

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	MP	30/05/23
Planning Manager / Team Leader authorisation:	AN	30/05/23
Planning Technician final checks and despatch:	CC	30.05.2023

Application: 23/00501/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Messrs J W and F D Eagle

Address: Land to The North West of Walton Hall Farm Old Hall Lane

Development: Proposed temporary change of use of agricultural land to equestrian use and retention of 4 No. stable buildings and associated development for a period of two years.

1. Town / Parish Council

Frinton and Walton Town Council Recommends - Approval

2. Consultation Responses

Essex County Council The application is for proposed temporary change of use of
Heritage agricultural land to equestrian use and retention of 4 No. stable
28.04.2023 buildings and associated development for a period of two years.

The proposal site is in proximity to a number of designated heritage assets, including Grade II listed Barn Approximately 40 Metres North East Of Walton Hall And East Of Barn Qv 4/90 (List UID: 1337141) and Barn Approximately 40 Metres North Of Walton Hall And West Of Barn (List UID: 1317124). The Grade II listed Navigation Tower at Walton Hall (List UID: 1165806) is also located in proximity to the Site.

The proposal is not considered to affect the open character of the setting of Grade II Listed Walton Hall and associated outbuilding. The design proposed stables and menage are also in keeping with the agricultural character of the area. There is limited intervisibility between the proposal site and the above-mentioned designated asset and the scale of the development is limited.

There is therefore no objection to this application.

Tree & Landscape Officer The land is set out as shown on the plans submitted in support of the
18.04.2023 application.

There are no trees or other vegetation in the main body of the land. The boundary with Old Hall Lane is demarcated by an established hedgerow comprising indigenous species that currently acts as a good screen when viewing the application site from the road.

No works to the hedgerow are proposed as part of the development proposal and no other trees or other significant vegetation will be adversely affected by the proposed development.

Considering the remote location of the application site that is situated

in the Hamford Coastal Slopes Landscape Character Area and the characteristics of the landscape area type; namely the gently sloping land encircling Hamford Water there is little public benefit to be gained from new soft landscaping associated with the proposed development.

ECC Highways Dept
03.05.2023

The information submitted in association with the application has been considered by the Highway Authority. A previous site visit was undertaken in conjunction with a different planning application and conclusions have been drawn from a desktop study with the observations below based on submitted material. This section of Old Hall Lane is classed as a private road and the Highway Authority have no maintenance or other responsibility for any private vehicular rights over this section of Old Hall Lane, as such the Highway Authority would not normally comment. It is noted that this application is similar to an earlier application; 22/01865/FUL that the Highway Authority did not object to, however, this application is for a temporary change of use. The lane is a narrow road predominantly residential but also provides access to the farm and sewage treatment works. As with the previous application, the proposal will utilise an existing access also used by large agricultural machinery for a significant period of time, and whilst there would be an increase in smaller vehicles using the access, there would not be a significant intensification compared to the previous vehicle movements. The site has an enclosure adjacent to the access providing parking and turning for vehicles, ensuring that these vehicles can enter and exit the site in a forward, considering these factors:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the private road.

Reason: To avoid displacement of loose material onto the lane in the interests of highway safety in accordance with policy DM1.

2. Any gates retained at the vehicular access shall be inward opening only and shall be set back a maximum of 0.5 metres from the back edge of the footway or where no provision is present, the carriageway.

Reason: In the interest of highway safety in accordance with policy DM1.

3. Prior to commencement of the works, 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 private road.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the carriageway 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

2: 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.

Environmental Protection
14.04.2023

With reference to the above application, please see below for comments from the EP Team:

Light and Odour: I have reviewed the application and have the following comments to make;

- o Effluent originating from the shelter floor must be considered foul water and thus conveyed and disposed of in the same manner as domestic foul water.
- o A plan for storage and removal of horse manure is to be confirmed with this authority.
- o No burning of horse manure should be carried out on site.
- o Any external lighting on the proposed site shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to neighbouring residential properties. The applicant shall demonstrate compliance with the Institute of Lighting Professionals code of practice. (www.theilp.org.uk)

Construction Activities: In order to minimise potential nuisance caused by construction, Environmental Protection recommend that the following below is conditioned;

- o No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.
- o No materials produced as a result of the site development or clearance shall be burned on site.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

3. Planning History

21/00274/FUL	Proposed demolition of an existing outbuilding and replacement with new stables building along with the conversion of an existing outbuilding to provide ancillary facilities. Provision for new car parking and proposed removal of existing water storage tank	Approved	09.04.2021
21/00275/LBC	Proposed demolition of an existing outbuilding and replacement with new stables building along with the conversion of an existing outbuilding to provide ancillary facilities. Provision for new car parking and proposed removal of existing water storage tank	Approved	09.04.2021
22/01864/FUL	Proposed resurfacing of an existing hard/landing area.	Approved	19.01.2023
22/01865/FUL	Proposed change of use of agricultural land to equestrian use and retention of 4 No. stable buildings and associated development.	Refused	20.01.2023

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

PPL2 Coastal Protection Belt

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL9 Listed Buildings

PPL10 Renewable Energy Generation

PP13 The Rural Economy

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

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 land located to the west of Walton Hall Farm, within the parish of Walton. The site comprises part of a larger field, which extends west leading towards the Walton Backwaters area.

The character of the area is predominantly rural in nature, with large areas of grassed and agricultural land to all sides; the Walton Backwaters are further west, with the Naze Tower to the south-east.

The site falls outside of a recognised Settlement Development Boundary within the adopted Local Plan (2013-2033), and also falls within a Coastal Protection Belt.

Description of Proposal

This application seeks retrospective planning permission for the temporary change of use of agricultural land into equestrian use, which will also see four stable buildings to the north-east corner of the site formed in a 'U' shape. Three of the buildings will be used as stables, with the fourth as a storage area. The submission confirms that it will be used for commercial purposes, and the temporary permission is for a total of two years, to allow sufficient time for the agricultural enterprise to transition towards being wholly organic.

The stables are accessed from the gateway to the south-east corner of the site with a track leading from the access to the stables. The track is constructed with a membrane and finished with bark chippings.

Site History

Under planning reference 22/01865/FUL, planning permission was refused for the same scheme subject of this current application, with the key difference being that this was for a permanent permission. This application was refused on the grounds that the development would see the introduction of four stable buildings along with an associated access and track within a Coastal Protection Belt; given that the character of the area in this location is extremely open with no

intervening built form between the site and the coastline. Against this context the development will be highly visible and prominent from views from the west in particular, and would set an unwanted precedent for future similar forms of development.

Assessment

1. Principle of Development

Paragraph 84 of the National Planning Policy Framework (2021) states that planning policies and decisions should enable sustainable rural tourism and leisure developments, which respect the character of the countryside.

Adopted Policy PP13 states that to support growth in the rural economy the Council may grant planning permission for business and domestic equine related activities outside of Settlement Development Boundaries.

The application will result in the change of use of the land for equestrian purposes solely for commercial/business purposes. The proposal therefore accords with the requirements of Policy PP13 and the principle of development is therefore acceptable, subject to the detailed considerations discussed below.

2. Impact to Coastal Protection Belt

Adopted Policy PPL2 of the Tendring District Local Plan 2013-2033 seeks to protect the open character of the undeveloped coastline and refuse planning permission for development which does not have a compelling functional or operational requirement to be located there. Where development does have a compelling functional or operational requirement to be there, its design should respond appropriately to the landscape and historic character of its context and applicants will be required to demonstrate that any development proposals will be safe over their planned lifetime.

The application site falls within the Coastal Protection Belt, as designated within the adopted Local Plan. The proposed development will see the introduction of four stable buildings along with an associated access and track. While Officers acknowledge that the built form is relatively small in scale and that the proposal is for a temporary period of two years, the character of the area in this location is extremely open with no intervening built form between the site and the coastline. Against this context the development will be highly visible and prominent from views from the west in particular. On this basis the development would, with or without a compelling reason, fail to protect the open character and undeveloped nature of the Coastal Protection Belt designation, therefore contrary to the above planning policies.

The above notwithstanding, the submission confirms that the proposal is for commercial purposes, which in turn provides a small public benefit to the wider area. In addition, the submission confirms that the temporary permission is required to help support the agricultural unit through the diversification of income, whilst the agricultural enterprise transitions towards being wholly organic. Whilst Officers acknowledge that the proposal has therefore provided some justification and that the temporary permission will naturally have an overall reduced impact compared to the previous application for permanent use, it is not considered that a compelling functional or operational case has been provided to demonstrate why the development should specifically be sited in this location.

3. Heritage Impacts

Policy PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Section 1 states that 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' although the Plan recognises that the scope for a listed building to adapt to modern life and requirements will itself depend upon a number of considerations and it will not always be possible to incorporate modern design solutions without also causing harm to its special character fabric, or appearance.

The application site lies in close proximity to Grade II Listed Buildings, and accordingly Essex County Council Place Services (Heritage) have been consulted. They have provided the following comments in response:

"The proposal site is in proximity to a number of designated heritage assets, including Grade II listed Barn Approximately 40 Metres North East Of Walton Hall And East Of Barn Qv 4/90 (List UID: 1337141) and Barn Approximately 40 Metres North Of Walton Hall And West Of Barn (List UID: 1317124). The Grade II listed Navigation Tower at Walton Hall (List UID: 1165806) is also located in proximity to the Site.

The proposal is not considered to affect the open character of the setting of Grade II Listed Walton Hall and associated outbuilding. The design proposed stables and menage are also in keeping with the agricultural character of the area. There is limited intervisibility between the proposal site and the above-mentioned designated asset and the scale of the development is limited.

There is therefore no objection to this application."

Given the above comments there are no objections raised in this regard.

4. 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 nearest residential properties are located adjacent to the north of the site, and Walton Hall Farm approximately 80 metres to the south-east. However, it is acknowledged that the development, and the built form in particular, is of a low-key scale that will not be harmful to any existing amenities in respect of overlooking or appearing oppressive. The low-key commercial use could generate a degree of noise disturbances with associated vehicular movements, but Officers do not consider this will be significantly harmful, particularly in the context of the immediate surrounding area and that the permission is temporary for two years.

5. Highway Impacts

Essex Highways Authority have been consulted and have stated that the proposal will utilise an existing access also used by large agricultural machinery for a significant period of time, and whilst there would be an increase in smaller vehicles using the access, this would not be a significant intensification compared to the previous vehicle movements. Accordingly, they have no objections subject to conditions relating to the use of no unbound materials, any gates being set back and inward facing, and the storage of building materials.

6. Renewable and Energy Conservation Measures

Paragraph 112 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.

Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.

The proposal includes for a development that has the potential to incorporate renewable energy features. No details, however, are provided within the application submission. Therefore, it would be considered reasonable and necessary to include a planning condition requiring a scheme, together with a timetable to be submitted for the consideration and installation of these measures, as such a condition would be capable of addressing these policy requirements.

7. Dry Islands

While the application site falls within Flood Zone 1, an area with a low probability of flooding, Officers acknowledge that the site is located on a higher area of land that is surrounded by areas falling within Flood Zone 3 and would therefore be cut off in the event of a flooding event, representing significant danger to life and the need for evacuation by emergency services. Given that the proposal is for a use that is defined as less vulnerable in flooding terms, on this occasion had the application been recommended for approval a condition would have been recommended to secure a Flood Evacuation Plan, which would be used to confirm how people would vacate the dry island in the event of a flooding event and/or confirm that the applicant would sign up to the flood warning service.

Other Considerations

Frinton and Walton Town Council have recommended approval.

There have been no other letters of representation received.

Conclusion

The proposed development provides for a temporary change of use of land for business 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. Furthermore, Essex Highways Authority or ECC Place Services (Heritage) do not raise any objections.

However, the application site falls within a Coastal Protection Belt, and the built form associated with the development will be highly visible and prominent, causing harm to the undeveloped coastline in this location. Accordingly, the application is not policy compliant and is recommended for refusal.

6. Recommendation

Refusal.

7. Reason for Refusal

- 1 The development for four stable buildings along with an associated access and track will be sited within a Coastal Protection Belt. Policy PPL2 of the Tendring District Local Plan 2013-2033 provides two stages in seeking to protect the open character of the undeveloped coastline. The first, to refuse planning permission for development which does not have a compelling functional or operational requirement to be located there. The second, where development does have a compelling functional or operational requirement to be there, its design should respond appropriately to the landscape and historic character of its context and applicants will be required to demonstrate that any development proposals will be safe over their planned lifetime.

The functional or operational requirement case for the stables and associated track presented is not considered to be sufficiently compelling to demonstrate that it outweighs the needs of this sensitive area and its bespoke protection for its own interests. The character of the area in this location is extremely open with no intervening built form between the site and the coastline. Against this context the development will be highly visible and prominent from views from the west. On this basis the development would, with

or without a compelling reason, fail to protect the open character and undeveloped nature of the Coastal Protection Belt designation, therefore contrary to the above planning policies.

8. Informatives

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.