



### 3. Planning History

93/00870/FUL	Continuation of use of office and area for stud and tack supply sales ancillary to stud farm [renewal of TEN/91/0469]	Approved	31.08.1993
95/01277/FUL	Continuation of use of office and area for stud and tack supply sales ancillary to stud farm (renewal of planning permission TEN/93/0870)	Approved	28.11.1995
83/00646/FUL	Erection of det dwelling	Approved	12.07.1983
85/00837/FUL	Erection of det dwelling ( details under TEN/646/83 )	Approved	03.09.1985
90/01344/FUL	Erection of stables	Approved	07.12.1990
91/00469/FUL	Office and area for stud and tack supply sales ancillary to stud farm	Approved	02.07.1991
12/00689/FUL	Proposed horse exerciser.	Approved	17.08.2012
14/01452/FUL	Siting of mobile home for two year period in association with equestrian business.	Approved	05.01.2015
15/00216/DISCON	Discharge of condition 03 (Foul drainage details) of planning permission 14/01452/FUL.	Approved	07.04.2015
15/01187/FUL	Refurbishment of stable block and change of use to paddock	Approved	28.09.2015
17/00061/FUL	Proposed detached dwelling, including retention of mobile home for duration of building work.	Refused (Dismissed at appeal)	07.04.2017
17/00901/FUL	Resubmission of planning application 17/00061/FUL - Proposed detached dwelling, including retention of mobile home for duration of building work.	Refused (Dismissed at appeal)	21.07.2017
17/02090/FUL	Change of use from agriculture to equestrian uses including formation of 700 metre long silica surfaced training/exercise gallop extending into blue edged land.	Approved	12.02.2018

### 4. Relevant Policies / Government Guidance

National Planning Practice Guidance

Tendring District Local Plan 2007

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN6A Protected Species

HG18 Permanent Dwellings for Agricultural Workers

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

HP5 Open Space, Sports & Recreation Facilities

LP3 Housing Density and Standards

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SPL3 Sustainable Design

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in

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

In relation to housing supply:

The NPPF requires Councils to 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' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

## **5. Officer Appraisal**

### Site Description

The application site is Benson Racing, Harts Lane, Ardleigh and is accessed from Harts Lane with the access track shared by the neighbouring dwelling at Old Whaley Farm. The site lies outside of any defined settlement development boundary in both the saved and draft local plans. The large site comprises two established and successful equestrian businesses (Benson Stud and Benson Racing) with numerous horse paddocks, a cluster of disused poultry sheds, and a large complex of stables with the dwelling Stud Farm Cottage adjacent. There is also a second dwelling on the site, Benson Stud Bungalow, which is occupied by the applicant's elderly parents.

### Description of Proposal

This application seeks planning permission for the erection of a single detached dwelling, following the expiry of the previous two year temporary permission for a mobile home under planning application 14/01452/FUL.

### Relevant Planning History

TEN/255/69 approved the bungalow called Benson Stud Bungalow subject to a condition that occupation of the dwelling shall be limited to a person employed, or last employed, locally in agriculture or forestry or a dependant/widow/widower. Reason: The site lies outside any area which would be considered for normal residential development but in view of the agricultural significance attaching to the proposal the LPA have decided to grant consent on condition that the dwelling remains for an agricultural worker. This property is currently occupied by the applicant's parents who are in their 90s and are retired farmers and have never been involved with Benson Stud.

TEN/646/83 and TEN/837/85 approved the detached dwelling called Benson Stud/Stud Farm Cottage subject to a condition that occupation is limited to persons employed at Benson Stud reason: the site lies outside any area which would be considered favourably for normal residential

development. An exception is made in this case to meet the management and security needs of the existing stud. This property is currently occupied by the applicant and his wife who are required to be on site 24 hours per day.

Between 1990 and 1995 there were four planning permissions for stables and offices. The 1990 application for additional stables refers to there being around 30 horses already on site.

14/01452/FUL approved the siting of a mobile home for a two year period in association with equestrian business.

17/00061/FUL refused planning permission for an additional permanent dwelling within the site, as it had not been adequately justified that the size of the activities within the site required a third permanent dwelling, and information supplied by the applicant had demonstrated there was viable alternative accommodation on site. This application was also dismissed at appeal stage (appeal reference APP/P1560/W/17/3178493, dated 13 November 2017), with the Inspector concluding "*I am not satisfied that an essential need for a rural worker to live permanently at or near their place of work has been demonstrated in this instance.*"

Under planning reference 17/00901/FUL, planning permission was again refused for an additional permanent dwelling as it had not been adequately justified that the size of the activities within the site required a third permanent dwelling. This application was also dismissed at appeal stage (appeal reference APP/P1560/W/17/3184905, dated 17 April 2018), with the Inspector concluding "*there is no justification for an additional permanent dwelling in the countryside.*"

## Assessment

### 1. Principle of development

At paragraph 79 the National Planning Policy Framework (2019) states local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside.

Saved Policy HG18 (Permanent Dwellings for Agricultural Workers) reflected the aims of the now redundant PPS7 and sets out the relevant criteria against which the proposal should be assessed. Whilst PPS7 is redundant the method for assessing rural workers dwellings (i.e. the functional and financial tests) remains a key consideration to the merits of each individual case, and Policy HG18 states that permanent dwellings for agricultural or forestry workers will only be granted planning permission if:

- (i) There is a proven need for the dwelling to be located within the relevant agricultural or forestry unit as demonstrated by the applicant through both a "functional" and "financial test";
- (ii) The applicant is able to demonstrate that the size of the proposed dwelling is commensurate with the functional requirement of the agricultural unit and that the monetary income from the enterprise is able to sustain the cost of building and maintaining the dwelling;
- (iii) The enterprise has been carried out for a period of at least three years prior to the date of the planning application; and
- (iv) Alternative accommodation, which would also meet the functional requirements of the enterprise, is not available.

Following the two earlier refusals for a similar proposal at this site, the agent for the application has provided a detailed statement that has sought to overcome the previous concerns raised, namely by demonstrating the site operates as two separate businesses. A summary of this information is provided below.

- Under previous applications it had been suggested that the son, Charlie, would take over Benson Stud - however this is no longer an option due to the commitments associated with

Benson Racing. This has meant Ben Wallis, the father, has now put retirement on hold for the foreseeable future;

- A table highlighting the key differences between Benson Racing and Benson Stud has been provided, demonstrating the length of time each business has operated, its turnover and profits in recent years, and essential skills and activities associated with each business. The table also highlights that the applicant and wife work 84 and 70 hours per week respectively, with Ben Wallis also working 84 hours at Benson Stud;
- Information has also been provided detailing the number of horse races the son has been involved in, as well as the details of each horse (currently there are 29 in total). The information then details daily routines, including morning inspections, feeding the horses, cleaning the stables, and administering routine treatments and medication. There are additional duties on race days when, depending on the travel distance required, can involve the applicant not returning until the early hours;
- Further, due to horses being unpredictable, it can result in out of character behaviours in the event of an aeroplane or storm. This behaviour leaves horses more susceptible to various equine disorders such as colic should it not be resolved promptly; and
- The statement also explains the need for site security given the valuable nature of some of the competition horses, with any theft or injury resulting in the obvious loss of a horse but also has the potential to damage the businesses reputation.

The information that has been provided has clearly distinguished that there are two businesses operating on this site, and has shown there is clearly a functional need for a 24 hour presence to manage each of these businesses in the interests of both animal welfare and security for these highly valuable animals. While the original two year temporary permission was on the proviso that the son was able to accommodate one of the two dwellings within the site following the decisions expiry, it is clear that Benson Racing has become more established and has significantly grown since the submission of the previous two applications. It has therefore been adequately justified that the size of the activities within the site requires a third permanent dwelling.

Within previous decisions at this site, it has been explained that there are two permanent dwellings on site currently, with no justification provided as to why either of these dwellings could not be used to facilitate the need of this growing business. However, the submitted planning statement has again sought to clarify this, as summarised below.

- In order to meet the essential functional need arising at Benson Racing, a skilled equine worker would need to reside in close proximity of the buildings used to accommodate the horses, and also would ideally have views of the paddocks where horses at high risk would be sited;
- While there are two other properties, The Bungalow and Stud Farm Cottage, located within the site, these are sited 360 and 465 metres away respectively. This is considered to be out of sight of the stables and would ensure any noise from horses could not be heard. A dwelling in close proximity would also act as a deterrent to any potential criminal activity; and
- Stud Farm Cottage is occupied by Ben Wallis who, as previously stated, is now not retiring for the foreseeable future, and also has a separate essential need to reside there in accordance with the occupancy condition and to provide essential support to Benson Stud. Therefore this property is not available to the applicant. The second property, The Bungalow, is occupied by the applicants' grandmother. However, as highlighted within appeal decision APP/P1560/W/17/3184905 there is no legal connection between the applicant and this property, and there is no mechanism to secure the occupation of that property as an alternative to the mobile home.

It has therefore also been demonstrated that the two other properties on site are not viable options for the applicant and his family to live in. Further, upon searching Rightmove there is one available

property within a 0.5 mile radius of the site (located 0.3 miles apart). However, as per the two other properties within the site it is not considered this is a viable option due to the significant separation distance meaning that the horses cannot be adequately supervised.

With respect to the financial test the two businesses in question are both well established. Financial information supplied within the submitted plans shows that the companies are both profitable, with Benson Racing in particular showing sharp profit increases. This further emphasises there is no reasonable doubt that the business is continuing to grow and will remain financially viable for the foreseeable future.

It is therefore concluded that the proposal meets the relevant local and national criterion, and the principle of development is acceptable subject to the detailed considerations below.

## 2. Design and Layout

The submitted plans show that the proposed permanent dwelling will be situated in approximately the same location as the previously approved mobile home, to the south of the site, and will be single storey serving two bedrooms.

With respect to the design of the dwelling, due to its rural location there are few properties or built form within proximity that the proposal needs to adhere to, whilst the site is well set back from the street scene and not visible. That notwithstanding, the proposed materials; natural terracotta concrete pantiles, black weatherboarding and Essex red brick will be relatively in-keeping with the rural setting, and therefore the proposal is not considered to create a significant detrimental visual impact.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of two bedrooms should be a minimum of 75 square metres. The submitted plans show that there will comfortably be enough private amenity space to meet this criterion.

## 3. Residential Amenity

There is an unrelated dwelling, Ardleigh House, approximately 120 metres to the east of the proposal, however given such a significant separation distance there will be no impacts to existing amenities.

## 4. Highway Safety

Essex County Council Highways has been consulted as part of the process of this application and has stated that as the dwelling is located well within the boundary of the site, will utilise the existing vehicle access, and has adequate parking and turning facilities, it does not object to the proposal.

Adopted Car Parking Standards state that for a dwelling with two or more bedrooms there should be provision for a minimum of two parking spaces measuring 5.5m x 2.9m or, if being relied upon as a parking space, a garage with internal measurements of 7m x 3m. The proposed plans show this is comfortably achieved.

## 5. Legal Obligations

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

There is currently a deficit of -1.70 hectares of equipped play/open space in Ardleigh, with two play areas located 1.7 miles away from the development. However, due to the size and the location of the play area to the development, it is unlikely it will see any impact from this proposal. Therefore on this occasion no contribution is required.

## 6. Habitats Regulation Assessment

Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The contribution is secured by unilateral undertaking. There is therefore certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

### Other Considerations

Ardleigh Parish Council are in support of the application.

There has been one letter of support received.

## 6. Recommendation

Approval.

## 7. Conditions

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

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans, drawing numbers 120, 121, the documents titled 'Site Location Plan' and 'Planning Statement', and the document received 13 May 2019 that highlights the areas of the site allocated for Benson Stud and for Benson Racing.

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

- 3 The occupation of the hereby approved dwelling shall be limited to a person solely or mainly working or last working at Benson Racing as an equestrian worker or a widow or widower of such a person and to any resident dependants.

Reason - The site of the permission is outside of any area where planning permission would normally be forthcoming for residential development not directly related to a clearly and specifically identified exceptional need related to a recognised countryside activity.

- 4 Within two months of occupation of the hereby approved dwelling, the mobile home as shown to be removed on drawing number 120 shall be permanently removed from the site.

Reason – The hereby approved dwelling provides permanent accommodation to replace the existing mobile home, in a location where planning permission would not normally be



forthcoming for residential development not directly related to the exceptional need demonstrated.

## **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:

On the completion of the Development, all roads, 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.

Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

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.

### 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.