

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case Officer recommendation:	MP	11/01/23
Planning Manager / Team Leader authorisation:	AN	12/01/2023
Planning Technician final checks and despatch:	ER	12/01/23

**Application:** 22/01636/FUL **Town / Parish:** Mistley Parish Council

**Applicant:** Mr and Mrs S Outtridge

**Address:** The Pightle Heath Road Mistley

**Development:** Proposed change of use of agricultural land to equestrian use and construction of ménage.

### **1. Town / Parish Council**

Mistley Parish Council  
04.11.2022

At its Planning Meeting on the 3rd November 2022 the Parish Council noted this application and is hopeful that Essex Way will be protected as part of the application and subsequent planning decision.

### **2. Consultation Responses**

Historic England  
21.11.2022 (initial  
comments)

Thank you for your letter of 15 November 2022 regarding the above planning application. On the basis of the information available to date, we offer the following advice to assist the Planning Authority in determining the application.

Historic England Advice

Significance of the historic environment

The application site is located adjacent to the scheduled monument of 'Site of Old St Mary's Church', List Entry Number 1002142. In terms of the National Planning Policy Framework, the settlement is a designated heritage asset. The Ruins Of St Mary's Church are also grade II listed (LEN 1240277). The site is regarded as being of national significance on account of its high evidential value.

There is high evidential value in this asset and archaeological remains will be preserved that provide important information about the layout and chronological development of the medieval church.

The standing remains consist of the former east wall, most of the south wall, the south porch and a fragment of the west end of the north wall or part of a west tower. The south porch has flint-inlaid panels with capital letters and flushwork decoration, dated to c.1500. There are blocked windows in the side wall and a former south doorway to the nave, with a segmental head, also blocked.

In 1923 the undergrowth was cleared and the church excavated. The building's foundations were revealed and shown to consist of a chancel, nave, south aisle, west tower and the still standing south porch.

Burials within the surrounding churchyard, also part of the scheduled monument, will have the potential to increase our knowledge of the local population, health and social structure of the medieval settlement.

The setting of the monument, within an agricultural landscape, also contributes to its significance and how the site is experienced.

Impact on the significance of the historic environment

The proposed application concerns the proposed change of use of agricultural land to equestrian use and construction of ménage.

This proposed development would introduce a new equestrian ménage to the east of the scheduled monument, resulting in a change to its setting. The introduction of new ménage within the setting of the scheduled monument has the potential to cause some harm to its significance.

A heritage impact assessment has not been submitted with the planning application to enable the level of harm to be assessed or the extent to which any harm could be mitigated through soft landscaping, and / or relocated within the redline boundary (for example, to the east site of the former railway line) to minimise any harm that might be caused to the significance of the scheduled monument.

Policy considerations for this proposal

The National Planning Policy Framework (NPPF) establishes a presumption in favour of sustainable development in the planning system (paragraphs 7, 8, 10 and 11) which also identifies protection of the historic environment as an important element of achieving sustainable development. Further policy principles relating to the historic environment are set out in Chapter 16 of the NPPF.

In particular, it emphasises the importance of conserving heritage assets, which are an irreplaceable resource, in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations (NPPF paragraph 189).

Paragraph 194 of the NPPF establishes that

'local planning authorities should require an applicant to describe the significance of any heritage assets affected' at a level of detail proportionate to the assets' importance and through consultation of the relevant historic environment record and the use of appropriate expertise'.

The NPPF goes on to state in paragraph 195 that,

'local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal' and 'take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal'.

When considering the impact of a proposed development upon the significance of scheduled monuments, NPPF paragraph 199 requires

great weight to be given to the monument's conservation.

As NPPF paragraph 200 sets out, any harm to the significance of a scheduled monument, including from development within its setting, requires clear and convincing justification irrespective of the level of potential harm.

Where a development proposal would lead to less than substantial harm to the significance of a scheduled monument, NPPF paragraph 202 requires that the harm is weighed against the public benefits of the proposal.

Paragraph 206 goes on to state that, 'Local planning authorities should look for opportunities for new development... within the setting of heritage asset, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably'.

#### Historic England's Position

Historic England considers that the proposed development would result in a change to the setting of the scheduled monument known as 'Site of Old St Mary's Church' and could result in harm to its significance.

We have considered this application in terms of the policy and consider that insufficient information has been submitted with the application. A heritage impact assessment has not been submitted with the planning application to assess the impact of the proposals on the historic environment as required by NPPF paragraph 194. This is required because of the sensitivity of the location, adjacent to the scheduled monument.

We would recommend the application should include a heritage impact assessment. The assessment should be prepared and submitted following the approach set out in Historic Environment Good Practice Advice in Planning Note 3, The Setting of Heritage Assets.

#### Recommendation

Historic England has concerns regarding this application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 194, 200 and 202 of the NPPF.

We would welcome the opportunity to work with the applicant and the Planning Authority to reduce and remove the potential harm, caused by the change to the setting of the monument, including the identification of another location for the proposed ménage, which will not impact on the setting of the scheduled monument.

The Planning Authority should take this representation into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us. We also recommend that you seek the views of your specialist archaeological advisers for advice on any non-designated archaeological remains that might be impacted by this proposal.

Historic England  
12.12.2022 (following  
receipt of amended plans)

Thank you for your email of 9 December 2022 regarding the above planning application. On the basis of the revised layout (Layout Plan Rev A.pdf), which shows the new position of the ménage in the northeast corner of the site (on the west side of the former railway), we offer the following revised advice to assist the Planning Authority in determining the application.

#### Historic England Advice

**Significance of the historic environment** The application site is located adjacent to the scheduled monument of 'Site of Old St Mary's Church', List Entry Number 1002142. In terms of the National Planning Policy Framework, the settlement is a designated heritage asset. The Ruins Of St Mary's Church are also grade II listed (LEN 1240277). The site is regarded as being of national significance on account of its high evidential value.

There is high evidential value in this asset and archaeological remains will be preserved that provide important information about the layout and chronological development of the medieval church.

The setting of the monument, within an agricultural landscape, also contributes to its significance and how the site is experienced.

#### Impact on the significance of the historic environment

The proposed application concerns the proposed change of use of agricultural land to equestrian use and construction of a ménage. The applicant has sought to reduce the impact of the scheme on the monument in the revised proposal. The revised drawing shows the proposed ménage re-located to the north-east of the monument, rather than being alongside the monument (as previously submitted).

#### Policy considerations for this proposal

The National Planning Policy Framework (NPPF) establishes a presumption in favour of sustainable development in the planning system (paragraphs 7, 8, 10 and 11) which also identifies protection of the historic environment as an important element of achieving sustainable development. Further policy principles relating to the historic environment are set out in Chapter 16 of the NPPF. In particular, it emphasises the importance of conserving heritage assets, which are an irreplaceable resource, in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations (NPPF paragraph 189).

Paragraph 194 of the NPPF establishes that 'local planning authorities should require an applicant to describe the significance of any heritage assets affected' at a level of detail proportionate to the assets' importance and through consultation of the relevant historic environment record and the use of appropriate expertise'.

The NPPF goes on to state in paragraph 195 that, 'local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal' and 'take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal'.

When considering the impact of a proposed development upon the significance of scheduled monuments, NPPF paragraph 199 requires great weight to be given to the monument's conservation.

As NPPF paragraph 200 sets out, any harm to the significance of a scheduled monument, including from development within its setting, requires clear and convincing justification irrespective of the level of potential harm.

Where a development proposal would lead to less than substantial harm to the significance of a scheduled monument, NPPF paragraph 202 requires that the harm is weighed against the public benefits of the proposal. Paragraph 206 goes on to state that, 'Local planning authorities should look for opportunities for new development... within the setting of heritage asset, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably'.

Historic England's position on the revised proposals

We welcome the revised proposal that has been submitted with the application. We confirm our view that the proposed development will result in a change to the setting of the scheduled monument. We would recommend that the proposed ménage is accompanied by a landscaping plan to further reduce the impact of the ménage on the significance of the scheduled monument. In this case, we consider a double-row hedge of native deciduous species would be appropriate.

We are satisfied that the revised location, along with an appropriate planting scheme, will minimise the level of harm to the significance of the scheduled monument.

Recommendation

Historic England has no objection to the revised application on heritage grounds. We advise that should your authority be minded to approve this application, this should be accompanied by an appropriate landscape management plan that is secured by a condition attached to any planning permission.

The archaeological advisor to the Local Planning Authority (Essex County Council Place Services) will be able to advise on the need for a scheme archaeological investigation. The Planning Authority should take this representation into account and seek the amendment as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Essex County Council  
Heritage  
24.11.2022

The proposal site is adjoining the boundaries of Grade II Listed Ruins of St Mary's Church, which is also registered as Scheduled Monument. The setting of the Ruins of St Mary's Church still retains the historic open and rural character which highly contributes to the significance of the designated heritage asset and to the way this significance is experienced, appreciated and understood.

The proposed change of use from agricultural fields into equestrian use will involve the installation of a new ménage which would be in very close proximity to the boundary of the designated heritage asset. In its current iteration, the proposal is considered to have a

detrimental impact on the significance of the St Mary's Church by changing its setting from existing rural fields into equestrian use. Since the construction of the original building, St Mary's Church has always been surrounded by green fields in agricultural use, which are mostly still existing and highly contribute to the rural and verdant character of the setting.

With regards to the National Planning Policy Framework (2021), the level of harm to St Mary's Church as a designated heritage asset is considered to be 'less than substantial'. As such the local planning authority should weigh this harm against any public benefits of the proposal including, where appropriate, securing its optimum viable use as per Paragraph 202.

It is also noted that, at this stage, the applicant has not provided sufficient information regarding the significance of the heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance, a requirement set out in Paragraph 194 of the NPPF.

I believe there is the potential here to introduce a ménage more sympathetically within the proposal site by moving it to the East side of the former railway line, where the existing woodlands would offer a natural screening between the new development and the designated heritage asset. The proposed change of use in this location would generally be considered acceptable providing that the proposed ménage remains in private use associated with Pightle.

Environmental Protection  
24.10.2022

The Environmental Protection team have reviewed the application and have no adverse comments to make.

Tree & Landscape Officer  
22.11.2022

The application site is situated on the northern edge of the Bromley Heaths Landscape Character Area (LCA) as defined and described in the Tendring District Council Landscape Character Assessment. The land overlooks and can be viewed from the adjacent Stour Valley System LCA and more distantly from the Stour Estuary System LCA.

It is important to recognise that the application site and surrounding area is within the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB).

The Bromley Heaths LCA comprises the exposed windswept plateau supporting high grade agricultural land. The large scale arable fields are divided by low gappy hedgerows with some specimen Oaks. The area has a dramatic, dominating skyline,

Guidance for development in this LCA specifies the need to take care when siting development as even single buildings have the potential to be highly visible over long distances. Plateau edges form highly visible skylines and are particularly sensitive to built development.

The land to the north and east of the application site forms part of The Stour Valley System LCA. The southern slopes and scenic tributary valleys of the Stour form a setting to one of the most important wildlife estuaries in Europe and the steep wooded sides form a rural backdrop to the open waters of the Stour Estuary.

The overall strategy contained in the guidance for this LCA is to

maintain the sparse settlement pattern of the rural valley slopes.

At the present time the application site is partly being used as grazing land and partly in arable use. It is divided by a narrow woodland situated on the bed and embankments of the abandoned railway that bisects the site from north to south.

The part of the application site to the west of the woodland is relatively well contained by the woodland and other field boundary hedgerows, consequently the proposed use of this part of the application site would not have a significant adverse effect on the local landscape character. The site is clearly visible from the adjacent Public Right of Way (PRoW) (The Essex Way), to the south, however the public's enjoyment of the countryside would be unlikely to be significantly degraded by this element of the proposed development.

In terms of the impact of the development on the local landscape character of the part of the application site to the east of the woodland it is noted that at the present time the woodland forms a linear boundary that acts as a barrier between developed land and the countryside. Even small scale, low impact development has the potential to adversely affect the character of the area.

The proposed development would result in a change from the cultivation of a cereal crop to grassland for grazing purposes and the erection of a low fence. The change in the crop cultivation is not significant in itself however the introduction of small scale field division that is not in accordance with the current use of the land may appear incongruous in the landscape.

Whilst any analysis of users experience of the countryside is objective it is considered that when walkers are using the PRoW and pass through the woodland, heading east there is a clear 'feeling' of entering the countryside. This experience may be degraded by the introduction of a small paddock on land that is currently in arable use.

In terms of the degree to which the development of the eastern parcel of land is harmful to local landscape character it is noted that the change is not significant and that the adverse impact of the proposed post and rail fence could be, at least partially, mitigated by new hedge planting on the site boundary. Nevertheless the development to the east of the central woodland will result in a change to the pattern of field boundaries.

It is apparent that the two parts of the application site have distinctly different characteristics and consequently the impact and effect of the development proposal would be different for each parcel of land.

In this regard the development of the land to the west of the woodland will be unlikely to have an adverse effect on landscape character whereas the development of the land to the east will be more prominent in the landscape and give rise to a degree of harm to the character and visual qualities of the local landscape.

In terms of the impact of the development proposal on the central woodland it is noted in section 3.2 of the Planning Statement submitted with the planning application that the spoil arising from the creation of the ménage will be used to infill the abandoned railway to widen the access link between the parcels of land either side of the woodland. From the information submitted it is not apparent to what

extent this will require tree removal or clearance of understory growth within the woodland.

Whilst the applicant may not need to provide a full tree survey and report it will be necessary for them to show the impact of the development proposal on the trees in the woodland, to identify those that may need to be removed and to show how retained trees will be physically protected.

This information should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.

Should planning permission be likely to be granted then a condition should be attached to secure details of the physical protection of retained trees and to secure details of soft landscaping to soften, screen and enhance the appearance of the development. Soft landscaping will relate primarily to new hedgerow planting on the new field boundary of the land to the east of the woodland.

Dedham Vale & Stour  
Valley Project  
18.11.2022

Thank you for consulting the AONB team on the above planning application. The site for the ménage lies wholly within the Suffolk Coast & Heaths Area of Outstanding Natural Beauty (AONB). The proposal should seek to accord with national and local policies and pay due regard to the statutory purpose of AONB designation which is to conserve and enhance natural beauty as laid down in Section 85 of the Countryside and Rights of Way Act 2000. Development proposals located within this area should seek to contribute positively to the purposes of the AONB designation and meet the relevant policy objectives of the Suffolk Coast & Heaths AONB Management Plan 2018-2023. The proposal should also have regard to paragraphs 174 criteria a and d and 176 of the National Planning Policy Framework as the development being proposed is located within the Suffolk Coast & Heaths AONB which is also a Valued Landscape.

The AONB team is not opposed to the proposed change from agricultural to equestrian use or the construction of a new ménage in principle. The magnitude of change to the AONB/ landscape that will arise from the construction of the ménage will be minor. The installation of post and rail fencing is considered appropriate within the rural landscape. Paragraph 176 requires development proposal to give great weight to conserving and enhancing the landscape and scenic beauty in protected landscapes like AONBs. If your authority is minded to approve this application, the AONB team recommend that the following conditions are attached to any permission granted.

A landscaping scheme comprising mixed native species should be secured via condition. The new planting should strengthen existing field boundaries to screen the new ménage from Heath Road to help conserve the landscape character within the AONB.

We note from the Planning Statement (section 4.22 page 10) that floodlighting is not being proposed as part of the development. Given the location of the site within the AONB, we recommend that a condition restricting the installation of lighting at the ménage without prior written agreement with your planning authority is attached to any permission granted. This is necessary to prevent light pollution in this part of the AONB.

The use of a condition should also be considered limiting the use of the ménage solely to private use by the applicant.

We hope these comments are helpful.

Essex County Council  
Archaeology  
11.01.2023

The above application is for the proposed change of use of agricultural land to equestrian use and construction of menage.

The proposed site lies adjacent to the scheduled monument site of Old St Marys Church (LEN 1002142) which is defined by the remains of the church walls and church ruins. There are no recorded designated or non-designated archaeological remains within the proposed site though in the wider area prehistoric and later evidence for settlement and activity has been revealed. The proposed works lay beyond the known extent of the graveyard associated with St Marys Church and will involve minimal ground reduction at the eastern end, furthest from the scheduled monument. Due to the nature and scale of the proposed development there is unlikely to be a significant impact on any archaeological remains therefore there will be no requirement for archaeological investigation for the above application.

### **3. Planning History**

N/A

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

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (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

SPL3 Sustainable Design

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL9 Listed Buildings

PP13 The Rural Economy

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

## **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.

## **5. Officer Appraisal**

### **Site Description**

The application site is a parcel of land sited to the east and north-east of properties known as 'The Pightle' and 'Whymarks', which themselves are sited to the eastern section of Heath Road within the parish of Mistley. The site itself is divided into two distinct sections; the section located to the west of the site is grassed land, with the eastern section located beyond a tree line being part of a much larger parcel of agricultural land. To the south of the site is a public footway running east to west.

The character of the surrounding area is relatively mixed; while there are large parcels of open land that provide for a rural character, there are a series of residential properties sited to the south. Further out to the west is a large residential development currently nearing completion.

The site is located outside of a recognised Settlement Development Boundary within the adopted Local Plan 2013-2033. To the north-west is St Mary's Church which is a Scheduled Monument. The site also falls within the Suffolk Coasts and Heaths Area of Outstanding Natural Beauty.

### **Description of Proposal**

This application seeks planning permission for the change of use of the land from agricultural to equestrian use. In addition, the application seeks the construction of a ménage to the north-western section of the site, measuring 60 metres x 30 metres. During the course of the applications determination, amended plans were provided to relocate the ménage; initially it was sited to the western boundary, but has since been relocated to the northern boundary.

Furthermore, the proposal includes a 1.2 metre high post and rail fence to the area of land on the eastern section of the site, and to the perimeter of the ménage, however Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended confirms that these works can be carried out without the requirement for planning permission and therefore this element of the scheme does not form part of the determination of the application.

### **Assessment**

#### **1. Principle of Development**

Policy PP13 (The Rural Economy) states the Council may grant planning permission in the countryside for business and domestic equine related activities.

The application will result in the change of use of the land for equestrian purposes solely for the occupants of 'The Pightle', and therefore it will be utilised purely for domestic use only. The

proposal therefore accords with the requirements of Policy PP13 and the principle of development is therefore acceptable.

## 2. Loss of Agricultural Land

Former saved Policy EN4 of 2007 Local Plan sought to prevent the unavoidable loss of agricultural land, and loss of the best and most versatile agricultural land unless special justification could be shown. This policy was superseded with the adoption of the Section 2 Local Plan and there is no direct replacement policy.

Nevertheless, Paragraph 7.3.1 of the Section 2 Local Plan states that in order to promote sustainable development, in considering where to select sites for new development in this Local Plan, the Council has taken particular care to assess the value of the landscape and, where practical, allocate sites with the lowest sensitivity, thereby helping to protect valued landscapes and the best and most versatile agricultural land.

The Glossary to the Framework defines best and most versatile agricultural land as land in grades 1, 2 and 3a of the Agricultural Land Classification (ALC). Paragraph 174 a) of the Framework states that planning policies and decisions should contribute to, and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.

Paragraph: 001 Reference ID: 8-001-20190721 of the NPPG states, amongst other things, that planning decisions should take account of the economic and other benefits of the best and most versatile agricultural land. Paragraph: 002 Reference ID: 8-002-20190721 states that soil is an essential natural capital asset that provides important ecosystem services - for instance, as a growing medium for food, timber and other crops, as a store for carbon and water, as a reservoir of biodiversity and as a buffer against pollution.

The land subject of this application is classed as Grade 3 agricultural land. This is defined as good to moderate quality agricultural land, with moderate limitations that affect the choice of crops, timing and type of cultivation, harvesting or the level of yield. This Grade falls below Grades 1 and 2 and is therefore not special land in particular need of protection. Given this, and that the amount of land to be lost as a result of the proposed development is not of a significant level, the harm identified would not be to a significant extent and would not justify recommending a reason for refusal.

## 3. Impact to Landscape Character

Paragraph 130 of the National Planning Policy Framework (NPPF) (2021) 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.

Paragraph 176 of the NPPF (2021) states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty (AONB), which have the highest status of protection. The scale and extent of development within such a designated area should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts to the designated area.

Adopted Policy SP7 of Section 1 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Adopted Policy PPL3 confirms the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance. In addition, Development proposals affecting protected landscapes must pay particular regard to the conservation and enhancement of the special character and appearance of the Dedham Vale and Suffolk Coast and Heaths AONBs, and their settings, including any relevant AONB Management Plan objectives.

The site for the ménage lies wholly within the Suffolk Coast & Heaths Area of Outstanding Natural Beauty (AONB), and accordingly the AONB Team have been consulted on the proposed development.

The AONB team have confirmed they are not opposed to the proposed change from agricultural to equestrian use or the construction of a new ménage in principle, as the magnitude of change to the AONB/landscape that will arise from the construction of the ménage will be minor, and the installation of post and rail fencing is considered appropriate within the rural landscape.

The Council's Tree and Landscape Officer has also been consulted on the application, and has provided the following comments in regard to the impact to the areas landscape character:

*“At the present time the application site is partly being used as grazing land and partly in arable use. It is divided by a narrow woodland situated on the bed and embankments of the abandoned railway that bisects the site from north to south.*

*The part of the application site to the west of the woodland is relatively well contained by the woodland and other field boundary hedgerows, consequently the proposed use of this part of the application site would not have a significant adverse effect on the local landscape character. The site is clearly visible from the adjacent Public Right of Way (PRoW) (The Essex Way), to the south, however the public's enjoyment of the countryside would be unlikely to be significantly degraded by this element of the proposed development.*

*In terms of the impact of the development on the local landscape character of the part of the application site to the east of the woodland it is noted that at the present time the woodland forms a linear boundary that acts as a barrier between developed land and the countryside. Even small scale, low impact development has the potential to adversely affect the character of the area.*

*The proposed development would result in a change from the cultivation of a cereal crop to grassland for grazing purposes and the erection of a low fence. The change in the crop cultivation is not significant in itself however the introduction of small scale field division that is not in accordance with the current use of the land may appear incongruous in the landscape.*

*Whilst any analysis of users experience of the countryside is not objective it is considered that when walkers are using the PRoW and pass through the woodland, heading east there is a clear 'feeling' of entering the countryside. This experience may be degraded by the introduction of a small paddock on land that is currently in arable use.*

*In terms of the degree to which the development of the eastern parcel of land is harmful to local landscape character it is noted that the change is not significant and that the adverse impact of the proposed post and rail fence could be, at least partially, mitigated by new hedge planting on the site boundary. Nevertheless the development to the east of the central woodland will result in a change to the pattern of field boundaries.*

*It is apparent that the two parts of the application site have distinctly different characteristics and consequently the impact and effect of the development proposal would be different for each parcel of land.*

*In this regard the development of the land to the west of the woodland will be unlikely to have an adverse effect on landscape character whereas the development of the land to the east will be more prominent in the landscape and give rise to a degree of harm to the character and visual qualities of the local landscape.”*

Taking all of the above comments into consideration, Officers acknowledge that the western section of the application site is well contained by the woodland and boundary hedgerows, and therefore the works to this section of the site (which include the ménage) will not have a significant adverse effect on the local landscape character. While the eastern section of the application site is far more open and the development will be more prominent and potentially more harmful, it is equally acknowledged that there are minimal alterations proposed, with the proposed fencing being able to be erected under permitted development rights. Given this, and the lack of concerns

raised by the AONB team, on balance while some level of harm has been identified Officers do not consider on this occasion that this level of harm is to such an extent that it justifies recommending a reason for refusal.

#### 4. Impact to Trees

The Council's Tree and Landscapes Officer has been consulted, and has stated the following with regards to the impacts to the woodland:

*"In terms of the impact of the development proposal on the central woodland it is noted in section 3.2 of the Planning Statement submitted with the planning application that the spoil arising from the creation of the ménage will be used to infill the abandoned railway to widen the access link between the parcels of land either side of the woodland. From the information submitted it is not apparent to what extent this will require tree removal or clearance of understory growth within the woodland.*

*Whilst the applicant may not need to provide a full tree survey and report it will be necessary for them to show the impact of the development proposal on the trees in the woodland, to identify those that may need to be removed and to show how retained trees will be physically protected.*

*This information should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations*

*Should planning permission be likely to be granted then a condition should be attached to secure details of the physical protection of retained trees and to secure details of soft landscaping to soften, screen and enhance the appearance of the development. Soft landscaping will relate primarily to new hedgerow planting on the new field boundary of the land to the east of the woodland."*

Accordingly, planning conditions to this effect are recommended to be included.

#### 5. Heritage Impacts

Paragraph 202 of the National Planning Policy Framework (2021) states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Adopted Policy PPL9 (Listed Buildings) confirms proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric.

The application site lies adjacent to 'Site of Old St Mary's Church', which is a designated Scheduled Monument and Grade II Listed. Accordingly Historic England and ECC Place Services (Heritage) have been consulted on the application.

Initially Historic England considered that the proposed development would result in a change to the setting of the scheduled monument and could result in harm to its significance. Following further discussions with the agent for the application, amended plans were submitted that relocated the ménage further east away from the Scheduled Monument. Historic England, upon re-consultation then confirmed they have no objections to the application, but recommended a landscaping scheme to further reduce the impact of the ménage on the significance of the scheduled monument. Further amended drawings have been provided that show this.

Furthermore, ECC Place Services (Heritage) have provided the following comments:

*"The proposal site is adjoining the boundaries of Grade II Listed Ruins of St Mary's Church, which is also registered as Scheduled Monument. The setting of the Ruins of St Mary's Church still retains the historic open and rural character which highly contributes to the significance of the*

*designated heritage asset and to the way this significance is experienced, appreciated and understood.*

*The proposed change of use from agricultural fields into equestrian use will involve the installation of a new ménage which would be in very close proximity to the boundary of the designated heritage asset. In its current iteration, the proposal is considered to have a detrimental impact on the significance of the St Mary's Church by changing its setting from existing rural fields into equestrian use. Since the construction of the original building, St Mary's Church has always been surrounded by green fields in agricultural use, which are mostly still existing and highly contribute to the rural and verdant character of the setting.*

*With regards to the National Planning Policy Framework (2021), the level of harm to St Mary's Church as a designated heritage asset is considered to be 'less than substantial'. As such the local planning authority should weigh this harm against any public benefits of the proposal including, where appropriate, securing its optimum viable use as per Paragraph 202.*

*It is also noted that, at this stage, the applicant has not provided sufficient information regarding the significance of the heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance, a requirement set out in Paragraph 194 of the NPPF.*

*I believe there is the potential here to introduce a ménage more sympathetically within the proposal site by moving it to the East side of the former railway line, where the existing woodlands would offer a natural screening between the new development and the designated heritage asset. The proposed change of use in this location would generally be considered acceptable providing that the proposed ménage remains in private use associated with Pightle."*

Taking all of the above into consideration, ECC Place Services (Heritage) have stated there will be a level of less than substantial harm as a result of the proposed development, specifically due to the proposed ménage. There are no public benefits as a result of the development given the use is solely for domestic purposes. However, on this occasion it is acknowledged that Historic England are satisfied that the amended plans overcome previous concerns. In addition the ménage itself will be low-key and relatively in-keeping with the areas character, and soft landscaping has been provided to its western boundary to further reduce any potential impacts. Given all of this, on balance Officers consider that the harm identified on this occasion is not to the extent that it would be reasonable to recommend a reason for refusal.

## 6. Impact to Neighbouring Amenities

Paragraph 130 of the National Planning Policy Framework (2021) confirms planning policies and decisions 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.

Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The proposal is predominantly a change of use of land, which in itself will have a negligible impact to the amenities of surrounding properties. The proposed ménage, following its relocation, is to be sited approximately 65 metres from the nearest property. Given this, that the ménage will not include any floodlighting, and that it will be a low-key domestic use only, Officers do not consider the use will generate significant harm to the neighbouring properties.

### Other Considerations

Mistley Parish Council have confirmed they note the application and hope that the Essex Way will be protected as part of the application. In response to this, the proposal does not include any

works in close proximity to the public footpath, so it will not be impacted as a result of the development.

In addition, there has been one letter of objection received, with the following concerns:

1. The ménage is too closely located to the Ruins of St Mary's Church;
2. Harmful visual impacts; and
3. Impact to AONB.

In answer to this, points 2 and 3 are addressed within the main body of the report. In response to point 1 the plans have been altered since these comments were made that has relocated the ménage further away.

### Conclusion

The proposed development provides for a change of use of land for domestic equestrian purposes, and is supported in principle by Policy PP13, while there are also no nearby residential properties that would be impacted by the development.

While Officers recognise there is a degree of landscape harm, notably to the eastern section of the application site, it is also noted there are limited works involved and the AONB team raise no objections. Therefore, on balance, this harm is not significant enough to recommend a reason for refusal.

A level of less than substantial harm has been identified to the setting of the Grade II Listed and Scheduled Monument site to the west by ECC Place Services (Heritage). However, Historic England do not raise any objections, while during the course of the applications determination amended plans have been provided that have relocated the ménage further away from these heritage assets, and also it has been supplemented with soft landscaping. Given this, Officers again consider on balance that the harm identified is not sufficient enough to warrant recommending a reason for refusal.

Taking all of the above into consideration the application is recommended, on balance, for approval.

## **6. Recommendation**

Approval.

## **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 drawings/documents, and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may be subsequently approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard:

Documents titled 'Location Plan', 'Proposed Fencing Elevations', 'Planning Statement' and the untitled Block Plan dated 14th December 2022.

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

- 3 The ménage hereby approved shall be used solely in connection with the private stabling of horses and no business or commercial use including livery or riding school activities shall be carried on from the site whatsoever.

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

- 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 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.

- 6 No development above ground level shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard, soft and boundary treatment landscaping works for the site, which shall include any proposed changes in ground levels.

Reason: In the interests of visual amenity and the character and appearance of the area.

- 7 All changes in ground levels, soft/hard landscaping shown on the approved landscaping details shall be carried out in full 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 approved, in writing, by the Local Planning Authority up to the first use/first occupation of the development. Any trees, hedges, shrubs or turf identified within the approved landscaping details (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted, or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and same species unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the approved landscaping scheme has sufficient time to establish, in the interests of visual amenity and the character and appearance of the area.

- 8 No development shall be commenced until the existing tree/s on the site, agreed with the Local Planning Authority for inclusion in the scheme of landscaping, have been protected by the erection of temporary protective fences of a height, size and in positions which shall previously have been approved, in writing, with the Local Planning Authority prior to the commencement of development. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the tree/s to be protected. Any tree/s dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with a tree or trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be approved, in writing, with the Local Planning Authority up to first use or first occupation of the development, following the death of, or severe damage to the tree/s.

Reason: For the avoidance of damage to protected tree/s included within the landscaping scheme in the interests of visual amenity and the character and appearance of the area. This condition is required to be carried out prior to the commencement of any other development to ensure trees are protected early to ensure avoidance of damage or loss due to the development and/or its construction. If agreement was sought at any later stage there is an unacceptable risk of loss and damage to trees.

## **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.