

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	CC	09.11.2023
Planning Manager / Team Leader authorisation:	JJ	10/11/2023
Planning Technician final checks and despatch:	JJ	10/11/2023

**Application:** 23/01283/FULHH                      **Town / Parish:** Frating Parish Council

**Applicant:** Mr and Mrs N Murray

**Address:** Three Bells 1 Church Road Frating

**Development:** Proposed demolition of existing flat roof garage and construction of new single storey side and rear storey extension, new detached garage.

### **1. Town / Parish Council**

Frating Parish Council                      No comments received

### **2. Consultation Responses**

Essex County Council  
Heritage  
10.10.2023

The application is for proposed demolition of existing flat roof garage and construction of new single storey side and rear storey extension, new detached garage and alterations to highway access. (Re submission of 23/00710/FULHH).

The proposal site is part of a group of two (formerly four) 19th century cottages in close proximity to 12th century Grade II Listed Old Church House (List Entry Number: 1111440), a former parish church converted into residential in 1980s. The cottages were built in the second half of the 19th century on a land historically associated with Frating Hall, also Grade II Listed, and could therefore be considered part of its wider setting. The cottages have been altered and extended over the past, however they still retain their original vernacular character and a uniform and homogeneous appearance in their main elevation on Church Road which positively contribute to the setting of Old Church House and enhance our understanding of the development of this cluster of buildings in their isolated rural context.

The current iteration of the proposed extension offers a more bespoke response, in terms of scale and design, to the historic context of the cottages and the Grade II Listed Old Church House and is therefore considered to overall preserves those elements of the setting that make a positive contribution to the identified heritage assets, and which better reveal their significance. I advise the proposed rooflight to the front elevation is removed, as this is a non-traditional type of fenestration which is not considered in keeping with the vernacular character of the setting.

There is no objection to the demolition of the existing modern garage, which is a later addition of no historic or architectural

significance, to be replaced with the proposed garage at the front of the property.

In terms of external materials, as previously advised, I am unable to support the proposed render to the external elevations of the main cottage and advise the existing painted brickwork is retained/reinstated in order to maintain the uniform appearance of the group of cottages. The use of cement slates would also not be supported (Paragraph 197c of the NPPF is relevant here).

Were permission to be granted, I advise the following conditions are included:

- Prior to installation, a schedule of drawings that show details of all proposed windows and doors, in section and elevation at scales between 1:20 and 1:1 as appropriate, showing details of glazing type, framing, glazing bars, and cills, shall be submitted to and approved in writing by the Local Planning Authority. Works shall be implemented in accordance with the approved details and shall be permanently maintained as such;

- Prior to commencement of above ground works/installation, specifications and samples of all external finish materials shall be submitted to and approved in writing by the Local Planning Authority. Works shall be implemented in accordance with the approved materials and details specified and shall be permanently maintained as such;

- Prior to commencement, a detailed landscape layout including specifications and details of hardstanding materials and boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. Works shall be implemented in accordance with the approved materials and details specified and shall be permanently maintained as such.

ECC Highways Dept  
29.09.2023

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

The Highway Authority will protect the principal use of the highway as a right of free and safe passage of all highway users.

The Highway Records has been consulted and it is confirmed that part/all of the proposal has encroached onto highway land. It is unlawful to construct a building on or enclose highway land and as such the Highway Authority cannot sanction the proposal.

The proposal creates an obstruction on the highway where members of the public are entitled to pass and repass over highway land unobstructed. It is therefore contrary policy DM1 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

#### Notes

- Highway Land has highway rights which pass over the land. These rights do not extinguish over time
- It is not uncommon for land to be under the ownership of a third party, i.e., the sub-soil, but also be public highway.

iii. It is recommended that the applicant approach Highway Records to establish the full extents of the highway rights over the verge at the front and side of the property; Email address: [Highway.Status@essexhighways.org](mailto:Highway.Status@essexhighways.org)

Officer comment – the objection, and in particular the grounds for objecting by ECC highways is noted and will be covered in the relevant section below. Specifically it should be noted that amended plans have been received since the original submission of this application removing the proposal to amend the existing highway access alterations. The existing access will remain unchanged and therefore will not require planning permission and does not form part of this planning application.

### 3. Planning History

96/00736/FUL	('Three Bells' 1 Church Cottages, Church Road, Frating) Extensions to kitchen and lounge and alterations to bathroom and w.c.	Approved	03.07.1996
23/00710/FULHH	Proposed demolition of existing flat roof garage, erection of side and rear single storey extension and new garage.	Withdrawn	23.08.2023
23/01283/FULHH	Proposed demolition of existing flat roof garage and construction of new single storey side and rear storey extension, new detached garage and alterations to highway access. (Re submission of 23/00710/FULHH)	Current	

### 4. Relevant Policies / Government Guidance

National:

National Planning Policy Framework July 2023 (NPPF)  
National Planning Practice Guidance (NPPG)

Local:

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

SP1 Presumption in Favour of Sustainable Development  
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

PPL9 Listed Buildings  
CP2 Improving the Transport Network

### **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.

## **5. Officer Appraisal (including Site Description and Proposal)**

### **Application Site**

The application site serves a semi-detached dwelling located towards the south of Church Road. The site is situated outside of any defined settlement development boundaries.

The existing dwelling is of a two-storey nature and finished in painted brickwork, with pitched roof design and an existing flat roofed garage. The site is located opposite Grade II listed Old Church House, however there is extensive tree / shrubbery planting to largely shield the site from this Listed building.

### **Proposal**

This application seeks planning permission for the demolition of the existing flat roof garage and construction of new single storey side and rear extension, new porch and new detached garage.

Amended plans have been received since the original submission of this application removing the proposal to amend the existing highway access alterations. The existing access will remain unchanged and therefore will not require planning permission and does not form part of this planning application.

### **Assessment**

#### **Design and Appearance**

##### **Side and Rear Extensions**

The proposed side and rear extension will be visible to the public views of the streetscene when viewing the dwelling from the front and at the gaps in the existing hedgerow located along the eastern boundary.

The proposed extensions are of a single storey nature with pitched roof design, incorporating roof lanterns to the rear, side and front elevations.

The proposed side extension will be finished in render, it is also proposed to render the existing painted brickwork meaning that the side extension will blend with the appearance of the host dwelling. The rear extension will be finished in timber boarding. The use of painted render is considered to be of a similar appearance to that of the existing brickwork and in any event this change is possible under permitted development due to the fact that the site is not located in a conservation area.. The use of timber boarding will be introducing a new material to the site, however this is located to the rear of the dwelling and therefore largely shielded from the public

views of the area. Timber boarding is considered to be of an appearance that is complimentary to that of the host dwelling and is therefore acceptable on this occasion.

The application site is able to easily accommodate for the proposed extensions whilst retaining adequate private amenity space. The extensions are therefore deemed to be of an appropriate size and scale.

### Porch

The proposed porch is located to the front of the site and will therefore be visible to the public views of the streetscene. The porch is of a single storey nature with mono-pitched roof design. The exterior walls will be finished in render to blend with that of the host dwelling. The attached neighbouring property has a porch of a similar scale and design, the proposal is therefore deemed in keeping with the area and has no significant harmful impacts on visual amenities.

### Detached Garage

The proposed detached garage will be situated at the front of the site towards the east. The garage includes the provisions of a bike store area to the front of the site.

The garage is of a single storey nature with hipped roof design. The garage will measure approximately 6.4 metres wide by 6.8 metres deep, with the attached bike store measuring 2.7 metres deep by 4 metres wide. The application site is easily able to accommodate for an outbuilding of this size and scale whilst retaining adequate private amenity space. Adequate space is retained between the outbuilding and the site boundary as to not appear overly cramped within the plot.

The garage will be largely shielded by the existing and proposed shrubbery along the site boundary, however due to its height it will be visible to the public views of the area. The garage will be finished in a black featheredged weatherboarding with a slate roof. Again this will be introducing a new material to the site, However, black featheredged weatherboarding is considered to an appropriate cladding material in this semi—sylvan setting and will not appear out of keeping with the area.

### Impact on Heritage Assets

The application site is located opposite to Grade II listed Old Church House. Due to this location, Essex County Council's Heritage Department (Place Services) have been consulted on this application, their comments have been included in full above and summarised here.

ECC Heritage have stated that the current proposal offers a bespoke response in terms of scale and design to the historic context of the cottages and Grade II listed Old Church House and is considered to preserve the elements of the setting that make a positive contribution to the identified heritage assets. However, Place Services have raised the following concerns;

- The proposed rooflight to the front elevation should be removed as this is not a traditional type of fenestration.

Officer Response – The proposed rooflight to the front elevation is located on the proposed side extension (which will clearly be a new addition if approved) and is deemed to be of a minor nature, this front elevation is set further back within the plot than the existing front elevation, helping to somewhat shield the rooflight and help it to not appear overly dominant within the area. Furthermore, there is an extensive level of planting to the front boundary of the Grade II listed site which will further shield this rooflight from negatively affecting the setting of the listed building. The rooflight is also in keeping with those proposed on the side and rear elevations and therefore, In this instance is it not considered appropriate to request the rooflight be removed.

- The proposed render to the external elevations of the main cottage is not supported and it is advised that the painted brickwork be retained.

Officer Response – The application site is not located within any Conservation Area and therefore planning permission is not required to render the external elevations of the property. It is therefore deemed unreasonable to request that the painted brickwork be retained. The design and Appearance of the proposal has been fully assessed above and deemed to be acceptable on this occasion.

Place Services have also requested that certain conditions be included if planning permission were to be granted. One condition requesting details of all proposed windows and doors be submitted to and approved in writing by the Local Planning Authority prior to installation. The second requesting specifications and samples of all external finish materials to be submitted to and approved in writing by the Local Planning Authority. And lastly, requesting a detailed landscaping layout, including hardstanding materials and boundary treatments be submitted to and approved in writing by the Local Planning Authority. In this instance, none of these conditions are deemed to be appropriate. The documents and plans submitted with this application provide detailed descriptions of the proposed windows, doors, external material and landscaping. The information provided is deemed significant enough for the Local Planning Authority to make an informed decision and as such these suggested conditions would fail the test of necessity and in some respects, reasonableness, especially if no clear harm can be identified in respect of the proposed details that have been submitted.

#### Impact on Neighbouring Amenities

The proposed extensions, porch and detached garage are of a single storey nature and therefore pose no significant threat of overlooking or loss of privacy to the adjacent neighbouring dwellings.

The proposed development is located towards the east of the site, situated away from the attached neighbouring dwelling, and therefore has no impact on the loss of light to this dwelling. The proposed development is not located adjacent to any other property and has no impact on the loss of light.

#### Highway Safety

Essex County Council Highways have been consulted on this application. It is important to note that these comments have been submitted as a result of the original plans submitted with the application, no further consultation was deemed necessary following the submission of the amended plans and confirmation that no changes are proposed to the existing side access area. Essex County Council Highways have initially confirmed that part of the proposal encroached onto highway land. It is unlawful to enclose highway land and as such the Highway Authority cannot sanction the proposal.

Officer Response – Following the consultation comments with ECC Highways the applicant has obtained highway records to establish that the part of the proposal that encroaches onto highway land is in fact the existing vehicular access arrangements to the east of the site. This vehicle access was shown on the original plans submitted with this application as part of the proposal. However, following a site visit from the case officer and conversations with the agent it has been confirmed that the access is to remain as existing, therefore no changes are proposed in this area. In addition, an informative will be added to any subsequent approval to state that the existing access is on highway land and that this is a matter the applicants will need to resolve with Essex County council Highways.

The proposed garage does not comply with Essex County Council Highway Requirements for a garage to measure at least 7 metres by 3 metres internally in order to be considered an acceptable parking space. However, there is adequate space to the front and rear (using the existing vehicular access) to accommodate parking for the site. The Local Planning authority therefore deem the garage acceptable.

#### Other Considerations

Frating Parish Council have not submitted any comments on this application.

No other letters of representation have been received.

### Conclusion

The proposed development is considered to comply with the above-mentioned national and local planning policies. In the absence of material harm the proposal is recommended for approval.

## **6. Recommendation**

Approval - Full

## **7. Conditions / Reasons for Refusal**

### 1. COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later 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 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 permission becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

### 2. APPROVED PLANS & DOCUMENTS

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.

Drawing No. 04A

Drawing No. 10

Drawing No. 01A

Drawing No. 03C

Drawing No. 07D

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.

## 8. 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

i. Highway Land has highway rights which pass over the land. These rights do not extinguish over time

ii. It is not uncommon for land to be under the ownership of a third party, i.e., the sub-soil, but also be public highway.

iii. It is recommended that the applicant approach Highway Records to establish the full extents of the highway rights over the verge at the front and side of the property; Email address: Highway.Status@essexhighways.org

<p><b>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</b></p>	<p>YES</p>	<p>NO</p>
<p><b>Are there any third parties to be informed of the decision? If so, please specify:</b></p>	<p>YES</p>	<p>NO</p>