

DELEGATED DECISION OFFICER REPORT

| AUTHORISATION | INITIALS | DATE |
|--|----------|------------|
| Case officer recommendation: | MP | 30/08/23 |
| Planning Manager / Team Leader authorisation: | ML | 04/09/2023 |
| Planning Technician final checks and despatch: | ER | 11/09/2023 |

Application: 22/01481/VOC **Town / Parish:** Thorpe Le Soken Parish Council

Applicant: Marks Tey Farms Limited

Address: Land adjacent Thorpe Cross Lodge 26 Frinton Road Thorpe Le Soken

Development: Application under Section 73 of the Town and Country Planning Act, to allow a variation of conditions 2 (approved plans), 5 (Occupation restriction) and 6 (management strategy) of 21/01411/FUL to remove reference to the management strategy in the list of approved documents, change wording to allow non-occupancy within 6 weeks of any year and adjust approved management strategy to read 'no large hen or stag parties (6+)'.

1. Town / Parish Council

Thorpe-le-Soken Parish Council:

The Parish council wish to object to the application. The original application was approved as a holiday let with conditions to restrict prolonged periods of occupation and large, same - sex, parties. Changing the wording to 'No large hen or stag parties (6+)' contravenes the councils reasons for the condition: 'To safeguard the amenities of the adjoining premises.' For example, a same- sex 21st birthday party may be just as noisy as a hen or stag party. Furthermore, without a mechanism for policing the condition, there is no way of ensuring that any large same -sex parties on the site are not hen or stag parties.

With regard to the period of occupation, along with the original condition of non occupancy between November and February, which has since been changed to ' A continuous period of 6 weeks, within the winter months.' This condition was imposed to ensure these holiday lets do not become permanent residence. As stated in TDC's reasons for the condition: 'To ensure that the accommodation remains in holiday use in support of planning policies aiming to encourage tourism and does not become a permanent residential use.'

The gradual variations and reductions of the conditions imposed give rise to the units eventually becoming permanent residence, as are the 2 caravans already on the site. To allow continuous occupation for up to 84 days, is more than a holiday let. For the majority of people, a 3 week holiday is a long break; school summer holidays are 6 weeks. Therefore, the current occupancy period of 7 weeks (56 days), is more than adequate for the site to operate in its permitted function as a holiday let. As stated by TDC on the original decision notice '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.' To ensure this is the case these conditions must be upheld & enforced.

2. Consultation Responses

N/A

3. Planning History

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|--------------|--|----------|------------|
| 91/01235/FUL | Protective garden wall. | Refused | 11.12.1991 |
| 92/00169/FUL | Retention of front boundary wall and side fencing (resubmission of application TEN/91/1235) | Refused | 31.03.1992 |
| 92/01252/FUL | (Thorpe Cross Lodge, 26 Frinton Road, Thorpe le Soken) Retention of brick store | Approved | 14.12.1992 |
| 20/00645/FUL | Erection of 4no. holiday caravans. | Refused | 08.09.2020 |
| 21/00028/FUL | Erection of 4 holiday caravans. | Approved | 02.08.2021 |
| 21/01411/FUL | Variation of conditions 3, 5, and 6 (occupation conditions) of planning application 21/00028/FUL | Approved | 16.12.2021 |

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)

PP10 Camping and Touring Caravan Sites

PP13 The Rural Economy

SPL3 Sustainable Design

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), supported by our suite of evidence base core documents

(<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

5. Officer Appraisal

Site Description

The application site is a parcel of land located along the southern section of Frinton Road opposite Damants Farm Lane, within the parish of Thorpe-le-Soken. A public footpath runs through the site and links to the main settlement which is a short walk away.

There are residential properties located adjacent to the south-east and north-west, with a car garage sited approximately 125 metres to the north-west. The main hub of Thorpe-le-Soken is approximately 1.5 miles to the east. The character becomes more rural further out, with large parcels of grassed or agricultural land to the north, east and south.

The site does not fall within a recognised Settlement Development Boundary within the adopted Local Plan 2013-2033.

Description of Proposal

This application seeks planning permission for the variation of the wording for Conditions 2, 5 and 6 of planning permission 21/01411/FUL as follows:

Condition 2 - it is requested to remove reference to the Management Strategy in the list of approved documents, as this is already referred to within Condition 6 and is not necessary.

Condition 5 - amend the wording of the condition to read as follows:

"No caravan shall be occupied for any period of 6 weeks (can be non-continuous), in any year. The owner shall keep records to show to the Council's reasonable satisfaction the 6 weeks each year that the caravan was unoccupied."

Condition 6 - revisions to the wording of the Management Strategy to read 'no large hen or stag parties (6+)' in lieu of 'No large (6+ people) same-sex groups.'

The application initially requested an amendment to the wording of Condition 3 to read as no person shall occupy the site for more than 84 consecutive days (previously it was allowed as 56 consecutive days). However, Officers raised concerns that this was an excessive period of time that lent itself to the site being more used for permanent uses, and it was therefore agreed to remove this from the application description.

Site History

Under reference 21/00028/FUL planning permission was granted in August 2021 for the erection of four holiday caravans. This application was accompanied by sufficient additional information and justification to consider recommending approval following an earlier application having been refused under reference 20/00645/FUL due to inadequate visibility, intensification of use of footpath, harm to the setting of the footpath and impact to neighbours.

Following this, under 21/01411/FUL, planning permission was then granted for the variation of Conditions 3, 5 and 6 to increase occupation from no more than 28 days to 56 days, to allow for the closure of the site for six weeks to be within the winter months, and to amend the wording of the Management Strategy.

Assessment

With respect to the amendment to Condition 2 to remove reference to the Management Strategy from the list of approved plans, Officers are content that this is sufficiently covered with the inclusion of Condition 6 and therefore raise no objections to the principle of this.

The current wording of Condition 5 reads as '*No caravan shall be occupied for any period of 6 weeks (can be non-continuous) between 1st November and 28th February, in any year.*' The amendment therefore is purely to remove a restriction for the specific time of the year that the caravans cannot be occupied; the current wording would potentially restrict use of the site over the festive period for example, and the applicant would prefer to have greater flexibility. While Officers requested a specific 6 week period of the applicants choosing in order to ensure the condition was more easily enforceable, it has jointly been agreed that the inclusion of wording to ensure site owners keep records that can be provided on demand to the Council will be an acceptable alternative approach that provides the Council with comfort that the condition can be enforced. This ensures the site remains unoccupied for 6 weeks each year, but also allows greater flexibility for a local business, and therefore Officers raise no objections.

Condition 6 is purely to amend part of the wording of the previously approved Management Strategy so that instead of it excluding use of the site for large same-sex groups of six people or more, it will now specifically only restrict use of the site for large groups on hen or stag parties. Officers consider this to be an acceptable amendment and will largely be in accordance with the aspirations of the previous wording. In addition, the impact to neighbouring properties with respect to noise disturbances will be no different to the existing wording of the Management Strategy. Accordingly, no concerns are raised in this regard.

Other Considerations

Thorpe-le-Soken Parish Council object to the application for the following reasons:

1. Impact to neighbouring properties through noise disturbances; and
2. Concerns that the variations, including an increase to 84 consecutive days, will result in the site being used for permanent residence.

In answer to this, these points are addressed within the main body of the report above.

One letter of objection has also been received, stating concerns that applications on this site have been previously refused, and concerns that with flooding.

In response to this, the site history is addressed above, and the site is not within a recognised flood zone as highlighted by the Environment Agency.

Conclusion

The application proposes alterations to three planning conditions from planning permission 21/01411/FUL, which will see the removal of the Management Strategy from the approved plans condition, an amendment to the Management Strategy itself, and to ensure the unoccupied use of the site can occur at any time in the year rather than at specific times. For the reasons outlined within the assessment above, Officers do not consider that these alterations will result in any harmful impacts and broadly accord with local and national planning policies. As such the application is recommended for approval.

6. Recommendation

Approval.

7. Conditions

1 APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below 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 subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

21/01411/FUL:

Y0344-CS-001 REV D, received 23 Dec 2020; Y0344-CS-1250, received 28 Jan 2021; 205687-A-01 REV A, 205687-A-01-AT01, and 205687-A-02 REV A received 07 Jun 2021.

22/01481/VOC:

The untitled Cover Letter received 22nd August 2023.

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

2 CONDITION: 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.

- 3 CONDITION: 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. The operators of the site shall maintain an up-to-date register of the names of all occupiers of the holiday let accommodation and of their main home addresses and shall make this information available at all reasonable times to the Local Planning Authority.

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

- 4 CONDITION: No caravan shall be occupied for any period of six weeks (can be non-continuous), in any year. The owner shall keep records to show to the Council's reasonable satisfaction the six weeks each year that the caravan was unoccupied.

REASON - To ensure that the accommodation remains in holiday use in support of planning policies aiming to encourage tourism and does not become a permanent residential use.

- 5 CONDITION: Occupation of the caravans is prohibited by those detailed in the document titled 'Management Strategy August 2022' as submitted and approved by the Council, unless otherwise amended in writing by agreement from the Council.

REASON - To safeguard the amenities of the adjoining premises.

- 6 CONDITION: Prior to first use of the access, visibility splays shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 130 metres to the east and 2.4 metres by 121 metres to the west, as measured from and along the nearside edge of the carriageway, and shall then be retained in its approved form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.

REASON: To ensure vehicles exiting the access would have sufficient visibility to enter the public highway safely and vehicles on the public highway would have sufficient warning of a vehicle emerging in order to take avoiding action.

NOTE/S FOR CONDITION:

It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

- 7 CONDITION: Prior to the first occupation of the development, details of a vehicular turning facility shall be approved, in writing, by the Local Planning Authority. The turning facility shall be constructed, surfaced and thereafter maintained free from obstruction within the site at all times for vehicular use only.

REASON: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

- 8 CONDITION: The access hereby approved shall have a bound material surface and shall be laid out for a minimum distance of 5 metres from the edge of the carriageway prior to first use. The bound material as implemented shall then be retained thereafter.

REASON: In the interests of highway safety to prevent hazards caused by loose materials on the highway.

9 CONDITION: Prior to first use the access and drive shall be constructed to a minimum width of 5.5 metres for a distance of at least 6 metres measured from the nearby edge of the carriageway and shall then thereafter be retained.

REASON: In the interests of highway safety to ensure vehicles can enter and leave the site in a safe manner ensuring opposing vehicles can pass in the interest of highway safety.

10 CONDITION: At no point shall gates be provided at the vehicular access. The access shall remain open and free for use thereafter.

REASON - To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety.

11 CONDITION: The existing access into the site as indicated on Drawing Number Y0344-CS-001 Rev D of planning permission 21/01411/FUL shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing immediately the proposed new access is brought into first beneficial use.

REASON - To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.

12 CONDITION: The public's rights and ease of passage over public footpath no. 14 (Thorpe le Soken_180) shall be maintained free and unobstructed at all times.

REASON - To ensure the continued safe passage of the public on the definitive right of way and accessibility.

13 CONDITION: Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay. The planting should be retained free of obstruction above 600mm either side of public footpath no. 14 (Thorpe le Soken_180) for the first 5 metres where the internal driveway crosses the PROW.

REASON - To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

14 CONDITION: Prior to first occupation of the hereby approved development, the vehicle parking area indicated on the approved plans shall be hard surfaced and sealed. 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 in writing 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.

15 CONDITION: No development above slab 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.

NOTE/S FOR CONDITION:

Slab level is normally refers to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please assume slab level to be the point before any walls and/or development can be visually above ground level or seek confirmation from the Local Planning Authority for your development.

Should the landscape works include any new hedgerow, please consider the following planting for a native hedge. Native hedge: 50% hawthorn, 25% blackthorn (but beware - this can spread into adjacent fields), 15% field maple, 2% holly, 2% wild privet, 2% guelder rose, 2% dog rose, 2% buckthorn.

- 16 CONDITION: 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.

- 17 CONDITION: No building hereby permitted shall be occupied until a waste management plan setting out how waste (sewage and refuse) will be stored and collected has been prepared, submitted to and approved in writing by the Local Planning Authority. The measures shall thereafter be implemented in accordance with the approved waste management plan for the lifetime of the development.

Reason: To ensure appropriate waste management facilities are provided to accommodate all waste generated by the development.

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.