

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	15/06/2021
Planning Development Manager authorisation:	JJ	17/06/2021
Admin checks / despatch completed	DB	18.06.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	18.06.2021

**Application:** 21/00524/FUL **Town / Parish:** Frinton & Walton Town Council

**Applicant:** Mr Keith Jeeves

**Address:** The Rose 63 The Street Kirby Le Soken

**Development:** Proposed removal of stable block and rebuilding small barn with integral stable, tack room and horse box storage, carts and harness.

### 1. Town / Parish Council

Frinton & Walton Town  
Council  
24.05.2021

Recommends: REFUSAL - the Town Council are in agreement with the comments/objections made by the Kirby-le-Soken Village Preservation Society.

It was raised as to whether this application would be compliant with Policy LP9 d).

### 2. Consultation Responses

ECC Highways Dept  
08.06.2021

The information that was submitted in association with the application has been fully considered by the Highway Authority. A site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. The access to the site is an established vehicular access off The Street and it is not proposed to alter the vehicular access that serves the existing site as part of this application. It is noted that the proposal is for a replacement stable and not excessive in size, 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 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.

2. 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 retained and maintained free from obstruction within the site at all times for that sole purpose.

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

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

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

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

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

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

SMO1 - Development Management Team  
Ardleigh Depot,  
Harwich Road,  
Ardleigh,  
Colchester,  
CO7 7LT

2: 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.

3: 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.

Environmental Protection  
11.6.2021

Thank you for your consultation regarding the proposed development above. The Environmental Protection Team's comments are given below:

It would appear from scrutiny of our systems, that this team were not consulted on the previous applications related to this proposal; however, given the proposal relates to an increase of the current site activities, and we have been afforded the opportunity to comment on this application, I can confirm that the EP would like to request further information -

1. The existing drainage system and the proposal for the disposal of waste water
2. Manure Management Plan, this plan should include, but not be limited to, information indicating the siting of the manure heap and the

proposed disposal methods.

Should you feel it prudent to request this information, to ensure the proposal is in line with relevant Planning policy, we would be happy to assess its potential efficacy and impact on the existing environment; but as highlighted above, as we were not consulted at the earlier development stages, we do not feel it is appropriate for us to "formally" request the submission of the above documents, but we would strongly urge the request is considered.

### 3. Planning History

13/00727/FUL	Change of use of land to include 1 no. pitch for a Romani Gypsy family and associated works including 1 no. dayroom, laying of new surfaces, new access and 1 no. septic tank.	Refused  Allowed on appeal Ref: 2215476	18.11.2013
13/00879/TPO	3 Elder - fell. A-B, cut back hedge to main stem, lay lower branches when possible.	Approved	03.09.2013
14/00707/TPO	Tree C360 - fell heavily decayed and potentially dangerous	Approved	03.07.2014
14/01807/DISCON	Discharge of conditions 06 (vehicular access), 09 (drainage), 10 (vehicular turning facilities), 11 (off street parking), 12 (existing access), 13 (landscaping), 15 (foul and water drainage), 16 (storage of domestic refuse) and 17 (external lighting) of application 13/00727/FUL, approved at appeal APP/P1560/A/14/2215476.	Approved	30.01.2015
15/00445/TPO	Cut roadside hedge down to 2.5 metres	Approved	21.04.2015
15/01937/FUL	Variation of Condition 5 of Appeal Decision APP/P1560/A/14/2215476 to facilitate the siting of one additional 1 No. mobile home and the erection of 1 No. stable building and the installation of hard standing.	Approved	24.03.2016
16/00886/DISCON	Discharge of Conditions 7 (Vehicular Turning Facility), 9 (Landscaping) and 14 (Tree Protection) of planning permission 15/01937/FUL.	Approved	05.07.2016
16/01550/TPO	3 No. Field Maple - reduce by 50%. 2 No. Ash - cut down to 6 ft. (1 dangerous, both to balance)	Approved	25.10.2016

17/30109/PREAPP	Erection of 3 chalet bungalows.	Refused	10.05.2017
18/00587/FUL	Extension of existing day room building by 4 metres.	Approved	25.06.2018
18/01989/TPO	1 No. Ash - reduce crown by 30% and re-balance	Approved	24.12.2018
19/01154/OUT	Proposed 3no. three bedroom chalet style bungalows.	Refused	13.11.2019

#### **4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

*Adopted Tendring District Local Plan 2007 (part superseded)*

QL11 Environmental Impacts and Compatibility of Uses

HG22 Gypsy Caravan Sites

COM12 Equestrian Uses and Buildings

COM31A Sewerage and Sewage Disposal

EN1 Landscape Character

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

EN17 Conservation Areas

*Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)*

SP7 Place Shaping Principles

SPL3 Sustainable Design

PPL3 The Rural Landscape

PPL5 Water Conservation, Drainage and Sewerage

PPL8 Conservation Areas

LP9 Traveller Sites

CP1 Sustainable Transport and Accessibility

#### **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. In this latter regard, as of 26<sup>th</sup> January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.

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 10<sup>th</sup> 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 has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26<sup>th</sup> January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have 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 application site is known as 'The Rose', 63 The Street, Kirby Le Soken and is located on the southern side of The Street at the far western point of Kirby Le Soken with open countryside beyond and opposite. The site is outside but adjacent to the Kirby Le Soken Settlement Development Boundary and Conservation Area. The site runs parallel with the outer curve of the main road and is bordered by a stream on its western boundary with a row of detached houses to the east. The garden of the property known as Ivy Cottage borders the eastern boundary. The site is currently in use as a single traveller's pitch which allows for two static caravans, a tourer and associated dayroom and stable buildings (13/00727/FUL allowed on appeal reference APP/P1560/A/14/2215476 and varied by 15/01937/FUL to include an additional pitch, day room and stable block buildings). This is served by an existing vehicular access at the site's western end. The rest of the site is predominantly bare ground. The site frontage to The Street is marked by a 1.8m close boarded timber fence with metal access gates.

### Description of Proposal

The application seeks full planning permission for the removal of the existing stable block (approved under planning application reference 15/01937/FUL measuring 3.6 metres by 6.1 metres with an overall lean-to roof height of 2.5 metres) and the erection of a slightly larger replacement barn (with integral stable, tack room and horse box storage, carts and harness).

The proposed stable barn measures 7.62 metres by 6.096 metres with an overall gambrel roof height of just under 3.7 metres and will be finished in timber cladding, brown pantile roof with timber doors and windows.

## Assessment

The main considerations in this instance are:

- Principle of Development;
- Design and Visual Impact;
- Trees and Landscaping;
- Impact on Residential Amenities;
- Access and Highway Safety;
- Environmental Protection; and,
- Representations.

### Principle of Development

The application proposes a replacement stable building (albeit a larger building compared to what is there at the moment – covered below) at an established traveller site and does not raise any principle objections in terms of the type of the building proposed and the compatibility of uses.

### Design and Visual Impact

The site is located on the western entrance into the village and is rural in character. Within the original appeal decision for the use of the site for a traveller's pitch, the planning inspector confirmed that when approaching from the west:

'The viewer would also be well aware that the village was immediately ahead, and in that context the development would not be perceived as being isolated in the open countryside'; and

'When approaching from the east the viewer would not perceive the site until the remainder of the village had been passed. Again, existing peripheral vegetation would offer a significant degree of screening. In terms of the advice of the PPTS, therefore, I am satisfied that this site would not dominate the local community, and would not be unacceptably harmful to the character or appearance of the surrounding area.'

The existing stable is 2.5 metres in height. The proposed stable is just under 3.7 metres in height amounting to an increase in height of 1.2 metres. In the context of the site and having regard to the fact that there is a building in the same or similar location, it is considered that such an increase in height is not excessive and is similar to existing structures within the site. Furthermore, the gambrel roof design lessens the overall bulk of the proposed larger building. Any views of the proposed building from the west on the approach to the village would be against the backdrop of existing structures on site and the built up area beyond. The proposed stable structure remains modest in size and would be somewhat screened by existing vegetation and fencing around the perimeters of the site and site frontage. The stable building is of an acceptable size and would not appear highly prominent from surrounding views into the site. The impact of the proposals upon the character and appearance of the area are therefore minimal and would not amount to any material visual or landscape harm that would justify a refusal on this ground.

### Residential Amenity

The nearest residential property to the site is no. 61 The Street which is sited directly to the east of the site. The proposed replacement stable is to be located to the far western corner of the site over 70 metres from the side elevation of that property with other structures sited in-between. Due the separation distance, the presence of existing structures and screen planting the development will not result in any harm to the outlook, daylight or privacy of the occupants on number 61 The Street.

### Highway impact

The access to the site is an established vehicular access off The Street and it is not proposed to alter the vehicular access that serves the existing site as part of this application. It is noted that the proposal is for a replacement stable and not excessive in size. There is no increase in the number

of horses being kept on site and there will be no increase in traffic movements as a result of the development.

Essex County Highways have no objections to the proposals subject to conditions relating to;

- turning head details for equestrian vehicles; and
- scheme for off-road parking.

The proposed replacement building will not result in a significant loss of space within the site. The building is positioned to the south-western corner of with areas to both sides and to the front to remain open. The existing access, turning areas and off-street parking is therefore considered acceptable and the recommended conditions are not considered necessary in this instance.

### Trees and Landscaping

The application site was subject to Tendring District Council Tree Preservation Order 11/40/TPO ' Land South of the Street, Kirby le Soken. At the time it was made the TPO afforded all of the trees on the land formal legal protection as 'woodland' TPO. However, since the TPO was made, subsequent planning and appeal approvals resulted in the removal of almost all of the trees on the land. In this respect the TPO no longer served a useful purpose as there were no remaining trees that merit formal legal protection. The TPO was 'revoked' - in other words cancelled.

The remaining trees on the land are not considered to be a constraint of the development potential of the application site.

### Environmental Protection

Comments have been received from the Council's Environmental Protection Team (detailed in full above) requesting details of the existing drainage system and manure management. These comments are based on the proposal resulting in 'an increase of the current site activities'. However, the application demonstrates (as confirmed by the applicant via email received on 15<sup>th</sup> June 2021, a copy of which is scanned to the file) that the larger building is to provide space for hay, tack and cart storage only and will not increase the number of horses kept on site. The applicant also confirms that the manure from the 1 horse is bagged up during each mucking out session and taken away from site. As drainage information was not secured as part of the original permission and this proposal is not materially different to the existing stable, it would be unreasonable to now ask for the information requested by Environmental Protection. Nonetheless, should any waste disposal or waste stored on site be of a statutory nuisance, this could be controlled by the relevant environmental legislation or through the Environmental Agency.

### Representations

Frinton and Walton Town Council object to the development on the following grounds (officer response in italics):

- The Town Council are in agreement with the comments/objections made by the Kirby-le-Soken Village Preservation Society.

*These are summarised and addressed below.*

- It was raised as to whether this application would be compliant with Policy LP9 d).

*Policy LP9 is a draft policy contained within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft. This policy is yet to be adopted and holds minimal weight. Moreover, the section of the policy at criterion d. relates to additional traveller sites or pitches. Consideration of this policy is not required against the proposed development for a replacement stable building on an existing traveller site.*

3 individual letters of objection have been received from local residents. The objections raised can be summarised and addressed as follows (officer response in italics):

- Kirby-le-Soken Village Preservation Society objects to more buildings on this site.

*The proposal does not result in any additional buildings on the site. The proposal is for a replacement stable / barn.*

- Proposed stable block is larger than existing buildings.

*The proposal is larger than the existing stable but is acceptable in scale, design and impact for the reasons set out in the main report above.*

- Harm to highway safety and animal welfare with additional movements on this busy road.

*The proposal does not result in any additional horses being kept on the site, nor does it result in any additional traffic movements. The Highway Authority raise no objection.*

- Waste removal and water contamination.

*This is covered in the main report above.*

- Additional buildings erected without planning permission.

*At the time of the officer site visit, the site contained the correct number of buildings as per the original 2012 approval and subsequent 2015 variation. Any building works that do not have planning permission should be reported to the Council's Planning Enforcement Team.*

- Cluster of building harmful to visual amenity and landscape as you enter the village.

*The proposal is for a replacement stable building and does not increase the number of buildings already on site. The development is acceptable in scale, design and impact for the reasons set out in the main report above.*

## Conclusion

In the absence of any material harm resulting from the development, the application is recommended for approval subject to conditions.

## **6. Recommendation**

Approval - Full

## **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 and materials details:

21076/01 Proposed Site Layout  
21076/02 Proposed Barn Plan and Elevations

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



- 3 Prior to the occupation and beneficial use of the replacement stable barn hereby approved, all materials and waste from the demolition of the existing stable shall be removed from the site in their entirety.

Reason - In the interests of visual amenity.

## 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 Informatives

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

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

SMO1 - Development Management Team  
Ardleigh Depot,  
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2: 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.

3: 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.

<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>