

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	12/03/20
Planning Development Manager authorisation:	TF	12/03/2020
Admin checks / despatch completed	CC	12/03/20
Technician Final Checks/ Scanned / LC Notified / UU Emails:	RNE	12/03/2020

**Application:** 19/01889/FUL **Town / Parish:** Ardleigh Parish Council

**Applicant:** Mr Ingleton - Notcutts Limited

**Address:** Land West of Station Road and South of Kiln Road Ardleigh Essex

**Development:** Proposed erection of stables and Change of Use of land for the keeping of horses.

### 1. Town / Parish Council

Ardleigh Parish Council

Ardleigh Parish Council is concerned about the proposed position of the stables on this site with particular emphasis on the following

\* Access- the site opens on to a busy road close to a bend- if the entrance is gated this would be likely to cause obstructions and danger to motorists and pedestrians.

\* the site has archaeological significance and we would be concerned about damage to ancient structures eg when siting drainage.

\* the site is close to houses, risk of noise nuisance and light pollution.

Regarding the change of use in general the site is adjacent to the railway line, as well as a busy road. The council is uncertain whether the site is suitable for livestock, or whether this would be permitted by network rail. The position of the stables next to the road which is heavily used by large goods vehicles through the night seems surprising. Concerns have been expressed to the council about storage and disposal of manure and of the risk of attracting vermin.

(it was also mentioned that this site could potentially be more suitable for housing than for horses.)

### 2. Consultation Responses

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority. The existing vehicular access to the site which is to be retained is located within an existing 20mph zone. As far as can be determined there are no proposals to use the land for any form of equestrian events or as livery stables, therefore:

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

1. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, 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.
2. Prior to 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 provided clear of the highway and retained thereafter for that sole purpose.  
Reason: To ensure that appropriate loading / unloading facilities are available 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 maximum of 0.5 metres from the back edge of the footway/cycleway or where no provision is present, the carriageway.  
Reason: In the interest of highway safety in accordance with policy DM1.
5. There shall be no discharge of surface water onto the Highway.  
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.
6. Prior to the first use of any external lighting / floodlighting within the development site, the light source shall be so positioned and shielded, in perpetuity, to ensure that users of the highway are not affected by dazzle and/or glare, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.  
Reason: To ensure that users of the highway are not subjected to glare and dazzle from lighting within the development in the interest of highway safety and in accordance with Policy DM1.
7. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.  
Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.
8. 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: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

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

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 - Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester  
CO4 9YQ

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.

Essex County Council  
Archaeology

The above application has been identified on the weekly planning list.

The proposed development lies within an area of recorded cropmark evidence which is a scheduled monument site. Archaeological excavation within the scheduled area has revealed evidence for multi-period settlement, agriculture, burial and industry from the prehistoric, Roman and Saxon periods. Recent excavation at the adjacent site revealed that activity extended beyond the scheduled area and the majority of features suggest Late Iron Age/Roman settlement lay in the immediate vicinity, within the scheduled area.

The application states that the maximum depth of disturbance would be 300mm which may impact on the archaeological horizon, there are no details on the depth of disturbance from any services which may be required and which may extend into the archaeological horizon. There is potential for the works to impact on below ground archaeological deposits and any groundworks which require the removal of topsoil should be monitored under archaeological control.

The following recommendations are made in line with the Department for Communities and Local Government National Planning Policy Framework:

**RECOMMENDATION:** A Programme of Archaeological monitoring

1. No development or preliminary ground-works can commence until a programme of archaeological monitoring has been secured in accordance with a Written Scheme of Investigation, which has been

submitted by the applicant, and approved by the planning authority.

2. Following completion of the archaeological fieldwork, the applicant will submit to the local planning authority an archaeological report (within six months of the completion date, unless otherwise agreed in advance with the planning authority).

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

If you have any questions about this advice, please do not hesitate to contact me.

### **3. Planning History**

19/01889/FUL	Proposed erection of stables and Change of Use of land for the keeping of horses.	Current
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### **4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

EN1 Landscape Character

COM12 Equestrian Uses and Buildings

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

SPL3 Sustainable Design

PP13 The Rural Economy

PPL3 The Rural Landscape

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

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies

according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. 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.

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

### Site Description

The application site refers to Land West of Station Road and South of Kiln Road, Ardleigh. The land is undeveloped and is designated as a Scheduled Ancient Monument. The application site is located outside the development boundary of Ardleigh.

### Proposal

This application seeks planning permission for the change of use of the land for keeping horses and the erection of stables. The proposed stables are of an 'L' shape. The longer aspect will measure 14.2 metres by 4.2 metres with an overall height of 4 metres. The shorter aspect will measure 8.9 metres by 4.2 metres with an overall height of 4 metres.

### Assessment

#### Principle of Development

The principle policy to consider for this application is Policy COM12 of the Tendring District Local Plan (2007) which states, inter alia, that proposals for the change of use of rural land for the keeping of horses and the erection of stables will be considered in relation to the following:

- o The nature and scale of the equestrian use and the impact of the built development on the character of the countryside
- o The impact of any built development on the amenity of neighbouring residential properties
- o Whether suitable arrangements have been made for the disposal or storage of soiled material and foul drainage provision
- o Whether suitable vehicular access can be provided.

#### Design and Impact on Landscape

QL9, QL10 and QL11 of the Tendring District Local Plan (2007) seeks that all new development should make a positive contribution to the quality of the local environment and protect or enhance the local character and that development should not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby property.

### *Change of use of the land*

As part of this application, the land is proposed to change from agricultural use to paddock land, to incorporate a stables. It is considered that as there is dense vegetation along the front boundary of the application site, views of the proposed land will be limited and therefore it will not cause any significant impact upon the street scene.

### *Stables*

The proposed stables building is considered to be of a scale, nature and design appropriate to the locality. The new stables will be located to the west of the application and it will be screened from the road by existing vegetation, resulting in no detrimental impact on the street scene of Station Road. Although there may be views of the proposed stables from Kiln Road, the proposed building is set back from the highway by approximately 15 metres away, with some vegetation to help screen the proposal. The stable building proposed is a typical 'L' shaped weatherboard building with a dual pitched slate roof. The stables will comprise of four stables, a tack room and hay store. The application also proposes a yard area with a post and rail fence at 1.2 metres in height. It is considered that the existing vegetation will help to reduce and screen the proposed stables from the street scene and therefore will not significantly harm the open character of the area.

The application site is set to grass and forms part of, what used to be, the overflow car park for the former Notcutts Garden Centre.

It contains several established trees that have a pleasant softening impact on the character of the locality. It appears that the development proposal would necessitate the removal of three Flowering Cherry trees that are situated in the main body of the land. The trees are relatively small and set back from the highway. Their removal would not have an adverse impact on the appearance of the area.

There are also two trees situated on the land between the proposed position of the stables and the adjacent property: 2 Kiln Road, Ardleigh. It appears that the development proposal could be implemented without causing harm to these trees although the access road appears to be within their Root Protection Areas (RPA's). A condition will be imposed to secure details of the construction method of any hard surfacing within the RPA's of retained trees. This will ensure that tree roots are not damaged and that the retention and long term viability of the trees is not compromised by the development proposal. A soft landscaping condition will be imposed to help to ensure that the proposed stables will satisfactorily assimilate into its setting.

### *Impact upon residential amenities*

Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

### *Change of use of the land*

Due to the site being well contained, the impact upon the neighbouring amenities is considered minimal.

### *Stables*

There are neighbouring dwellings to the north and south of the application site. To the south is 'Ferndale' which is located approximately 20 metres away from the proposed stable building. There is existing vegetation along the neighbouring boundary which will help to screen the single storey building and a condition will be imposed to ensure that the vegetation is retained to reduce any impact upon neighbouring amenities.

To the north of the application site is number 2 Kiln Road which is located approximately 18 metres away from the proposed stable building. As part of the imposed landscaping condition, it will be proposed that landscaping and hedging is implemented along the northern boundary shared with number 2 Kiln Road, to reduce any impact upon neighbouring amenities.

#### Highway Consideration

As part of the planning application, Essex County Highways have been consulted and have stated that the existing vehicular access to the site which is to be retained is located within an existing 20mph zone. As far as can be determined there are no proposals to use the land for any form of equestrian events or as livery stables. Therefore, Essex Highways have no objection subject to conditions relating to the vehicular turning facility, storage of building materials, no unbound materials, opening of gates, no discharge of surface water, external lighting/floodlighting and parking space measurements. The storage of building materials will not be imposed as a condition and although the parking spaces shown on the block plan are under Essex Parking Standards, there is sufficient parking provided on site to be able to accommodate sufficient parking.

#### Archaeology

The Historic Environment Officer has been consulted on this application and has stated that the proposed development lies within an area of recorded cropmark evidence which is a scheduled monument site. Archaeological excavation within the scheduled area has revealed evidence for multi-period settlement, agriculture, burial and industry from the prehistoric, Roman and Saxon periods. Recent excavation at the adjacent site revealed that activity extended beyond the scheduled area and the majority of features suggest Late Iron Age/Roman settlement lay in the immediate vicinity, within the scheduled area.

The application states that the maximum depth of disturbance would be 300mm which may impact on the archaeological horizon, there are no details on the depth of disturbance from any services which may be required and which may extend into the archaeological horizon. There is potential for the works to impact on below ground archaeological deposits and any groundworks which require the removal of topsoil should be monitored under archaeological control. As a result two conditions will be imposed relating to the applicant submitting a written scheme of investigate and an archaeological report.

#### Other considerations

Ardleigh Parish Council have commented on this application and have concerns in regards to the position of the stables in particular to the access, archaeology and the impact upon neighbouring amenities. There are also concerns in regards to the change of use of the land in respect of the railway line.

*The concerns raised above have been addressed within the report.*

One letter of observation has been provided stating that the red border of the site plan goes beyond the fence border of the neighbouring property at 2 Kiln Road. Can this be amended. In response to this observation, the agent has provided amended plans.

Five letters of objection have been received and raise the following concerns;

1. Concerns raised in regards to the entrance gates do not allow for the safe setting down of a vehicle. Should vehicles park in front of the gates this would present a risk of obstruction to the current 'T' Junction at the bottom of Kiln Road.

*In response to concern number 1, a condition will be imposed to ensure that the gates will be inward opening only and shall be set back a maximum of 0.5 metres from the back edge of the footway/cycleway or where no provision is present, the carriageway.*

2. The proposed stables would constitute to development which is not only outside of the local development plan but also on land which is completely development free.

*In response to concern number 2, for any equestrian uses and buildings, the council have to assess any proposals against Policy COM12 of the Tendring District Local Plan 2007 which has been addressed within the report.*

3. The land does not offer safe grazing for the horses.

*The proposed piece of land is undeveloped and the condition of the land is not a material planning consideration, the onerous is on the owner.*

4. Potential risk of noise pollution in from the horses to the immediate local residents of Kiln Road.

*As part of the application process, the Environment Protection Team were consulted who assess the impact of noise upon the local area. The team had no objection to the application.*

5. Congestion of Station Road and the impact of horse boxes and other vehicular traffic.

*Essex County Highways have been consulted on this application and have not raised any objections as addressed within the report.*

6. Concerns of the erection of the stables on an area of archaeological significance causes great concern.

*Archaeology has been addressed within the report.*

## **6. Recommendation**

Approval - Full

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

- 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 plan: Drawing No. 0102 Revision P03 and Drawing No. 0300 Revision P02

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

- 3 Prior to first use of the stables hereby approved, a waste management plan dealing with the storage and removal of horse manure shall be submitted to and approved in writing by the Local Planning Authority. The approved waste management plan shall be adhered to at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason - In the interests of residential amenities to ensure that they do not suffer a loss of amenity by reason of odour.

- 4 There shall be no burning of horse manure on the site at any time.

Reason - The site is in the proximity of residential dwellings and therefore suitable control is necessary in order to protect the amenities of residents of such properties.



- 5 Effluent originating from the stable floor must be considered foul water and thus conveyed and disposed of in the same manner as domestic foul water.

Reason - To ensure that nearby premises do not suffer a loss of amenity by reason of odour nuisance.

- 6 Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), other than the details approved under condition 7, no provision of fencing, wall or other means of enclosure shall be erected except in accordance with drawings showing the design and siting of such building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - Any future boundary treatment will be important as they will abut the open countryside.

- 7 Prior to the first use of the hereby approved grazing area, details of all boundary fencing/treatments shall be submitted to, and approved in writing, by the Local Planning Authority. The development should be carried out in accordance with these approved plans and retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reason - In the interests of visual amenity and landscape impact.

- 8 No floodlighting or other means of external lighting shall be installed at the site except in accordance with details (to include position, height, aiming points, lighting levels and a polar luminous diagram) which shall have previously been submitted to and agreed in writing by the Local Planning Authority.

Reason - To secure an orderly and well designed development sympathetic to the character of the area and in the interests of residential amenity.

- 9 Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, 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

- 10 Prior to 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 provided clear of the highway and retained thereafter for that sole purpose.

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

- 11 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

- 12 Any gates provided at the vehicular access shall be inward opening only and shall be set back a maximum of 0.5 metres from the back edge of the footway/cycleway or where no provision is present, the carriageway.

Reason: In the interest of highway safety.

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

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

- 14 Prior to the first use of any external lighting / floodlighting within the development site, the light source shall be so positioned and shielded, in perpetuity, to ensure that users of the highway are not affected by dazzle and/or glare, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that users of the highway are not subjected to glare and dazzle from lighting within the development in the interest of highway safety

- 15 No development or preliminary ground-works can commence until a programme of archaeological monitoring has been secured in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority.

Reason - In the interests of archaeological monitoring.

- 16 Following completion of the archaeological fieldwork, the applicant will submit to the local planning authority an archaeological report (within six months of the completion date, unless otherwise agreed in advance with the planning authority).

Reason - In the interests of archaeological monitoring.

- 17 No above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site including details of landscaping along the southern boundary shared with number 2 Kiln Road, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837:2012 Trees in relation to design, demolition and construction."

Reason - In the interest of visual amenity and the rural character of the area.

- 18 The landscaping shown on Drawing No.0102 Revision P03 shall be retained in this form. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - In the interests of the visual amenity.

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

Reason - In the interest of visual amenity and the rural character of the area.

- 20 No development shall commence until details of the construction method of any hard surfacing within the root protection areas is submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that the tree roots are not damaged and that the retention and long term viability of the trees is not compromised by the development.

## 8. Informatives

### 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.

### Highways

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.

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.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 - Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
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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.

### Archaeology

A professional team of archaeologists should undertake the archaeological work. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

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