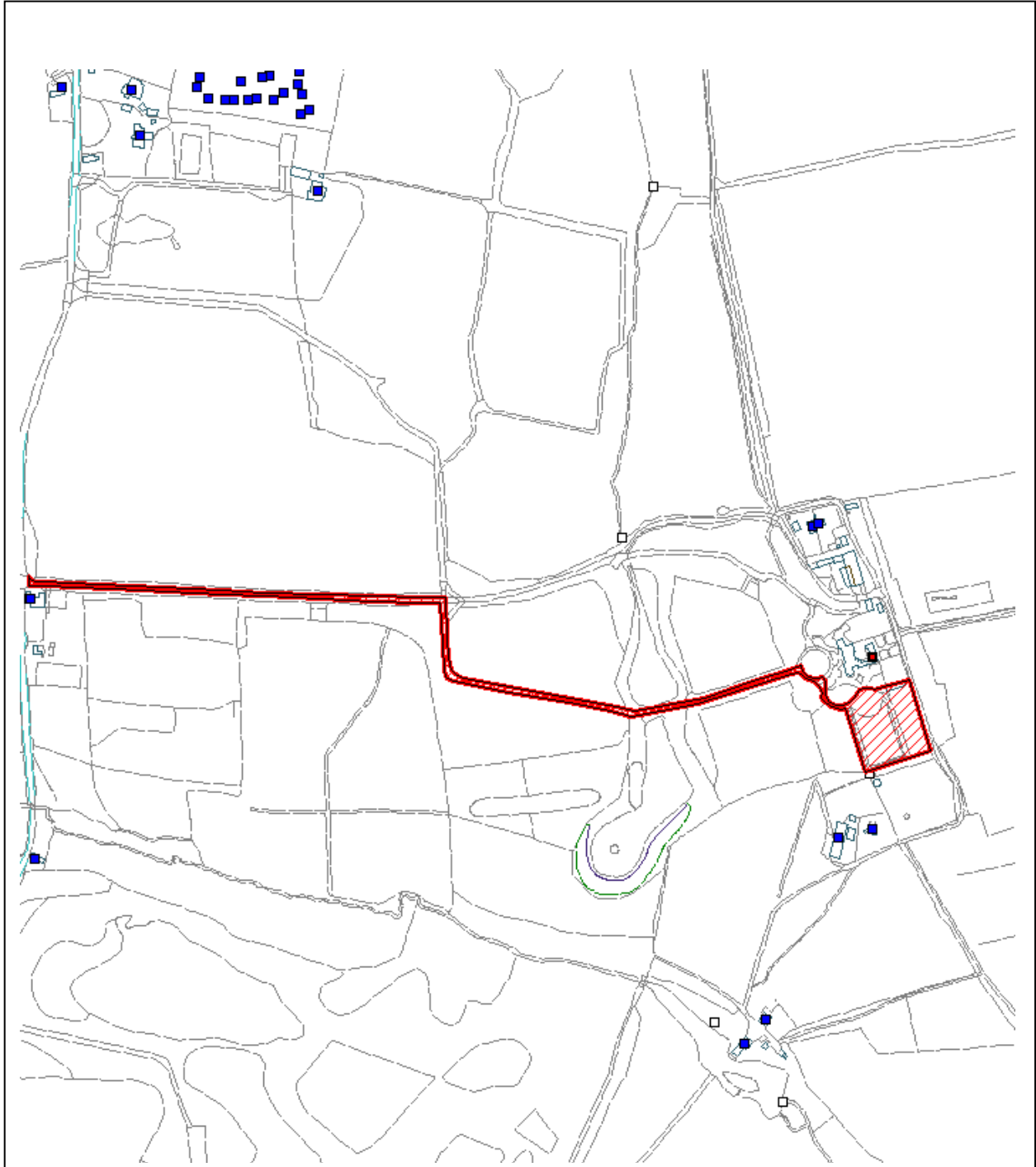


PLANNING COMMITTEE

17<sup>th</sup> March 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.3 PLANNING APPLICATION – 20/01523/FUL AND 20/01524/LBC – ALRESFORD HALL  
FORD LANE ALRESFORD COLCHESTER**



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**Application:** 20/01523/FUL and 20/01524/LBC **Town / Parish:** Alresford Parish Council

**Applicant:** Mr and Mrs Marsden

**Address:** Alresford Hall Ford Lane Alresford Colchester CO7 8AY

**Development:** Proposed swimming pool in the south side of the walled gardens. Proposed repair of walls, the raising of the east wall, a flight of brick steps, and the reinstatement of the original and new gates to the existing openings of the garden. (Part retrospective.)

## 1. Executive Summary

- 1.1 The application is referred to the Planning Committee by Councillor Scott on grounds that a full archaeological investigation scheme was not undertaken, the requirement of a justification for an increase in wall height, the need for new materials to be assessed by experts in the field of historic building restoration. For example, the type of lime mortar being considered and for samples provided of bricks that are to be used in any works, and mortar samples should be taken of completed works to ensure the lime/sand/mortar mix is acceptable.
- 1.2 The applications seek retrospective planning permission and retrospective listed building consent for a swimming pool in the south walled gardens, repair to part of a wall that was storm damaged and a flight of steps.
- 1.3 The applications seek planning permission and listed building consent to repair and raise the east garden wall, reinstate the original and new gates to the existing openings in the garden, and build a small section of wall to infill next to the shed to be able to install a gate.
- 1.4 It is regrettable that some works have been completed which have not allowed the necessary archaeological investigations to take place, however the application presents a development that is acceptable in terms of design, visual impact and heritage considerations and is recommended for approval subject to the necessary conditions set out below.

### **Recommendation:**

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

- a) The conditions stated in section 8.2 and 8.3

## 2. Planning Policy

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

*NPPF National Planning Policy Framework February 2019*

*National Planning Practice Guidance*

*Tendring District Local Plan 2007*

- QL9 Design of New Development
- QL11 Environmental Impacts and Compatibility of Uses
- EN22 Extensions or Alterations to a Listed Building
- EN23 Development Within the Proximity of a Listed Building
- EN29 Archaeology

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

- SPL3 Sustainable Design
- PPL7 Archaeology
- PPL9 Listed Buildings

**Status of the Local Plan**

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) 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. In this latter regard, as of 26<sup>th</sup> January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.
- 2.3 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10<sup>th</sup> December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.
- 2.4 The Council has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26<sup>th</sup> January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.
- 2.5 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.
- 2.6 Where emerging policies are particularly relevant to a planning application and can be given 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.

### 3. Relevant Planning History

01/00154/FUL	New private drive and entrance wall/piers to Alresford Hall and the estate	Approved	25.04.2001
91/00962/FUL	Change of use of private residence to residential home for the elderly plus new sewage treatment plant.	Approved	15.10.1991
96/00927/LBC	Repairs and renovations as per schedule of works	Approved	03.03.1997
04/00910/FUL	Erection of lean-to extension, chimney and enclosure of existing covered way	Approved	25.06.2004
04/00911/LBC	Erection of lean-to extension, chimney and enclosure of existing covered way	Approved	25.06.2004
04/01125/FUL	Erection of brick wall in kitchen garden	Approved	10.12.2004
04/01204/LBC	Erection of brick wall in kitchen garden		29.11.2004
05/00444/FUL	Renovation, conversion and change of use of barn to form two dwellings and all ancillary works.	Approved	01.06.2006
05/00472/LBC	Renovation, conversion and change of use to form two dwellings.	Approved	01.06.2006
83/00006/FUL	Dwelling house	Approved	12.04.1983
83/00219/FUL	Continued use and extn of part as wholesale nursery garden, retention of two multispan polythene tunnels	Approved	12.04.1983
88/01172/FUL	Retention of polythene tunnels and potting shed related to horticultural nursery ( part of renewal of 83/00219/FUL )	Approved	09.08.1988
93/00001/AGRIC	Agricultural Glasshouses	Determination	18.02.1993
10/01245/FUL	Alterations to the north east wing of house including replacement of roof coverings, internal alterations to the	Approved	24.01.2011

	kitchen, alterations to the main bathroom, reinstatement of chimney to courtyard and other ancillary works.		
10/01246/LBC	Alterations to the north east wing of house including replacement of roof coverings, internal alterations to the kitchen, alterations to the main bathroom, reinstatement of chimney to courtyard and other ancillary works.	Approved	24.01.2011
11/00403/FUL	Alterations to the north east wing of house including replacement of roof coverings, internal alterations to the kitchen, alterations to the main bathroom, reinstatement of chimney to courtyard and other ancillary works.	Approved	13.06.2011
11/00406/LBC	Alterations to the north east wing of house including replacement of roof coverings, internal alterations to the kitchen, alterations to the main bathroom, reinstatement of chimney to courtyard and other ancillary works.	Approved	31.05.2011
11/01305/FUL	Installation of 10kw ground mounted solar pv system.	Approved	04.01.2012
12/01328/FUL	Installation of community biomass system, to include a new plant room/fuel store building.	Approved	17.01.2013
12/01329/LBC	Installation of community biomass system, to include a new plant room/fuel store building.	Approved	
19/30144/PREAPP	Proposed farm diversification to create a childrens adventure playland within Alresford Hall Estate.		09.10.2019
19/01856/FUL	Proposed farm diversification to create a childrens adventure playland within Alresford Hall Farm	Approved	17.08.2020
20/01151/DISCON	Discharge of condition 7 (reptile mitigation) of approved application 19/01856/FUL.	Approved	08.09.2020
20/01404/DISCON	Discharge of conditions 2 (gates) and 3 (walls and piers) of approved application 01/00154/FUL.	Approved	08.12.2020

20/01523/FUL	Proposed swimming pool in the south side of the walled gardens. Proposed repair of walls, the raising of the east wall, a flight of brick steps, and the reinstatement of the original and new gates to the existing openings of the garden. (Part retrospective.)	Current	
20/01524/LBC	Proposed swimming pool in the south side of the walled gardens. Proposed repair of walls, the raising of the east wall, a flight of brick steps, and the reinstatement of the original and new gates to the existing openings of the garden. (Part retrospective.)	Current	
20/01603/DISCON	Discharge of conditions 3 (Materials), 5 (Play Equipment), 8 (Biodiversity Enhancement Layout), 9 (Lighting), 11 (Construction Traffic Management Plan), 20 (Mitigation Strategy), 21 (Contamination), 22, 25 and 26 (Foul and Surface Water) of approved planning application 19/01856/FUL.	Current	
21/00060/AGRIC	Proposed development for the creation of a concrete pad for agricultural use.	Determination	08.02.2021

#### 4. Consultations

Essex County Council Archaeology  
15.02.2021

The above application lies within a historic site and an area of high potential for archaeological remains as evidenced by the EHER, aerial photographic evidence and recent archaeological evaluation in the adjoining fields.

The 2020 evaluation in the adjacent fields recorded ditches that formed part of ring ditches, enclosures and a possible track way, and the archaeological features partially correlate with the cropmarks recorded on the HER with additional features being identified. More significantly the trackway recorded is dated to the Roman period and would lead towards the site recorded on the HER in the vicinity of Stable Cottage where evidence for a Roman building was reported and Roman finds were recovered. The Heritage Statement submitted with this application incorrectly reports that archaeological investigation of the cropmarks failed to identify them and concludes that "it seems unlikely that they represent archaeological features, let alone extend into the Site" The NPPF (Paragraph 199) states that "Local planning

authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. This development has taken place without a suitable archaeological investigation taking place and any evidence for prehistoric and historic remains has been disturbed or destroyed by the work undertaken. It is understood that no further groundworks are proposed for the above application, so all damage has already occurred. Should the soil excavated from the swimming pool area be accessible there is potential for archaeological artifacts to be present within it which would be out of context though could provide some evidence of any potential archaeological activity within the area.

If the soil is still present on site the only means of recovering information would be for this to be investigated through metal detecting and observation by an archaeological contractor to recover artefacts.

Essex County Council Heritage  
04.01.2021

This application is for a proposed swimming pool in the south side of the walled gardens. Proposed repair of walls, the raising of the east wall, a flight of brick steps, and the reinstatement of the original and new gates to the existing openings of the garden. (Part retrospective.)

The main heritage assets for consideration are:

- Grade II listed Alresford Hall (List Entry ID: 1111422);
- Grade II Listed Barn 70 Metres north east of Alresford Hall (List Entry ID: 1111423); and
- Walled Gardens to the rear and right of Alresford Hall (List Entry ID: 1168865).

ECC Heritage have no objections to this application. There appears to be a discrepancy in the drawings of the proposed garden wall which illustrates 9 and 7 courses in height (we believe 7 courses should be on both to retain step in wall height) which should be clarified.

ECC Heritage recommend conditions are attached to any permission requiring samples of new bricks and details of mortar to be used.

National Amenity Societies

No comments received

## 5. Representations

5.1 Alresford Parish Council object to the applications and make the following comments:

Insufficient justification is provided for certain aspects of the work and insufficient information is provided regarding important details relating to materials to be used in future works. In addition, detailed specifications and samples of materials used in works carried out have not been

forthcoming. The Council suggests that fresh and revised applications are submitted in preference to conditions attached to any possible approval of the current applications that Tendring District Council officers might consider in the circumstances. It is not being suggested by Alresford Parish Council that the main works already carried out are completely reversed rather it is now a question of making sure all future above ground features are acceptable to experts in the field of historic building preservation and restoration and that below ground archaeology is not ignored. Materials used so far need examination. All members of the Parish Council who have considered the applications were particularly disappointed that Listing Building Consent and Planning Permission was not obtained before commencement of demolition and rebuilding of walls took place and that full archaeological surveys were not undertaken when the swimming pool was excavated.

M-Arc Heritage who have prepared a report for the applicant, in affirming that there is nothing of archaeological consequence in relation to the Alresford Hall Grade II Listed Walled Gardens appear to have overlooked the Essex Archive records of the area. It is stated that COVID-19 restrictions prevented this, but surely the MH report should have been delayed until such time as potentially important evidence might be found in the archives. It will be found that 1st and 2nd century Roman remains were discovered at Stable Cottage in the late 1980's and early 1990's by Philip Clarke of the Essex County Council Archaeological section. The garden of nearby Stable Cottage actually adjoins the Alresford Hall Grade II Listed Walled Gardens at one end and therefore provides another very important reason for further examination. Unfortunately, the 100's of tons of spoil already excavated for the swimming pool have obviously not been examined.

Allowing listed building consent and planning permission applications to be retrospectively passed with a nod sets an important precedent for anyone with a listed building who might decide it would be much cheaper and less problematic to just go ahead and develop, assuming a retrospective approach will win the day.

Alresford Parish Council suggests revised applications that cover the following are submitted by the applicant:

- i. A full archaeological investigation scheme. Local Plan policy EN29 mentions the importance of archaeological surveys.
- ii. The justification for an increase in wall height. Page 2 of 4.
- iii. The need for new materials to be assessed by experts in the field of historic building restoration. For example, the type of lime mortar being considered and for samples provided of bricks that are to be used in any works.
- iv. Mortar samples should be taken of completed works to ensure the lime/sand/mortar mix is acceptable. This will determine if the work complies with both the Planning (listed buildings and conservation) Act – section 7 and clause 31 of the IHBC guidance note

Further comments: Alresford Parish Council understands the need to “breathe new life into old buildings” and acknowledges that the applicant has apologised for departures from the usual, lawful, planning procedures, however, the 970 Listed Buildings in Tendring are listed for very good reasons and we must all address the need for conservation of our heritage assets. The Tendring Heritage Strategy published in July 2019 highlights the need for conservation and collaboration to protect listed buildings.

We also draw the attention of Tendring District Council officers to the following: Under Section 9(1) of Chapter II of the Planning (Listed Buildings and Conservation Areas) Act, Authorisation of works affecting listed buildings/ Control of works in respect of listed buildings - it is an offence to contravene section 7 which provides that: "No person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which



would affect its character as a building of special architectural or historic interest, unless the works are authorised”

5.2 Three letters of objection have been received. The concerns raised are summarised below.

- Lack of archaeological assessment and survey of excavated area
- Inaccurate description of demolished/rebuilt listed garden wall and lack of record of the original before demolition
- Loss of any historical record and loss of the lean to structure
- Works have been executed without planning permission or listed building consent

The points raised above have been addressed in the main assessment.

## **6. Assessment**

### Site Context

6.1 The Site occupies the grounds of the Grade II Listed Building of Alresford Hall. Alresford Hall is set in a rural landscape mainly surrounded by pasture and arable land. The walled garden subject of this application lies to the south of Alresford Hall. The walls enclosing the garden are listed at Grade II. The south garden is divided by a wall thereby creating an eastern and western side.

6.2 The Listing information dates the brick walls enclosing the gardens on the south side of the hall to the 18th century, which suggests that the gardens were laid out when the hall was built. However, historic maps demonstrate that the garden was extended to the south during the mid-19th century.

6.3 While the walls at the north end of the gardens possibly date to the 18<sup>th</sup> century, those that fall within the site all appear to be mid-19<sup>th</sup> century in date, evidenced by imperial brick in the walls, rather than the slightly narrower Georgian brick.

### Planning History

6.4 There is various planning history relating to Alresford Hall, most recently the childrens adventure playland incorporating a large area of the estate, however there is no planning history relating to the south walled garden areas subject of this application.

### Proposal

6.5 The applications seek retrospective planning permission and retrospective listed building consent for a swimming pool in the south walled gardens, repair to part of a storm damaged wall that divides the eastern and western side of the garden and a flight of steps.

6.6 The applications seek planning permission and listed building consent to repair and raise the east garden wall, reinstate the original and new gates to the existing openings in the garden, and build a small section of wall to infill next to the shed to be able to install a gate.

### Design, Appearance and Heritage

6.7 Saved Policies QL9 and QL11 of the adopted Tendring District Local Plan (2007) 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 Emerging Plan.

- 6.8 Policy EN22 of the adopted Tendring District Local Plan (2007) states that development involving proposals to extend or alter a Listed Building will only be permitted where it would not result in the damage or loss of features of special architectural or historic interest; and the special character and appearance or setting of the building would be preserved or enhanced. Policy EN23 of the adopted Tendring District Local Plan (2007) concerns development within the proximity of a Listed Building and confirms that proposals for development that would adversely affect the setting of a Listed Building, including group value and long distance views will not be permitted. These sentiments are carried through in Policy PPL9 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.9 A modest-sized swimming pool has been excavated at the north end of the site, close to the existing entrance to the East Garden. The pool has been located between the west wall of the garden and the outbuilding bordering the north end of the site. The pool is rectangular with steps on the east side. It is surrounded by plain, stone edging and a brick border. Its interior is covered by a blue, water-proof lining. A hedge has been planted on the south side of the pool and further planting is proposed.
- 6.10 The pool lies within the settings of the listed walls and the outbuilding, and that of Alresford Hall itself. The introduction of the swimming pool has altered the settings of these designated heritage assets however the setting is enclosed and the pool does not obscure any views either within or outside the gardens. The pool has not directly affected the fabric of the listed buildings. The addition of planting in the area surrounding the pool will help to take the eye away from the blue pool. It is acknowledged from the evidence submitted that the eastern garden has seen many changes over a long period of time and that many walled gardens are no longer in use for their original purposes. The swimming pool is considered to result in less than substantial harm to the character or appearance of the listed building settings.
- 6.11 The north end of the wall between the East and West Gardens has been repaired after storm damage. Both the wall and the supporting buttresses on the east side have been rebuilt in imperial brick, laid in Flemish bond to the dimensions of the damaged wall. The original bricks were reused where possible and they were bonded using lime mortar.
- 6.12 The wall between the East and West Gardens is likely to be a later addition to the garden, however the wall is still of architectural and historic interest. It is also mostly intact, apart from the repaired section. There is no indication that the wall has been either raised or altered, which enhances its significance. Evidence suggests that there was a lean to or structure on the east side of the wall, possibly adjoining the wall and offering support. The removal of the structure which is not recorded may have weakened the wall in this area. The rebuilding of the wall has been carried out sensitively and has preserved the significance of the wall by restoring it to its state prior to damage.
- 6.13 A flight of five brick steps has been built at the east end of the curved terrace wall in the West Garden. The steps have been built out of metric brick and rise from the garden up to the raised walkway around the perimeter of the West Garden. The steps have stepped brick sides with brick coping. The north side of the steps has been built on top of the curved terrace wall. The steps lead to an area paved in brick by the entrance to the East Garden.
- 6.14 The only fabric affected by the works is the curved terrace wall at the north end of the West Garden. The wall is a 21st century introduction into the garden that was granted consent in 2004 (04/01125/FUL and 04/01204/LBC). The steps are in-keeping with the brickwork of the garden walls and Alresford Hall. The introduction of the brick steps has not resulted in any harm to historic fabric and result in less than substantial harm to the settings of either the hall or the garden walls.

- 6.15 The proposal includes raising the height of the north section of the east wall in the East Garden by nine courses of red brick laid in stretcher bond. The proposed wall would be one course lower than the south section of the existing wall.
- 6.16 The south section of the wall is intact, but the condition of the north section is much poorer. The upper part of the wall has already been raised by six to seven courses of brick laid in stretcher bond. The brickwork suggests that the upper courses were added during the mid to late 20th century. Some of the top course, or the brick coping is missing, and the top of the wall is uneven. The top seven rows of bricks would be removed and relaid and two further rows added to increase the height to maintain privacy.
- 6.17 Because the upper part of the north section of the east wall has already been raised, no significant fabric would be compromised by the proposal. The existing height of the south section of the east wall provides a historic precedent for raising the north end of the wall. The one course reduction in the height of the proposed wall would demonstrate that the raised wall was a later alteration. The proposal would not harm the significance of the wall but would serve to strengthen and improve its appearance. Details and samples of the new bricks and confirmation of the mortar will be secured by condition.
- 6.18 The proposed new section of wall which will infill a small section between the brick outbuilding and the dividing garden wall and new gate will measure 1.23 metres in width and 1.2 metres in height.
- 6.19 A new section of wall in this location is considered acceptable and will not significantly harm the character, fabric or appearance of the listed buildings and will allow the new wrought iron gates to be suitably secured. Details and samples of the new bricks and confirmation of the mortar will be secured by condition.
- 6.20 The proposed gates, one of timber and the others of ornate wrought iron exemplify the use of traditional materials with traditional designs which complement the character and appearance of listed buildings. The gates will be secured on wooden posts and wrought iron posts respectively ensuring that there will be no harm to the historic fabric of the walls.
- 6.21 A comprehensive Heritage Impact Assessment has been submitted as part of the planning application and listed building consent and which provides the appropriate level of detail in this case.
- 6.22 Essex County Council Heritage were consulted on the applications and conducted a site visit. An inspection of the completed works was carried out and they raise no objections to the retrospective or proposed works. The Heritage Team recommend conditions are attached to any permission requiring samples of bricks and details of the mortar to be used.
- 6.23 The retrospective and proposed works would result in less than substantial harm to the historic fabric and setting of the listed buildings. The retrospective and proposed work specifically to the walls will rather preserve what is there for future generations and sympathetically add to it ensuring the gardens can continue to be used and enjoyed by the family and any future occupiers.

#### Archaeology

- 6.24 Policy EN29 of the adopted Tendring District Local Plan (2007) confirms that where applications are submitted on sites where information indicates that there are likely to be archaeological remains, the Council will expect to be provided with the results of an archaeological evaluation prior to the determination of an application. Policy PPL7 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) follows up these sentiments.

- 6.25 Paragraph 189 of the NPPF states “*Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate deskbased assessment and, where necessary, a field evaluation.*”
- 6.26 Paragraph 199 of the NPPF states that “*Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.*”
- 6.27 The submitted Heritage Impact Assessment makes reference and provides a desk based assessment of the archaeological interest. It concludes that it is not expected to hold significant remains of archaeological interest however this is considered incorrect.
- 6.28 Essex County Council Archaeology confirms that the site is historic and an area of high potential for archaeological remains as evidenced by the EHER, aerial photographic evidence and recent archaeological evaluation in the adjoining fields.
- 6.29 The 2020 evaluation in the adjacent fields recorded ditches that formed part of ring ditches, enclosures and a possible track way, and the archaeological features partially correlate with the cropmarks recorded on the HER with additional features being identified. More significantly the trackway recorded is dated to the Roman period and would lead towards the site recorded on the HER in the vicinity of Stable Cottage where evidence for a Roman building was reported and Roman finds were recovered.
- 6.30 It is deeply regrettable that this development has taken place without a suitable archaeological investigation taking place and any evidence for prehistoric and historic remains has been disturbed or destroyed by the work undertaken.
- 6.31 The groundworks have been completed on site and therefore there is not an opportunity to discover evidence of any potential archaeological activity within the area.

## **7. Conclusion**

- 7.1 The proposal will not result in any adverse impact on the character, appearance and historic fabric of the listed buildings and therefore in the absence of any material harm resulting from the development, the applications are recommended for approval.

## **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission and listed building consent subject to the following conditions in 8.2 and 8.3.

### **8.2 Conditions and Reasons - 20/01523/FUL**

- 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:

Proposed east garden wall works revision 2.2 received 10th February 2021  
Drawing titled 'gate design for opening between tennis court lawn and pool garden'  
Drawing titled 'Gate design for opening between main lawn and tennis court - left hand gate'  
Photo titled 'Gate design for the wooden gate to be located in the existing opening in the north east corner of the walled garden'  
Drawing titled 'Gate design for opening between main lawn and tennis court - right hand gate'  
Drawing titled 'The proposed view of the gates for the gap between the shed and the repaired wall'.

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

- 3 Prior to relaying and replacing the bricks on the east wall and prior to laying the bricks to infill the section next to the shed the following shall be submitted to and approved in writing by the Local Planning Authority:  
A sample of the red brick proposed;  
Details of the mortar mix, profile and finish.

Reason - To ensure that special regard is paid to the architectural interest and integrity of the walls surrounding the garden.

### 8.3 Conditions and Reasons – 20/01524/LBC

- 1 The works hereby permitted shall begin before the expiration of three years from the date of this consent.

Reason - To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) 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:

Proposed east garden wall works revision 2.2 received 10th February 2021  
Drawing titled 'gate design for opening between tennis court lawn and pool garden'  
Drawing titled 'Gate design for opening between main lawn and tennis court - left hand gate'  
Photo titled 'Gate design for the wooden gate to be located in the existing opening in the north east corner of the walled garden'  
Drawing titled 'Gate design for opening between main lawn and tennis court - right hand gate'  
Drawing titled 'The proposed view of the gates for the gap between the shed and the repaired wall'.

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

- 3 Prior to relaying and replacing the bricks on the east wall and prior to laying the bricks to infill the section next to the shed the following shall be submitted to and approved in writing by the Local Planning Authority:  
A sample of the red brick proposed;  
Details of the mortar mix, profile and finish.

Reason - To ensure that special regard is paid to the architectural interest and integrity of the walls surrounding the garden.

## **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.

## **10. Background Papers**

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.