



Influence' (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS); see our recent advice to your authority on this issue (our ref: 244199, dated 16th August 2018) for further information.

We therefore advise that you consider, in line with our recent advice, whether this proposal falls within scope of the RAMS as 'relevant development'. Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; you should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

### 3. Planning History

03/02314/LUEX	Land and buildings used for the storage, dismantling, servicing and repair of vehicles and the storage and sale of new and used automotive products. Buildings used for these purposes were erected prior to 1993, without planning permission.	Granted	12.02.2004
11/00823/FUL	Proposed change of use from the storage, dismantling, servicing and repair of vehicles and the storage and sale of new and used automotive products to the storage and sale of furniture and associated items together with the demolition of existing buildings associated with the business use and construction of new single storey building as replacement.	Approved	10.11.2011
15/01347/DISCON	Discharge of condition 08 (materials) of planning permission 15/00900/FUL.	Approved	14.09.2015
19/00033/FUL	Demolition of existing dwelling and construction of replacement dwelling and pool house.	Approved	14.03.2019
19/01434/NMA	Non-Material amendment to application 19/00033/FUL - Amend positioning of single storey side elements by approximately 1 metre to the west.	Approved	
19/01452/DISCON	Discharge of condition 3 (materials) for approved application 19/00033/FUL.	Approved	14.11.2019
19/01539/FUL	Variation of condition 2 to reflect minor changes to elevation and	Approved	10.12.2019

plan (single storey lean to elements at each end, positions adjusted by approximately 1 metre) for approved application 19/00033/FUL.

21/01905/FUL Proposed change of use of existing barn to five units of holiday accommodation, including demolition of lean to, alterations to elevations, change of roof covering. Current

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

*NPPF National Planning Policy Framework July 2021*

*National Planning Practice Guidance*

*Tendring District Local Plan 2013-2033 and Beyond Section 1 (adopted January 2021)*

SP1 Presumption in Favour of Sustainable Development

SP3 Spatial Strategy for North Essex

SP7 Place Shaping Principles

*Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)*

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

PP8 Tourism

PP13 The Rural Economy

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

*Supplementary Planning Documents*

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)

*Local Planning Guidance*

Essex Design Guide

Essex County Council Development Management Policies 2011 (the Highways SPD)

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

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of

the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

In relation to housing supply:

The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').

The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

## **5. Officer Appraisal**

### Site Description

The application site forms part of a larger site within the ownership of the applicants. The application site has an area of 0.38 hectares and includes the barn that is the subject of this application and Ford Barn - a retail showroom and store that was granted consent in 2011 ref 11/00823/FUL.

The barn that is to be converted sits to the west of Ford Barn. Of timber construction this barn was erected in 1990 by the previous owners of the site and has been used by the applicants as a workshop and store. The workshop has been used primarily in the construction of Ford Barn and the construction of a replacement house for Rosier that is now well advanced.

The barn is situated away from any other residential properties. To the north is the applicants' land that contains a warehouse building and grazing land that is used for their Alpaca's, chickens etc. To the east is landscaped parking for Ford Barn.

### Description of Proposal

The application proposes changing the use of the barn (approved under 11/00823/FUL) to five units of holiday accommodation. Externally the changes propose the removal of the lean-to store and the insertion of windows, doors and rooflights. Each unit of accommodation would comprise a living room and kitchen at ground floor and a bathroom with two bedrooms at first floor. The proposal would see an increase of available parking spaces from 25 to 30.

### Principle

Paragraph 84 of the National Planning Policy Framework 2021 states that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural

areas including sustainable rural tourism and leisure developments which respect the character of the countryside.

Another important aspect of promoting Tendring District's tourism economy will be to ensure that the District offers a range of visitor accommodation in different locations that will appeal to different people's tastes, budgets and interests. As the nature of tourism has changed so much over the years, Tendring District cannot rely purely on the provision of traditional holiday accommodation provided at seaside holiday parks, hotels, guesthouses and bed & breakfasts. Increasingly people will visit Tendring District for short weekend breaks, to visit friends and family, to attend weddings and other family functions or even for business purposes.

Section 2 Policy PP8 of the Local Plan states that to attract visitors to the Tendring District and support economic growth in tourism, the Council will support proposals that would help to improve the tourism appeal of the District to visitors.

The development is in a location which is in the region of 600m from a bus service which runs half-hourly and covers local areas such as Clacton and Colchester. The site is level and the proposal provides ample parking for visitors. Due to the limited number of units that the site could accommodate, the proposal is unlikely to generate large traffic volumes.

### Design & Appearance

Section 1 Policy SP7 of the Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Section 2 Policy SPL3 of the 2013-33 Local Plan also requires, amongst other things, that the development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Paragraph 130 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

The insertion of windows and doors in the locations proposed does change the character of the building, however the changes are positive and would more-closely reflect the existing building on the site.

### Impact to Neighbouring Amenities

The NPPF, at paragraph 130 states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Section 1 Policy SP7 of the Local Plan requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.

The neighbouring properties are a sufficient distance away that their amenity, with regard to noise, vibration, smell, loss of light, overbearing and overlooking, would not be harmed to a material degree.

### Highway Considerations

Paragraph 130 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Section 1 Policy SP7 of the Local Plan 2013-2033 requires that parking facilities that are well integrated as part of the overall design and are adaptable if levels of private car ownership fall.

The information that was submitted in association with the application has been fully considered by the Highway Authority. 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, google earth image dated April 2009. It is noted that the proposal will utilise an existing shared established vehicular access and there are no new or altered means of access proposed. Currently the shared access serves both Rosier and Ford Barn. Ford Barn was subject to a separate planning application for a retail showroom and store that was granted

consent in 2011. When compared with the current and previous agricultural use, the level of activity will be on a par or possibly reduced. It appears that the proposed development will retain adequate off-street parking and turning, taking these factors into consideration the impact of the proposal is acceptable to the Highway Authority.

The Highways Authority require a condition that, 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. The reason for the condition is to ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety. The 'forecourt' area in front of the building is extensive and, due to the unique circumstances of the site entrance, there would be no opportunity to exit the site in any way other than a forward gear.

A further condition is proposed which requires, prior to the occupation of any of the proposed holiday accommodation, the existing private drive shall be constructed to a minimum width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary. The reason for the condition is to ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway. The consultation response states that the proposal will utilise an existing shared established vehicular access and there are no new or altered means of access proposed. Currently the shared access serves both Rosier and Ford Barn. Ford Barn was subject to a separate planning application for a retail showroom and store that was granted consent in 2011. When compared with the current and previous agricultural use, the level of activity will be on a par or possibly reduced.

For these reason such conditions would fail to comply with paragraph 56 of the NPPF, requires that all conditions imposed are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

### Tourist & Leisure Developments

Paragraph 84 of the National Planning Policy Framework 2021 states that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas including sustainable rural tourism and leisure developments which respect the character of the countryside. Section 2 Policy PP8 of the Local Plan states that to attract visitors to the Tendring District and support economic growth in tourism, the Council will support proposals that would help to improve the tourism appeal of the District to visitors.

The development is in a location which is in the region of 600m from a bus service which runs half-hourly and covers local areas such as Clacton and Colchester. The site is level and the proposal provides ample parking for visitors. Due to the limited number of units that the site could accommodate, the proposal is unlikely to generate large traffic volumes. In regards to the requirements for additional occupancy restrictions for sites that lack the necessary and appropriate infrastructure and services for longer occupation; no such conditions are required under the policies for tourism development.

### Visual and Landscape Impact

Paragraph 8 of the National Planning Policy Framework 2021 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 130 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes onto say that local distinctiveness should be promoted and reinforced. Section 2 Policies SPL3 and PPL3 of the Local Plan 2013-2033 seek to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

The development proposes changing the use of an existing building to a relatively small number of holiday units, for the reasons set out above, the proposed use will not result in any significant or demonstrable harm to the landscape character or setting of the heritage assets.

## Recreational Disturbance

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. The contribution is secured by unilateral undertaking.

The proposal is for holiday units is outside the scope of the Essex Coast RAMS. However, Natural England state applications involving tourist accommodation could still potentially have recreational disturbance impacts (and other impacts) on designated sites.

The application scheme proposes five new holiday dwellings on a site that lies within the Zone of Influence (Zol) being approximately 6,286 metres from Hamford Water SPA and Ramsar. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

## Representations

Tendring Parish Council has no objection to the application.

## **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 plan: 895-201; received 4th November 2021.

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

- 3 There should be no obstruction above ground level within a 2.4-metre-wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the road junction / access is first used by the development and retained free of any obstruction at all times.

Reason - To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety.

- 4 The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and if required marked out in parking bays. The

vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason - To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

- 5 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.

- 6 The Cycle / Powered two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason - To ensure appropriate cycle/powered two-wheeler parking is provided in the interest of highway safety and amenity.

- 7 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.

- 8 The use hereby permitted shall be solely for holiday accommodation. No person shall occupy the site for more than 56 consecutive days.

Reason - To ensure the site is maintained as a tourist location and not for permanent occupation.

- 9 The development hereby permitted shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence.

Reason - To prevent the use of the site for permanent accommodation in the interests of the tourism economy and local community infrastructure.

## **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

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)



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.

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.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.

<b>Are there any letters to be sent to applicant / agent with the decision?</b>		NO
<b>Are there any third parties to be informed of the decision?</b>		NO