

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	DA	08/02/21
Planning Development Manager authorisation:	TC	08.02.2021
Admin checks / despatch completed	CC	09.02.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	DB	09.02.2021

Application: 20/00612/FUL **Town / Parish:** Thorpe Le Soken Parish Council

Applicant: Jessica Ball

Address: Thorpe Cross Farm 83 Frinton Road Thorpe Le Soken

Development: Proposed change of use from Agricultural to Mixed use Agricultural / Equestrian use, erection of stable block, barn muck clamp and installation of an equestrian arena and covered horse walker.

1. Town / Parish Council

Thorpe Parish Council

No comments revised

2. Consultation Responses

One letter has been received expressing concern about a new hedge planted along the site boundary which may affect pedestrian access.

Environmental Protection 22.06.2020 The Environmental Protection Team recommend the following comments:

1. Effluent originating from the shelter floor must be considered foul water and thus conveyed and disposed of in the same manner as domestic foul water.
2. A plan for storage and removal of horse manure is to be confirmed with this authority.
3. No burning of horse manure should be carried out on site.
4. The proposed stables should operate in such a way as to not cause noise nuisance. It is suggested that it operates between the hours of 7am-7pm daily, if possible closed on Sundays/Bank holidays.

Reason:

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

ECC Highways Dept
18.09.2020

ADDITIONAL INFORMATION (DAS & PS) AND LAYOUT
DRAWING NUMBERED 5873/09

The Highway Authority observes that the applicant has confirmed that the commercial element of this proposal will predominately be equine convalescence and those animals attending at the site will likely to be for a period of 4-6 weeks or so and vehicular movements of transporting livestock would be limited to possibly a maximum of 3 movements each way per month. The applicant also claims in paragraph 6.2 of the Design and Access Statement / Planning Statement that the vehicular access onto Damants Hall Lane is an authorised access which is contested by the Highway Authority as it isn't properly constructed or provided with visibility splays commensurate with any previous or current standards. However, the Highway Authority considers that the use of this access for equine vehicles proposed and associated to this use which will be few due to the nature of the operation of the business and there being no public access or use by the general public, can accommodate these limited vehicle movements subject to the access being suitably constructed and surfaced.

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 first occupation of the proposed development, the proposed vehicular access onto Damants Hall Lane shall be constructed at right angles to the highway boundary and to a width of 6.0 metres and shall be provided with an appropriate vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2 The proposed vehicular access shall be provided with suitably compacted Type 1 or Type 2 surfacing materials to be used in the surface treatment of the proposed vehicular access for the first 6m within the site, to the specifications of the Highway Authority.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

3 Prior to the first use of the proposed access, details of the construction and future maintenance of the necessary bridging or piping of the drainage ditch/watercourse shall be submitted to and approved in writing by the Lead Local Flood Authority (Essex County Council)

Reason: To prevent or reduce the risk of flooding of the adjoining highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4 Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 6.0m. from the highway boundary.

Reason: To ensure that vehicles using the access may stand clear of the carriageway whilst those gates are being opened/closed, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

5 Use of the proposed development shall be ancillary, incidental and in conjunction with the occupiers of Thorpe Cross Farm, Frinton Road Thorpe Le Soken and no other commercial use, livery, fairs and competition events being permitted.

Reason: To prevent the generation of unnecessary traffic in the interests of highway safety in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: 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 or by post to:

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

3. Planning History

00/00449/FUL	Retention of timber fence	Approved	02.05.2000
20/00612/FUL	Proposed change of use from Agricultural to Mixed use Agricultural / Equestrian use, erection of stable block, barn muck clamp and installation of an equestrian arena and covered horse walker.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 201

National Planning Policy Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL7 Rural Regeneration

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

ER7 Business, Industrial and Warehouse Proposals

COM12 Equestrian Uses and Buildings

COM23 General Pollution

EN1 Landscape Character

EN13 Sustainable Drainage Systems

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SP6 Place Shaping Principles

SPL1 Managing Growth

PP13 The Rural Economy

PPL3 The Rural Landscape

CP2 Improving the Transport Network

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 (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) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council is now making arrangements to formally adopt Section 1 of the Local Plan in its modified state and this is expected to be confirmed at the meeting of Full Council on 26th January 2021 – at which point will become part of the development plan and will carry full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan. In the interim, the modified policies in the Section 1 Local Plan, including the confirmed

housing requirement, can be given significant weight in decision making owing to their advancement through the final stages of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) is now expected to proceed in 2021 and two Inspectors have already been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The site lies to the north of Frinton Road, west of Damant's Farm Lane. The site includes a 16th Century farmhouse building which is not listed. It also includes a commercial MOT garage next to the main dwelling.

The wider area is rural in character and includes farmland as well as small groupings of residential building to the north west of the application site.

The Proposal

Planning permission is sought for a change of use from agricultural to mixed agricultural / equestrian use. The proposal involves the construction of mixed Private / Commercial Use stables, comprising 10 no. stables to include 1 foaling stable and 1 quarantine / recovery stable, wash down area, vet exam room, tack & rug room and feed store. A separate Horse Walker, a proposed 30m x 50m ménage, and storage barn.

The stables are proposed for 'spelling' racehorses, this is for resting and convalescing horses requiring a resting period after or during the racing season and for post-operative or illness recovery. These stables will not be open to the general public and will be used by the applicant for their own race horses and private referrals. The proposal also includes a ménage and exercise area.

Planning Assessment

Principle

Paragraph 83 of the NPPF - Supporting a prosperous rural economy states that planning policies and decisions should among other things enable:

"the development and diversification of agricultural and other land-based rural businesses".

More specifically regarding equestrian uses, saved policy COM12 of the Tendring District Local Plan (2007) is the principle policy to assess this proposal against. This policy sets out that business and domestic equine related activities will be considered in relation to the following criteria:

a) the nature and scale of the equestrian use and the impact of the built development on the character of the countryside, including nature conservation interests and the cumulative effect of similar uses in its general area;

the proposed stables and manege are to be for private use only and well set back from the adjacent road and as such it would not appearing prominent in the street scene. Subject to a condition requiring additional soft landscaping and natural screening, the proposal will assimilate well within the rural background.

b) whether the size of the stables accords with the number of horses intended to be accommodated;

The proposal will include ten stables, the sizes of which are considered acceptable.

c) the impact of any built development on the amenity of neighbouring residential properties;

The surrounding area is mainly rural but there are some residential properties to the east along with commercial premises within the site. However, given there is a significant distance of approximately 32m to the nearest residential property, and that a condition will be attached to ensure no burning of manure, there is not considered to be a significantly detrimental impact to existing amenities.

With regards to the impacts from the manege it will be used for private and commercial use on a referral basis. There is a significant separation distance of more than 50m to the neighbouring property to the east. Furthermore, the submitted plans confirm waste will not be stored within 50m of the nearest neighbouring property. A condition will be attached to any approval to ensure no means of floodlighting or external lighting shall be installed on site.

Therefore the proposal is acceptable against this criterion.

d) whether suitable arrangements have been made for the disposal of storage of soiled material and foul drainage provision meets the requirements of the Council and Environment Agency;

The proposal is to be for personal and commercial use only. Natural waste produced will be used on the farmland.

e) whether a suitable vehicular access can be provided in connection with the stables such as to allow the free and safe flow of traffic on the adjoining highway;

The proposal will utilise an existing access connecting to the highway which will be adapted to improve ease of access. As such, Essex Highways Authority raises no objections to the proposal subject to conditions.

f) the impact on the character of the countryside of providing an adequate access;

The proposal does not involve the provision of a new access.

g) the level of traffic to be generated by the proposed use, and the suitability of the road leading to the site to cater for such movements; and

The proposal will be for use by the owner of the property and for referrals. It is anticipated that there would be limited additional traffic generated by the proposed development. The applicant has stated that traffic movements to and from the site resulting from the proposed use would be no more than 4-6 movement per month given the nature of the use for the rehabilitation and resting of racehorses. As a result the proposed access arrangements are considered acceptable.

h) the impact of traffic levels on the amenities of the land.

The proposal is solely for the applicant's own use, and there is not anticipated to be any additional impacts on traffic levels. Furthermore, a condition has been imposed to ensure that it is only to be used privately and that no commercial use occurs.

The nature of the proposed use

The proposed use would involve the convalescence and treatment of injured race horses. While it is difficult to determine the average stay of horses at the proposed centre, the applicant states that from experience most horses would stay at the site for up to a month depending on the severity of the injuries suffered.

The applicant is qualified in the treatment of horses and has four horses/ponies used for recreational purposes including club and completion entries. These horses are treated off site and the applicant states that there would be significant savings if the horses are to be treated on site.

The applicant states that due to the high costs of treating and looking after racehorses the use of the site for such purposes would be highly viable although it has been emphasised that the proposed use would be mainly for her own horses.

The applicant states that there are 5 sheep and 2 ponies' currently on site and that the number will fluctuate so it would not be possible to identify the percentage that would be agricultural and the percentage given over to equestrian use. This reflects the varying demands for grazing and the treatment and convalescing horses. This arrangement is considered acceptable.

Design and effect on the open countryside

The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.

Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.

Saved policy QL7 encourages rural regeneration by permitting appropriate rural diversification. Policy COM12 refers to equestrian uses and states that changes of use to equestrian uses will be considered on criteria relating to scale, scale; impact on amenity; arrangements for the storage and disposal of soiled material and vehicle access to and from the site.

Policy PPL3 of the emerging plan is aimed at ensuring the protection of rural character and states that planning permission should be refused for development that would cause overriding harm to the character or appearance of the rural landscape.

Equestrian uses are generally considered to be acceptable in rural areas provided that they do not harm the character and appearance of the area. The proposed stables and associated structures are well designed and are of an acceptable size and scale. The amenities of neighbouring occupiers will not be harmed by the proposal which is well separated and suitably screened.

The stables are designed as a U shaped building with an adjacent Muck Clamp structure. The design is considered of standardised appearance and of good design located away from site boundaries. The associated storage barn is situated along the eastern boundary of the site and would be partially concealed by the neighbouring outbuilding and natural trees and vegetation along the boundary.

The proposed covered horse walker would be located to the western boundary of the site next to the neighbouring commercial garage. The appearance of the horse walker is considered acceptable in terms of size and appearance. The proposal also includes an exercise arena of 30 x 50 sq.m (1500 sq.m).

The proposed use would assist in the diversification of the agricultural use. Indeed, the applicant states that the equestrian use would be complimentary as the horses would also be involved in grazing. In addition, the treatment of show horses and races horses is a viable undertaking given

the value of such horses. It is considered that the proposal would support the continued use of the land for agricultural purposes.

It is considered that the proposed use provides the opportunity for an improvement of the countryside landscape and wider views into the site by appropriate landscaping, hedging and natural planting adjacent to the stables, menage and along the site boundaries along Frinton Road and Damant's Farm Lane. It is considered that this would help to soften the visual impact of the proposal while providing the opportunity to create greater bio-diversity.

Impact on Protected species such Bats

Due to the decline in bat numbers over the last century and the importance of specific roost requirements in their life cycle, all species of bat and their roost sites (whether bats are present at the time or not) are fully protected under international and domestic legislation. The international protection (the EC Habitats Directive) has been transposed into national laws by means of the Conservation of Habitats and Species Regulations 2017 (England and Wales), the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended).

Lighting and light pollution could result in wider adverse effects within and beyond the boundaries of the application site and particularly in the vicinity of a bat roost for example resulting in potential disturbance and potential abandonment of roosts which could constitute an offence. It is therefore important that the potential use of the area by bats is fully safeguarded.

Artificial lighting around the menage for example could result in adverse impacts in terms of light pollution and on bats and where they may roost, commute or forage. It is therefore considered that any external lighting will not be acceptable as part of this application.

The proposal would utilise the existing access and as stated the highway officer has no objections in this respect subject to relevant conditions.

The proposed stables would not be harmful to the rural character or the modest agricultural use of the site. Overall the development would be comply with the aforementioned policies and as such is considered acceptable.

Impact on amenity

The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, 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).

The stables would be well separated from the neighbouring dwelling Meadland House to the east of the site/ In addition, the proposed feed and machinery barn would be partially screened by the neighbouring outbuilding to the eastern boundary of the site.

The covered horse walker would be located to the west of the site next to the boundary with the commercial garage some 5m away.

With regard to the Muck Clamp adjacent to the stables, it is not considered that this will result in material harm to neighbouring users given this is well contained within an appropriate structure.

The site is well separated from neighbouring dwellings and buildings, the eastern boundary of the site is well screened by trees shrubs and vegetation and it is not considered that the activities involved with the equestrian use would be harmful to the amenities of neighbouring occupiers and commercial users.

The proposal would comply with the requirements of the NPPF saved policy QL11 and the emerging policy SPL3.

Other Considerations

Concerns has been raised by the neighbouring occupier about pedestrian access following the planting of a new hedge. However, the local planning authority has no control regarding the planting of hedges within the application site.

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 plans, drawing number 5873/01, 02, 03, 5497/04, 5873/05, 5873/06, 5873/07 and 5873/09 along with the submitted Planning Support Statement.

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

- 3 There shall be no burning of horse manure on the site at anytime.

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.

- 4 The manege and stables hereby approved shall be used solely in connection with the commercial keeping and rehabilitation of horses related to the Thorpe Cross Farm 83 Frinton Road and no business including livery or riding school activities shall be carried on from the site without the prior written approval of the local planning authority.

Reason - In the interests of local amenity and highway safety.

- 5 No development 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, which shall include hedges and planting around the manege and natural boundary treatment along Frinton Road and Damant's Farm Road along with 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: 1991 - Trees in Relation to Construction."

Reason - In order to protect the character and appearance of the countryside.

- 6 Prior to first use of the development, the proposed vehicular access onto Damants Hall Lane shall be constructed at right angles to the highway boundary and to a width of 6.0 metres and shall be provided with an appropriate vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

- 7 The proposed vehicular access shall be provided with suitably compacted Type 1 or Type 2 surfacing materials to be used in the surface treatment of the proposed vehicular access for the first 6m within the site, to the specifications of the Highway Authority.

Reason - To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

- 8 Prior to the first use of the proposed access, details of the construction and future maintenance of the necessary bridging or piping of the drainage ditch/watercourse shall be submitted to and approved in writing by the Lead Local Flood Authority (Essex County Council)

Reason - To prevent or reduce the risk of flooding of the adjoining highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

- 9 Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 6.0m from the highway boundary.

Reason - To ensure that vehicles using the access may stand clear of the carriageway whilst those gates are being opened/closed, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

- 10 Hours of use for the menage and exercises walker shall be between the 0630 to 1700 hours and for clients to visit the site restricted to between 0730 to 1700 hours for despatches with deliveries restricted to between 0730 to 1800 hours;

Reason - In order to safeguard the amenities of surrounding occupiers

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.

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

