

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	MP	01/09/2023
Planning Manager / Team Leader authorisation:	ML	05/09/2023
Planning Technician final checks and despatch:	ER	08/09/2023

Application: 22/00593/FUL **Town / Parish:** Wix Parish Council

Applicant: Mr F O'Brien

Address: Potters Cottage Harwich Road Wix

Development: Retention of single storey dwelling and proposed single storey front extensions.

Town / Parish Council

Wix Parish Council Wix Parish Council has no objection to this application

Consultation Responses

ECC Highways Dept
22.09.2022
(Revised Comments)

Thank you for your re-consultation dated 23rd August 2022. We are sorry we've not been able to respond before now.

Having reviewed the additional information submitted, I confirm the contents of our recommendation dated 27th May 2022 still stand.

ECC Highways Dept
27.05.2022

The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material.

Access to the dwelling will be taken from an established private access. It is noted that it is proposed to make a slight access adjustment so that the access is constructed at right angles to the highway boundary and to the existing carriageway. The proposal retains adequate off-street parking and turning.

Considering these factors:

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

1. There should be no obstruction above ground level within a minimum 2.0 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided at the road junction / access and retained free of obstruction above 600mm at all times.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

2. A vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be retained, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

3. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

4. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the footway / cycleway or where no provision of footway/cycleway is present, the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety in accordance with policy DM1.

5. The proposed boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay. Prior to the commencement of any works the applicant should contact Highway Records and obtain a copy of the definitive highway boundary plan. Highway Records email address: Highway.Status@essexhighways.org

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.

6. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

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: 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.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

2: 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.

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Tree & Landscape
Officer
31.08.2022

The retention of the existing single storey dwelling does not in itself necessitate the removal of any existing trees or other vegetation.

On the boundary of the application site there are several established conifers of various heights that provide a degree of screening. Nevertheless, the conifers are incongruous features in their setting and add little to the character or appearance of the public realm.

The vegetation on the land is not considered to be a significant constraint on the development potential of the land and the removal of the conifer hedging as indicated on the Proposed Block Plan will not have an adverse impact on the local landscape character.

Details of soft landscaping should be secured by a condition attached to any planning permission that may be granted in order to provide a degree of screening on the boundary with the highway. A hedge comprising of indigenous species would be in keeping with the character of the area.

1. Planning History

01/01731/OUT	To build one bungalow/cottage to replace former cottages	Refused	03.12.2001
02/00578/FUL	Use of disused cottages building for self-catering holiday accommodation	Refused	23.05.2002
03/01393/FUL	Reinstatement as a single dwellinghouse.	Refused	19.02.2004
05/01304/OUT	New dwelling	Refused	15.09.2005
10/00446/FUL	Erection of single storey dwellinghouse (retention of existing building).	Refused	25.08.2010

11/00958/FUL	Erection of single storey dwellinghouse (relocation and retention of existing building).	Approved	22.11.2011
12/01325/FUL	Relocation and retention of existing building to form single storey dwellinghouse (resubmission of 11/00958/FUL).	Approved	24.09.2013
14/00994/DISCON	Discharge of Conditions 02 (Method Statement), 04 (Hard and Soft Landscaping) and 06 (Screen Walls and Fences) of planning permission 12/01325/FUL.	Approved	01.09.2014

2. Relevant Policies / Government Guidance

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

SP4 Meeting Housing Needs

SP6 Infrastructure and Connectivity

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Documents

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)

Other Relevant Documents

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

In relation to housing supply:

The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').

The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021, the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022, the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the

assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>.

There is no Neighbourhood Plan which has been 'made' for Wix or which is at an advanced stage of preparation at the time of writing of this report.

3. Officer Appraisal

Site Description

The site lies on the north side of Harwich Road to the east of the main settlement for Wix and comprises an enclosed area of land falling away from the road which is set to maintained grass and which contains a single storey, timber framed 2-bedroomed building externally clad in orange pantiles and black weatherboarding with white framed windows known as Potters Cottage (formerly Mayflower Cottages) which stands along the eastern flank boundary of the site close to the road frontage. The site is enclosed to the road frontage by a continuous 1.8m high close boarded fence with a gap for a vehicular access into the site set at an angle to the road with recessed entrance gates.

A 1½ storey cottage (Tile Cottage) with attendant outbuildings stands to the immediate east of the site within close siting proximity of the residential building, whilst arable land exists to the immediate west. Ramsey River flows to the immediate north (rear) of the site beyond which runs the A120.

A mobile home which once stood on the site has since been removed following new site ownership (current applicants). It is understood that the site has been subject to clearance of other items by the current applicants.

Site History

The site has a long and complex planning history dating back to the 1980's/1990's, first in consideration of the erection of 2 no. dwellings involving the demolition of the existing derelict cottages (Mayflower Cottages) (TEN/1638/88 – refused) and the erection of a single dwelling (TEN/374/89 – refused) and then in 2001 for the erection of a single bungalow / cottage to replace the former cottages (01/01731/OUT – refused) where the refusal reason cited for this latter application stated that the structure to be replaced (Mayflower Cottages) had been long abandoned as a dwelling, and again in 2003 for the re-instatement of the existing cottages as a single dwelling (03/01393/FUL – refused). Planning permission was subsequently refused in 2005 for a new dwelling through the retention and refurbishment of the existing cottages (05/01304/OUT) which was subsequently dismissed at appeal when the planning inspector for that appeal remarked that a previous inspector in 1990 had noted that the residential use of the site (Mayflower Cottages) had been abandoned by 1970 and was satisfied that this previous use did not justify departing from well-established principles restricting development outside settlement boundaries.

Planning permission was similarly refused in 2010 for a new dwelling to be known as Potters Cottage through the retention and refurbishment of the existing cottages (10/00446/FUL). Permission was subsequently granted in 2011 for the erection of a single storey dwelling (Potters Cottage) through the relocation and retention of the timber frame of the existing cottages which would result in the moved structure being positioned approximately 16m away from the eastern flank boundary of the site with the adjoining residential property, Tile Cottage (11/00958/FUL). It should be noted that the Council's decision for that application resulted from a resolution by Committee Members to overturn the officer refusal recommendation objecting to the development on policy grounds on the basis that the site lay in the countryside outside the SDB for Wix within an unsustainable location, as the proposal would adversely affect the character of the area, as it would have a significant adverse impact on the neighbouring property, Tile Cottage, as there was a history of previous planning refusals for the erection of a dwelling at the site, including at appeal, that significant weight should be applied to the most recent appeal decision for the site under ref; 05/01304/FUL as no material changes in the planning circumstances had occurred since then that gave weight to a decision other than refusal and as the Committee had previously authorised prosecution proceedings for the non-compliance of an enforcement notice to secure the removal of the existing building on the site (Mayflower Cottages) whereby prosecution proceedings were underway. Permission was

subsequently granted in 2013 under Council delegation arrangements for the relocation and retention of the existing building to form a single storey dwelling (Potters Cottage) as a resubmission of approved application 11/00958/FUL (12/01325/FUL). A DISCON application was subsequently submitted to discharge various planning conditions pertaining to grant of permission 11/00958/FUL. The permission for 12/01325/FUL has, however, long since lapsed.

As a consequence, the existing dwelling on the site (Potters Cottage) as its residential conversion involvement from the original dwelling, Mayflower Cottages, remains as an unauthorised residential structure on the land whereby the enforcement notice issued by the Council in 2008 relating to the *'unauthorised construction of a new building or rebuilding of a former cottage from a skeletal timber framework without the benefit of planning permission'* (Mayflower Cottages) remains in place and remains live (08/00072/ENFORC) whereby the requirements of the notice are to demolish the entire building. It is for this reason that a Certificate of Lawfulness application for an Existing use or Development (LUEX) is unable to be submitted seeking to retain the current dwelling on the site.

Site Proposal

This full application proposal relates to the retention of the single storey dwelling now known as Potters Cottage and proposed single storey front extensions to provide enlarged bedroom space.

A revised composite drawing, namely 22/1908/101/D, was received by the Council on 9 August 2022 which shows minor revisions to the proposed front extensions to the scheme as originally submitted following discussions with Council Officers and revised access arrangements.

Assessment

1. Principle of Development

The site lies outside the Settlement Development Boundary (SDB) for Wix meaning that the development proposal would be contrary to Policies SP1 and SP3 (Section 1) and Policies SPL1 and SPL2 of the adopted Tendring District Local Plan (TDLP) whereby there would not be a presumption in favour of sustainable development. However, of significant material weight to the issue of principle of development for the current dwelling retention application is the granting of planning permission by the Council at Planning Committee in November 2011 under ref; 11/00958/FUL for the relocation and retention of the existing building on the site as a single storey dwellinghouse as then already known as Potters Cottage and then subsequently under ref; 12/01325/FUL as a re-submission application to 11/00958/FUL). Those approved applications would have moved the existing single storey building on the site from the eastern flank boundary where it currently stands to a more exposed position into the centre of the site approximately 16m from the nearest site boundary.

The current retrospective application seeks to retain the existing single storey building as a dwelling in the position where it currently stands and as originally constructed as a pair of cottages (Mayflower Cottages) until a long absence of residential occupation during the 1960's subsequently showed that the dwelling had become lawfully abandoned. Notwithstanding the site's location outside the SDB for Wix, it is considered that extenuating circumstances exist with the granting of applications 11/00958/FUL and 12/01325/FUL by the Council for the relocation of the existing building on the site to make the case that an exception to currently adopted plan policy can be made in consideration of the planning merits of the submitted dwelling retention application, albeit that the permissions for those applications have long since lapsed and that the Council decisions were made under a previously adopted Local Plan.

In this context, due consideration has to be made as to whether the granting of planning permission for the current application proposal seeking the retention of the existing dwelling would have a more or a less harmful impact on the prevailing rural character of the area than the previous proposals for the relocation of the dwelling. It is noted that one of the additional reasons given in the officer report to committee stating why the dwelling relocation proposal submitted under ref; 11/00958/FUL placing the existing dwelling into the middle of the site (and therefore away from the boundary with Tile Cottage) was unacceptable was as its relocation would be injurious to the rural character of the area in terms of additional site exposure, although clearly the reasons for refusal as advanced by the case

officer for that application were not sufficient to persuade the Planning Committee to resolve to refuse the application in the light of other material circumstances which the committee were required to consider which are not necessary to repeat for this report.

A replacement 1.8m close boarded fence has been erected by the current applicants along the front boundary of the site onto the road which screens the main interior of the site and significantly screens the existing dwelling along the eastern flank boundary of the site up to eaves level from this only public vantage point. The Council has previously accepted in correspondence with the applicants for the current retention application that the replacing of this frontage fence is permitted development whereby a close boarded fence of the same frontage alignment and height is clearly shown in site photographs for application ref; 05/01304/OUT, albeit that a LUEX application has not been submitted by the current applicants.

It could be reasoned that the relocation of the existing dwelling, had this lawfully occurred by being set back deeper into the site, would have had a less resultant harmful impact than the retention of the dwelling as it currently stands closer to the road frontage given this frontage screening. That said, the visual impact of the dwelling as positioned towards the front of the site is not considered to be having a significantly harmful impact upon local rural amenity at this rural site location beyond the SDB and it is contended that should for any reason the close boarded frontage fence screening be removed for any reason that having the existing dwelling retained in its original boundary position would be less conspicuous than the previously approved relocation proposal, although it is appreciated that the positing of this argument is now somewhat hypothetical and academic.

Accordingly, it is considered that the current retention proposal does not warrant a refusal of planning permission on specific siting grounds whereby no rural amenity objections are raised under Policy SP7 (Section 1) and Policies SPL3 and PPL3 (Section 2) of the adopted TDLP.

The site lies within Flood Zone 1 with the exception of the very bottom end of the site which lies within Flood Zone 2 (Ramsey River) whereby the existing dwelling stands at the very top end of the site. In this regard, the Government's Flood Risk Map for Planning identifies that the site has a very low risk of fluvial flooding and also a low risk of surface water flooding. It therefore considered that a flood risk assessment is not required for this application, particularly given that the application relates to the retention of the existing dwelling on the site. No flood risk objections are therefore raised under Policy PPL1 of the adopted TDLP.

In light of all of the circumstances above, it is considered that the principle of development for the retention of the existing dwelling in its current position at this site location is acceptable whereby sufficient mitigation and matters of material weight can be advanced to support this position.

2. Design

The existing building is simple in its originally constructed single storey form evolving from two cottages with an 'in line' pitched roof and having a series of regular spaced windows across its front elevation. Any proposed extensions to it would therefore have to reflect this simple construction format.

The proposed extensions would comprise two identical front projecting gabled additions to be positioned either end of the existing building to provide additional bedroom space for the two existing bedrooms and also a slight forward increase in the remainder of the frontage of the dwelling with an overall forward projection of between 2.5m and 2.8m as shown on revised drawing 22/1908/101/D. The original composite drawing submitted for this application (22/1908/101) showed a central forward projecting gable with flat roofed flank additions, although the revised drawing has resulted from previous officer negotiations seeking design improvements.

The extensions shown in their revised form would be subservient and proportionate in scale to the existing building whereby its simple form and appearance would be retained, whilst the proposed fenestration as shown would be handed and balanced across the building's front elevation. The roof of the extensions and forward adjustment of the building in between would be externally clad in orange pantiled roof tiles to match the existing roof, whilst the walls of the extensions etc. would be clad in boarding on a brick plinth.

The design and appearance of the proposed extensions are considered acceptable whereby the resultant extension scheme for the dwelling would similarly not have a significantly harmful effect upon the rural character of the area. No design objections are therefore similarly raised under Policy SP7 (Section 1) and Policies SPL3 and PPL3 (Section 2) of the adopted TDLP.

3. Access

Vehicular access into the site is currently obtained via an informal angled access from Harwich Road through the existing 1.8m high close boarded frontage fence whereby evidence of this existing access arrangement is similarly clearly shown for previously determined applications for this site, including 12/01325/FUL, 11/00958/FUL, 10/00446/FUL and 05/01304/OUT. The established nature of the access in this position is therefore beyond doubt, although again the lawfulness of the access has not been tested.

The original composite drawing for the current dwelling retention proposal (22/1908/101) showed a revised access arrangement whereby a new vehicular access would be constructed to meet Harwich Road at right angles which would be recessed from the highway between new brick entrance walls to provide improved visibility in each direction along the road for drivers leaving the site thereby representing a safer access arrangement at this site location which lies just within the national speed limit leading out of Wix village. Highway comments were received from ECC Highways on the indicated new access arrangements who did not raise any highway objections to the proposal in their original consultation response dated 27.05.2022 noting that the new access would be constructed at right angles to the highway. However, a subsequent revised composite drawing was received on 9 August 2022 (22/1908/101/D) which showed the access arrangement in its existing/established angled access position at the site after Council Officers had expressed the view that it was unlikely that a new 1.8m/2m high frontage brick wall shown to be erected along the site frontage boundary on the originally submitted drawing to replace the existing/established 1.8m high close-boarded frontage fence was unlikely to receive a grant of planning permission as part of any dwelling retention proposal in view of the harmful visual impact that the wall was likely to have on the street scene and upon rural character.

ECC Highways were consulted on the revised composite plan showing the access arrangement for the dwelling in its existing/established angled access position to be retained who commented in their updated highway response dated 22 September 2022 that the contents of their recommendation dated 27th May 2022 still stand raising no highway objections to the proposal having reviewed the additional information submitted. It is not clear whether ECC Highways had a full appreciation of the reverted access arrangements. However, it is considered that no access objections can be reasonably sustained to the current proposal under Policies SPL3 and CP2 (Section 2) of the adopted TDLP given the established nature of the access into the site and a lack of any clear highways objection to the indicated revised access arrangements.

4. Parking

Existing parking at the site is in the form of casual parking within the spacious curtilage by the site entrance and in front of the existing dwelling. It is not proposed to change this existing parking arrangement for the proposed dwelling retention application whereby ECC Highways have stated in their original consultation response that the proposal retains adequate off-street parking and turning. No policy objections are there raised under Policy SP7 (Section 1) and Policies SPL3 and LP4 (Section 2) of the adopted TDLP).

5. Impact on Residential Amenity

The existing cottage stands parallel with the boundary with Tile Cottage which faces the road at right angles. Historically, representations have been received from the occupants of this adjacent property regarding the continued residential occupation of Mayflower Cottages.

There have not been any physical changes made in relation to the overall profile of the existing cottage since becoming known as Potters Cottage, whilst the proposed front extensions would face out onto the interior of the site away from Tile Cottage. As such, there would not be any amenity

harms caused to this adjacent property as a result of the current proposal where it is noted that the current occupants of Tile Cottage are supportive of the current retention application stating that the proposal to retain the dwelling and to add small front extensions would not impact upon their residential amenity whereby the extensions would greatly improve the appearance of the property.

Accordingly, no objections are raised under Policy SP7 (Section 1) and Policy SPL3 (Section 2) of the adopted TDLP).

6. Drainage

Paragraph 170 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 180 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

Policy PPL5 (Section 2) of the adopted TDLP states that all new development must make adequate provision for drainage and sewerage and should include Sustainable Drainage Systems (SuDS) as a means of reducing flood risk, improving water quality, enhancing the Green Infrastructure network and providing amenity and biodiversity benefits.

Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour. In terms of private facilities, a private package treatment plant is preferred to a cesspit under existing drainage guidance.

The application is accompanied by a Foul Drainage Assessment Form (FDA) which states that the site is not on mains drainage and is served instead by a private foul waste facility, in this case a cesspool. It is stated on the form in terms of drainage justification for the retention of this non-mains facility that, *'The cesspool is an existing system with no known issues which is maintained as necessary and emptied when required'*.

Clearly, the existence of such a facility at the site is the least preferred means of foul waste disposal under existing drainage guidance in terms of environmental protection. However, it is an established facility at the site without any stated drainage issues whereby the current retrospective application seeks to retain the existing dwelling on the site which has been resided in for many years, albeit in an unauthorised manner, rather than proposing a net increase in new dwellings at the site beyond this status quo, and it is considered therefore that the existing drainage provision at the site is acceptable.

No objections are therefore raised under Policy PPL5 and the NPPF.

7. Energy efficiency and renewable energy measures

Policy PPL10 (Section 2) of the adopted TDLP addresses renewable energy generation and energy efficiency measures for residential development involving the creation of one or more dwellings. Measures including solar panels, heat pumps and electric car charging points should be considered for all new dwellings. Paragraph 112 e) of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

The current proposal seeks the retention of the existing dwelling on the site rather than being new-build whereby the dwelling is of simple timber frame construction clad in tiles and weatherboarding. It is possible that limited energy efficiency and renewable energy measures could be introduced to make the building shell more sustainable, although none have been included within the application submission and it is considered that it would be unreasonable in this instance requiring the retrofitting of such measures to be compliant with Policy PPL10.

8. Legal Obligations (RAMS)

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) being approximately 4.4 kilometres from the Hamford Water RAMSAR, SAC and SPA. New housing development within the Zoi would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Other Considerations

Wix Parish Council has raised no objections.

One additional letter of support has been received.

Conclusion

The retention of the dwelling as sought by this retrospective application is considered acceptable given the planning history of this site which is considered to be of significant weight to the planning merits of the application proposal with particular reference to grant of planning permission 11/00958/FUL for the relocation of the existing cottage to another position on the site, albeit this permission has not been implemented and has long since lapsed. The proposed extensions as shown for the retained dwelling are also considered acceptable where this element of the application has been negotiated. The frontage replacement fence erected by the new occupiers has been treated by the Council for the purposes of this application as being permitted development, albeit that a lawful use application has not been submitted. Taking the above into consideration, the application is compliant with local and national planning policies and is recommended for approval.

4. Recommendation

Approval.

5. Conditions

- 1 **CONDITION:** The works to which this consent relate must be begun not later than the expiration of three years beginning with 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 Section 51 of the Planning and Compulsory Purchase Act 2004

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the consent becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk of both Enforcement Action and Criminal proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

- 2 **CONDITION:** The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be

approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

101D - Site Plan, Existing and Proposed Block Plans, Existing and Proposed Floor Plans and Elevations – Received 09.08.2022

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

- 3 CONDITION: There should be no obstruction above ground level within a minimum 2m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided at the road junction/access and retained free of obstruction above 600mm at all times.

REASON: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety.

- 4 CONDITION: Prior to the first occupation of the development, details of a vehicular turning facility shall be approved, in writing, by the Local Planning Authority. The turning facility shall be constructed, surfaced and thereafter maintained free from obstruction within the site at all times for vehicular use only.

REASON: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

- 5 CONDITION: The access hereby approved shall have a bound material surface and shall be laid out for a minimum distance of 5 metres from the edge of the carriageway prior to first use. The bound material as implemented shall then be retained thereafter.

REASON: In the interests of highway safety to prevent hazards caused by loose materials on the highway.

NOTE/S FOR CONDITION:

Carriageway is the part of a road intended for vehicles rather than pedestrians normally define by kerb if available or edge of a bound surface. It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

- 6 CONDITION: Notwithstanding the provisions of the Town & Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) there shall be no gates/fence and/or other means of enclosure within six metres from the edge of the carriageway at the point of access unless details are first agreed, in writing, by the local planning authority. Any gates to be erected on site that may be approved, shall only open into the site and not over any area of the public highway at any time.

REASON: In the interests of highway safety.

NOTE/S FOR CONDITION: Carriageway is the part of a road intended for vehicles rather than pedestrians normally define by kerb if available or edge of a bound surface. It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

- 7 CONDITION: Any 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.

- 8 CONDITION: Prior to the first occupation of the development the areas within the site identified for the purpose of loading/unloading/reception and storage of materials and manoeuvring shall be retained thereafter and remain free of obstruction except for the purpose of loading/unloading/reception and storage of materials and manoeuvring and used for no other purpose. Any other area within the site outlined in red not identified shall not be used as loading/unloading/reception and storage of materials and manoeuvring areas.

REASON: To ensure that appropriate loading / unloading facilities are available in the interest of highway safety.

6. Informatives

Highways Informative:

1: 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.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

2: 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.

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.