setting of the nearby Grade II Listed Building. Following the submission of amended plans, it has been demonstrated there is sufficient private amenity space provision.
- 1.4 The Council's Historic Environment consultant has no objections to the scheme, while subject to conditions Essex Highways Authority also do not object.

Recommendation:

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) **Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):**
 - **Financial Contribution towards RAMS and Open Space**
- b) Subject to the conditions stated in section 8.2
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

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

Tendring District Local Plan 2007

EN1 Landscape Character
EN6A Protected Species
EN11A Protection of International Sites: European Sites and RAMSAR Sites
EN23 Development Within the Proximity of a Listed Building
HG1 Housing Provision
HG9 Private Amenity Space
HG14 Side Isolation
QL1 Spatial Strategy
QL9 Design of New Development
QL10 Designing New Development to Meet Functional Needs
QL11 Environmental Impacts and Compatibility of Uses
TR1A Development Affecting Highways
TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

CP1 Sustainable Transport and Accessibility
HP5 Open Space, Sports & Recreation Facilities
LP1 Housing Supply
LP2 Housing Choice
LP3 Housing Density and Standards
LP4 Housing Layout
PPL3 The Rural Landscape
PPL4 Biodiversity and Geodiversity
PPL9 Listed Buildings
SP1 Presumption in Favour of Sustainable Development
SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design

Status of the Local Plan

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.3 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.
- 2.4 With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in

the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

17/00958/FUL	Erection of 2 No. 3 bed detached dwellings and 2 No. 2 bed semi-detached dwellings.	Approved	04.08.2017
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4. Consultations

ECC Highways Dept

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

1. Prior to the proposed accesses being brought into use, minimum vehicular visibility splays of 43m by 2.4m by 43m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of each access and shall be maintained in perpetuity free from obstruction clear to ground.

Reason: To ensure adequate inter-visibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety and in accordance with Policy DM 1.

2. Prior to first occupation of the proposed development, each individual proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7m and each shared vehicular access shall be constructed at right angles to the highway boundary and to a width of 5.5m shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1.

3. No unbound materials shall be used in the surface treatment of any of the proposed vehicular accesses within 6m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1.

4. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

5. Prior to commencement of the proposed development, a vehicular turning facility for motor cars of a design which shall be approved in writing by the Local Planning Authority made available to all dwellings, shall be provided within the site and shall be maintained free from obstruction in perpetuity.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety and in accordance with Policy DM 1.

6. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

7. Each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

8. All single garages should have a minimum internal measurement of 7m x 3m.
And all double garages should have a minimum internal measurement of 7m x 5.5m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

9. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development

iv. wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1.

10. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

11. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator, free of charge.

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

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 2: Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control, or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River.

If you believe you need to apply for consent, further information and the required application forms can be found at www.essex.gov.uk/flooding . Alternatively you can email any queries to Essex County Council via

watercourse.regulation@essex.gov.uk .

Informative 3: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

Essex County Council Heritage

I have no objection to this application.

I encourage conditions attached to any approved application to ensure the quality of the built form does not detract from the wider setting of the Grade II listed White Hart Inn. I recommend conditions are attached pertaining to the requirement for samples of materials.

5. Representations

5.1 Wix Parish Council object to the application for the following reasons:

- Removal of trees;
- The close proximity of the development to neighbours opposite;
- Existing flood/drainage issues; and
- Parking is not appropriate

5.2 There has been 1 letter of objection received, with their comments summarised below:

- Development is located too close to the properties opposite, 'Dawn' and 'Sunset', resulting in a loss of light;
- Views from the new dwellings will look into habitable rooms of these existing dwellings, resulting in a loss of privacy;
- Development will result in damage to neighbouring properties;
- Development will increase the flow of rainwater, increasing flooding risks for existing properties; and
- Trees were previously removed from the site.

6. Assessment

Site Context

6.1 The application site is located on the southern side of Harwich Road within the parish of Wix. The site is currently open and comprises of rough grassland. There are residential properties located to the north, east and west of the site. Directly adjacent to the site to the west includes a number of dwellings under construction following the granting of planning permission 17/00958/FUL. To the north-east is White Hart Inn, a Grade II Listed Building.

6.2 The site is outside of a recognised Settlement Development Boundary within the Saved Tendring District Local Plan (2007), but falls within the Settlement Development Boundary for Wix within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Site History

6.3 Under planning reference 17/00958/FUL, planning permission was granted for the erection of four dwellings adjacent to the west of the application site. These dwellings comprised of

2 x 2 bed semi-detached and 2 x 3 bed detached dwellings, and are currently under construction at the time of the site visit.

Description of Proposal

- 6.4 This planning application proposes the erection of two pairs of semi-detached dwellings, resulting in a total of four dwellings. All dwellings are to be two storeys, with three being served by three bedrooms and one by two bedrooms. Each dwelling will have a separate garage, with a parking bay in front.
- 6.5 The dwellings are proposed to be constructed in a rural blend facing brick with brown redland pantiles to the roof.
- 6.6 The south facing rear facing boundary will consist of 1m high post and rail fencing with native species hedgerow planting on its inside, while the eastern and western boundaries will be enclosed with 1.8m high close boarded fence.

Principle of Development

- 6.7 The application site is located outside the settlement development boundary of Wix in the saved Tendring District Local Plan (2007) but within in the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.8 Policy HG3 of the Adopted Tendring Local Plan 2007 and Policy SPL2 of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft states that there is a general presumption in favour of new development within defined development boundaries of towns and villages, subject to detailed consideration against other relevant Local Plan policies.
- 6.9 The inclusion of the site within the SDB of the emerging plan represents a significant material planning consideration and demonstrates that it is the Council's intention going forward to release this land for residential purposes. Consequently the principle of residential development on the site is considered acceptable and sustainable.

Visual Impacts

- 6.10 The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.11 The character of the surrounding area sees development to the north, east and west. The proposal would therefore represent an infill development and as such the site does not form part of open countryside. The development of the site with four properties would relate appropriately to the character of the area and would reflect the linear form of development running west to east along this section of Harwich Road.
- 6.12 The predominant character of the area is one of detached and semi-detached properties sited in close proximity to one another on relatively narrow plots. Against this background and given the character of the development around the site the proposed layout would not be unacceptable. A good degree of spacing is retained between the two building elements and with the addition of soft landscaping to the site frontage the proposal would sit comfortably within its surroundings.

- 6.13 The traditional pitched roof design of the dwellings is acceptable in this area comprising of a mix of property designs, materials and styles. The use of entrance canopies and detailing above and below the windows provides some detailing to enhance the development. The height, proportions and design of the properties would be of a similar nature to the adjacent development recently approved to the west, and will therefore sit comfortably in this location.
- 6.14 Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of two bedrooms there should be a minimum of 75sqm and for dwellings in with three bedrooms or more there should be a minimum of 100sqm. The submitted plans initially showed that each dwelling was to be three bedrooms and served far below the minimum above standards.
- 6.15 Following discussions with Officers, amended plans have been provided that has reduced the number of bedrooms for Plot 2 to two. The plans also demonstrate there will now be 99sqm for Plot 1, 67sqm for Plot 2, 100sqm for Plot 3 and 99sqm for Plot 4. While the amenity space for Plot 2 is slightly below the above standards, it is only by a marginal amount. Given this and that the remaining plots all meet the standards, Officers consider that this slight reduction in amenity space is, on balance acceptable.

Impact to Neighbouring Amenities

- 6.16 Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.17 The submitted plans show a separation distance of 5 metres to the adjacent neighbouring property to the west, and 15 metres to the adjacent property to the south-east. This level of distance ensures the dwellings will not appear significantly imposing or result in significant loss of light. In terms of potential overlooking, the only first floor side elevation windows serve an en-suite, while the rear elevation first floor windows will not have views to the main habitable areas of adjacent private gardens.
- 6.18 An objection has been received relating to the impacts to the neighbouring properties to the north, known as 'Dawn' and 'Sunset'. The specific issues raised are the development will result in direct overlooking into main habitable rooms of these properties, and that there is not sufficient separation distances. However there is a separation distance of approximately 11 metres, while it is noted the habitable rooms being referred to as overlooked are to the front elevation. This front elevation faces directly on to the public realm and therefore cannot be considered as private, and the proposed development will not alter this existing arrangement.
- 6.19 Further concerns were raised in that the proposal would equate to a loss of light to these two properties. Given that the sun rises from the east and sets to the west, the properties being located to the north will mean a degree of light will be lost. However, given the separation distance and that both properties ground floor front elevation windows are also served by secondary side elevation windows, the level of light lost is not considered to be significant enough to warrant Officers recommending a reason for refusal.

Impact to Setting of a Listed Building

- 6.20 Policy EN23 of the Adopted Plan states that development within the proximity of a Listed Building that would adversely affect the setting of a Listed Building, including group value

and long distance views, will not be permitted. The sentiments of this policy are carried forward within policy PPL9 of the Emerging Plan.

- 6.21 The application site is located adjacent to the south-west of White Hart Inn, which is a Grade II Listed Building. However there is an approximate separation distance of 10 metres, and main views to the building will remain unaltered. Accordingly the Council's Historic Environment consultant has raised no objections.

Highways Impacts

- 6.22 Essex Highways Authority have stated they have no objections subject to conditions relating to visibility splays, the width of the access, the use of no unbound materials, no discharge of surface water, a vehicular turning facility, any new boundary planting being sited 1 metre from the highway, and the submission of a Construction Method Statement. These are recommended as conditions.
- 6.23 Two additional conditions relating to cycle parking provision and the submission of a residential travel information pack were requested, however as the site is a minor scheme and is of a sufficient size to accommodate bicycles, these conditions are not considered reasonable to include on this occasion.
- 6.24 Furthermore, the Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. The indicative layout supplied shows there is sufficient space to accommodate this within any future detailed application.

Legal Obligations

- 6.25 Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".
- 6.26 There is currently a deficit of -0.56 hectares of equipped play in Wix. There is one play area in Wix which is located off Harwich Road. Also at this site is Wix Recreation Ground which is used by local football teams. Due to the limited provision in Wix, a contribution towards additional facilities is justified and relevant to this application, and would be spent at the nearest play area to the development to provide additional equipment.
- 6.27 A unilateral undertaking is being prepared to secure this legal obligation and to ensure compliance with saved policy COM6.

Habitat Regulations Assessment

- 6.28 Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.
- 6.29 Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be the RAMS level

contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The contribution is secured by unilateral undertaking. There is therefore certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

7. **Conclusion**

- 7.1 In summary, the application site falls within the Settlement Development Boundary of Wix within the Emerging Local Plan, thereby ensuring the principle of development is acceptable. The submitted design and layout is considered to be acceptable within the surrounding area, while following the submission of amended plans it has been demonstrated there is sufficient private amenity space. While concerns have been raised with regards to the impact to the amenities of surrounding neighbouring properties, it has been identified that the harm is not sufficient enough for Officers to warrant recommending a reason for refusal. The Council's Historic Environment consultant and Essex Highways Authority have not objected to the scheme, while a legal agreement is being prepared to cover Open Space and RAMS contributions. Therefore, subject to conditions shown below, the development is recommended for approval.

8. **Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS.	£122.30 per dwelling.
Financial contribution towards Open Space.	Financial Contribution for Open Space towards improving and upgrading the current facilities in Wix.

8.2 **Conditions and Reasons**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans, drawing numbers 17-2005/LP-01, 17.2005/SL-01 Revision A, 17.2005/HT01-01, 17.2005/HT01-02 dated 3 April 2019, 17.2005/HT01-01 dated 22 July 2019, 17.2005/HT02-01, 17.2005/GAR-01, 17.2005/GAR-02, 17.2005/SE-01 Revision A, 17.2005/SH-01 Revision A, 17.2005/SP-03 Revision A, 17.2005/ML-01 Revision A, 17.2005/BT-01 Revision A, 17.2005/TP-01 Revision A

Reason - For the avoidance of doubt and in the interests of proper planning.

- 3 Prior to the proposed accesses being brought into use, minimum vehicular visibility splays of 43m by 2.4m by 43m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of each access and shall be maintained in perpetuity free from obstruction clear to ground.

Reason - To ensure adequate inter-visibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

- 4 Prior to first occupation of the proposed development, each individual proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7m and each shared vehicular access shall be constructed at right angles to the highway boundary and to a width of 5.5m shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

- 5 No unbound materials shall be used in the surface treatment of any of the proposed vehicular accesses within 6m of the highway boundary.

Reason - To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

- 6 There shall be no discharge of surface water onto the Highway.

Reason - To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

- 7 Prior to commencement of the proposed development, a vehicular turning facility for motor cars of a design which shall be approved in writing by the Local Planning Authority made available to all dwellings, shall be provided within the site and shall be maintained free from obstruction in perpetuity.

Reason - To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

- 8 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason - To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

- 9 No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. wheel and underbody washing facilities

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.

- 10 Prior to the commencement of any above ground works, a scheme of hard and soft landscaping works for the site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction.

Reason - To enhance the visual impact of the proposed works.

- 11 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason -To enhance the visual impact of the proposed works.

- 12 Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) England Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no provision of fences, walls or other enclosures, shall be erected on the southern and eastern boundaries of the site except in accordance with drawings approved as part of this application or through the submission of drawings showing the design and siting of such enclosures which shall previously have been submitted to and approved, in writing, by the Local Planning Authority by way of a planning application.

Reason - In the interests of visual amenity and to preserve the character of the surrounding area.

8.3 Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highways Informatives

On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully

functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control, or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Legal Agreement Informative - Open Space/Play Space Contribution

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
 - 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
 - 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

None.