



# TENDRING DISTRICT COUNCIL

## Planning Services

Council Offices, Thorpe Road, Weeley, Clacton-on-Sea, Essex CO16 9AJ

<b>AGENT:</b>	Miss Mollie Foley - Stanfords The Livestock Market Wyncolls Road Colchester Essex CO4 9HU	<b>APPLICANT:</b>	T & R Fairley Farms Abbotts Hall Clacton Road Horsley Cross Manningtree Essex CO11 2NX
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### TOWN AND COUNTRY PLANNING ACT 1990

**APPLICATION NO:** 21/00085/FUL      **DATE REGISTERED:** 4th January 2021

Proposed Development and Location of Land:

**Proposed change of use from agricultural land to use of land for additional car boot sales.**

**Land North West of Horsley Cross Manningtree Essex**

THE TENDRING DISTRICT COUNCIL AS LOCAL PLANNING AUTHORITY **HEREBY REFUSE PLANNING PERMISSION** in accordance with the application form, supporting documents and plans submitted for the following reason(s)

- 1 The proposed development fails to accord with Policies ER39 and TR1a of the Tendring District Local Plan (2007) and the requirements of the National Planning Policy Framework (2019). There is also conflict with policy CP1 of the emerging Tendring District Local Plan 2013-2033.

The National Planning Policy Framework (2019) at paragraph 108 states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

Saved Policy ER39 requires that (amongst other things) planning permission will be granted for proposals for market trading or car boot sales if the proposal can demonstrate that it would not be detrimental to highway safety.

Saved Policy TR1a requires that proposals for development affecting highways will be considered in relation to the road hierarchy, to reducing and preventing hazards and inconvenience to traffic and to the effects on the transport system including the physical and environmental capacity to accommodate the traffic generated. Emerging policy CP1 is broadly consistent with this policy and the NPPF and can therefore be afforded significant weight in the determination of this application.

In this instance the application fails to provide specific additional information requested in respect of highway safety impacts to the satisfaction of the Highway Authority and Highways England. Given the proximity of the site to the A120/B1035 junction, additional information is required in respect of the proposed trip distribution pattern for those expected 150-250 buyers and 35-70 sellers (as mentioned in the Applicant's Planning Statement). It is not clear about which mode of transport these above-mentioned buyers and sellers would be arriving to this car boot sale event and from which travel route or direction of travel. Moreover a road junction capacity assessment is required to demonstrate that the traffic impact from this proposed development would not have a severe impact to A120/B1035 SRN junction (Horsley Cross Roundabout).

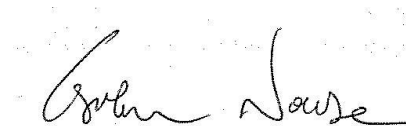
In addition the proposal would intensify the use of existing accesses onto B1035 Clacton Road (secondary distributor within the County's Route Hierarchy). The main function of this highway is that of carrying traffic freely and safely between centres of population. The existence of an access in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would lead to a deterioration in the efficiency of the through road as a traffic carrier to the detriment of highway safety.

In this respect there is no indication what the maximum car park capacity will be for the new site compared to the previous boot sale site. This could lead to parking within the highway introducing additional kerbside stress, obstruction, or congestion contrary to highway safety on the B1035 Clacton Road. In the absence of the above mentioned information the application has failed to demonstrate that the proposal will be acceptable from a highways safety perspective, and/or would not have a severe impact to A120/B1035 Strategic Road Network junction.

The proposed development would therefore fail to accord with the above mentioned national and local planning policies.

**DATED:** 21st July 2021

**SIGNED:**




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Graham Nourse  
Assistant Director  
Planning Service

**IMPORTANT INFORMATION** :-

The local planning authority considers that the following policies and proposals in the development plan are relevant to the above decision:

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

ER39 Market Trading and Car Boot Sales

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

EN23 Development Within the Proximity of a Listed Building

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

QL11 Environmental Impacts and Compatibility of Uses (part superseded)

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

SP1 Presumption in Favour of Sustainable Development

SP7 Place Shaping Principles

SPL3 Sustainable Design

PP13 The Rural Economy

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

**The attached notes explain the rights of appeal.**

## NOTES FOR GUIDANCE

### WHEN PLANNING PERMISSION IS REFUSED OR GRANTED SUBJECT TO CONDITIONS

#### APPEALS TO THE SECRETARY OF STATE

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
- If you want to appeal, then you must do so within the set time frame as outlined below:
  - a. If this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within **12 weeks** of the date of this notice. A **Householder Appeal Form** is required, available online at <https://www.gov.uk/planning-inspectorate>
  - b. If this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within **12 weeks** of the date of this notice. A **Planning Appeal Form** is required, available online at <https://www.gov.uk/planning-inspectorate>
  - c. If you want to appeal against your local planning authority's decision on a development which is not caught by a. and b. above then you must do so within **6 months** of the date of this notice. A **Planning Appeal Form** is required, available online at <https://www.gov.uk/planning-inspectorate>
- Appeals must be made using the relevant form (as detailed above) which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel: 0303 444 5000) or online at <https://www.gov.uk/planning-inspectorate>. **Please note, only the applicant possesses the right of appeal.**
- The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted permission for the proposed development or could not have granted it without the conditions imposed having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

#### ENFORCEMENT

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.

- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months (12 weeks in the case of a householder or minor commercial appeal) of the date of this notice, whichever period expires earlier.