

DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		ER	17/07/2024
EIA Development - Notify Planning Casework Unit of Decision:	NO		
Team Leader authorisation / sign off:		ML	19/07/2024
Assistant Planner final checks and despatch:		ER	19/07/2024

Application: 24/00674/FUL **Town / Parish:** Ardleigh Parish Council

Applicant: Mr and Mrs Drury

Address: 17 Coggeshall Road Ardleigh Colchester

Development: Planning Application - Demolition of the existing stable barn, construction of a new storage barn, mobile unit tack room, 2 mobile unit stables, new hay storage and trailer carport (constructed out of material from demolished stables and on the existing concrete slab) and associated fencing.

1. Town / Parish Council
Ardleigh Parish Council

Ardleigh Parish Council does not object to the application but would wish to see a restriction placed on the new building such that it can be used for equestrian and/or livestock only and not permitted to become residential accommodation (including ancillary to the main dwelling) in future.

2. Consultation Responses

Environmental Protection
02.07.2024

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

Drainage: Effluent originating from the shelter/stable floor must be considered foul water and thus conveyed and disposed of in the same manner as domestic foul water.

Burning on Site: No burning of horse manure should be carried out on site.

Demolition / Construction Activities: In order to minimise potential nuisance caused by demolition/construction works, Environmental Protection recommend that the following hours and actions be adhered to, should the application be approved;

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.

- 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).

REASON: to protect the amenity of nearby residential premises

Asbestos: Should any asbestos containing materials be present on the development site, or used within the original construction of the building in question, it must be safely removed by a qualified contractor, with relevant transfer notes being obtained to confirm safe and responsible removal and disposal.

REASON: to ensure that any risks (to future users of the land and neighbouring land and to controlled waters, property and ecological systems) arising from any land contamination are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

ECC Highways Dept
24.06.2024

The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material and google earth image.

Having considered the information submitted with the planning application from a Highways and Transportation perspective the Highway Authority has no comments to make on this proposal.

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

3. Planning History

97/00013/FUL	(Oaktree Corner, 17 Coggeshall Road, Ardleigh) Two storey side extension (residential)	Approved	18.02.1997
09/00501/FUL	Erection of 8 stables and hay store and construction of menage, as amended by drawing nos 5A and 6A received on 05/06/09 and 2B received on 17/06/09.	Approved	15.07.2009
19/30214/PREAPP	Construction of three detached dwellings.	Refused	04.02.2020
20/00359/OUT	Construction of three detached dwellings.	Refused	15.05.2020
22/00873/FUL	Proposed change of use of paddock to extend existing equestrian manege and	Approved	15.07.2022

resurface the existing manege.

22/02024/FULHH Proposed single storey separate annexe. Approved 30.01.2023

23/00185/DISCON Discharge of condition 4 (Hedge Strengthening) of application 22/02024/FULHH. Approved 21.03.2023

4. **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 Local Plan 2013-33 and Beyond (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 made and the Minerals and Waste Local Plans adopted by Essex County Council.

5. **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>

Status of Ardleigh Neighbourhood plan

The Publication of Examiner's Final Report and progression to referendum was carried out in 2024.

The Examiner published her Final Report on the 5th May 2024. This Final Report found that the Neighbourhood Plan met the Basic Conditions subject to a number of minor changes.

The decision to progress the Plan to referendum was made by the Director for Planning in consultation with the Portfolio Holder for Housing and Planning on the 13th May 2024.

On 22nd May 2024 the Prime Minister announced there would be a general election on 4th July 2024. Due to the pre-election period and the summer holiday period, the referendum for the Ardleigh Neighbourhood Plan will be held in September.

The plan remains therefore in draft form and not currently formally adopted meaning that it can be given limited weight at present.

6. **Relevant Policies / Government Guidance**

NATIONAL:

National Planning Policy Framework 2023 (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
SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022):
SPL1 Managing Growth
SPL3 Sustainable Design
LP3 Housing Density and Standards
LP4 Housing Layout
PPL3 The Rural Landscape

Supplementary Planning Guidance:
Essex Design Guide

7. Officer Appraisal (including Site Description and Proposal)

Application Site

The site lies on the south side of Coggeshall Road close to the junction with the A137 Harwich Road (Foxash Estate) and comprises a residential property containing an extended 1½ storey semi-detached frontage cottage with associated residential curtilage. Extensive land lies to the rear of the site within the control and ownership of the applicant which is used as stabling and paddocks to include a large riding menage.

The site is accessed via an established vehicular access point from Coggeshall Road which is conjoined with No.18 adjacent with a driveway which then extends round to the rear of the dwelling into the aforementioned stables land to the rear. The site is screened to the road frontage by a 3m high established hedgerow and on its western flank boundary in part by mature conifer planting.

During the officer's site visit an annexe forward of the main house was being constructed and details can be found of this structure under approved planning permission 22/02024/FULHH.

Proposal

This application seeks planning permission for the demolition of the existing stable barn, construction of a new storage barn, mobile unit tack room, 2 mobile unit stables, new hay storage and trailer carport (constructed out of material from demolished stables and on the existing concrete slab) and associated fencing.

Assessment

Visual Impact

Paragraph 135 of the NPPF (2023) 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. Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the quality of existing places and their environs.

The buildings and units themselves are all of a single storey nature and will make use of black timber and red tiles to match other buildings on the site. The demolition of the existing buildings will allow for the new structures to form a better layout improving the usability of the site. The rear of the site is of a suitable size to accommodate such structures and maintain sufficient space to prevent the development from appearing cramped within its setting.

The proposed additions will be set behind the existing house on the area of land which is currently used for equestrian use and plays host to a number of existing stable buildings and manège. The site benefits from an existing hedging along its front boundary and is currently constructing a new annexe forward of the main house. These elements along with the existing house will provide significant screening of the proposal from the public realm preventing a harmful impact to the overall character/ appearance of the house and locale.

The site is located outside of the development boundary, however as the buildings will be sited in a setback location from the front boundary and, predominantly screened from view by other features at the site, they would not result in a detrimental impact to the character/ appearance of the countryside.

Ecology and Biodiversity

General duty on all authorities

The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

Biodiversity net gain

Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. This excludes applications for Listed Building Consent, Advert Consent, Reserved Matters, Prior Approvals, Lawful Development Certificates, householders, self builds, and other types of application which are below the threshold i.e. does not impact a priority habitat and impacts less than 25 sq.m of habitat, or 5m of linear habitats such as hedgerow).

The agent has stated on the application form that Biodiversity Net Gain is not applicable in this instance. On the officer's site visit it was established that the area where the new stable block will be positioned is on an area of vegetation which would be removed because of the development. It is therefore considered that BNG is required in this instance and a condition will be imposed to secure the Biodiversity Net Gain information, including the net gain plan, at discharge of condition stage.

Protected Species

In accordance with Natural England's standing advice the proposed development site and surrounding habitat have been assessed for potential impacts on protected species. Having regard to the character of the site and the standing advice noted above, in this instance it is not considered that the development would affect protected species.

Impact to Neighbours

Paragraph 135 of the National Planning Policy Framework (2023) 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 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 alterations will be sited further to the rear of the site and away from the house and its adjoining neighbour. The adjoining neighbouring building of 18 Coggeshall Road has a number of outbuildings already in situ which will screen the new elements of the proposal preventing them from having a harmful impact to this nearby house.

Environmental Protection

Environmental protection has been consulted and have provided no objections to the proposal subject to conditions restricting the burning of materials, construction hours, waste management (drainage) and asbestos management. These conditions are considered relevant to the proposal and will be placed upon the planning permission.

Highway Safety

ECC Highways have been consulted and have provided no objections.

The proposal will not affect the existing access of parking arrangement at the site and will therefore not result in a harmful impact in terms of highway safety.

Other considerations

Ardleigh Parish Council does not object to the application but would wish to see a restriction placed on the new building such that it can be used for equestrian and/or livestock only and not permitted to become residential accommodation (including ancillary to the main dwelling) in future.

Officer Response - The application description clearly refers to the use of buildings in conjunction with the existing equestrian use and stable facilities to the rear and therefore a condition is not considered necessary in this case.

There have been no letters received in relation to the above application.

Conclusion

The proposal is therefore considered to be compliant with national and local policy as assessed in the above report. In the absence of material harm resulting from the proposed development the application is recommended for approval.

8. Recommendation

Approval - Full

9. Conditions

1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later 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 Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

2 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.

BUILDINGS 1,2,3, AND 4 ELEVATIONS – REC 07/05/2024

BUILDINGS 1,2,3, AND 4 FLOOR AND ROOF PLANS – REC 07/05/2024

BUILDINGS 5 AND 6 ELEVATIONS, FLOOR AND ROOF PLANS – REC 07/05/2024

FENCE AND GATE DETAILS - REC'D 07/05/24

SITE AND BLOCK PLAN - REC'D 07/05/24
DESIGN AND ACCESS STATEMENT – REC 07/05/2024

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.

3 FURTHER APPROVAL: BIODIVERSITY NET GAIN PLAN

CONDITION: The development may not be begun unless (a) a biodiversity gain plan has been submitted to the planning authority (see note), and (b) the planning authority has approved the plan (see note).

REASON: In order to accord with Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) and amended by The Biodiversity Gain (Town and Country Planning) Modifications and Amendments (England) Regulations 2024

NOTE - CONTEXT AND APPLICATION:

Planning conditions are typically established upon the granting of planning permission under sections 70(1) and 72 of the Town and Country Planning Act 1990. However, it's essential to note that the biodiversity gain condition operates under a distinct statutory framework, specifically outlined in paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990.

This condition is deemed to apply to all planning permissions granted for land development in England, unless specific exemptions or transitional provisions are applicable (for further details, please refer to the provided web link <https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments> or contact us directly.

The government advises against including this condition in decision notices to avoid confusion. However, for clarity and accountability, we have opted to highlight this condition

within the decision notice. This ensures that all involved parties are aware of its requirements, facilitating effective tracking and monitoring throughout the development process, including the discharge of conditions.

In certain instances, this condition may be imposed even if the applicant believes that biodiversity net gain (BNG) does not apply. Based on the available information, it is determined that this permission necessitates the approval of a biodiversity gain plan before commencing development, as none of the statutory exemptions or transitional arrangements apply.

For further details, please consult the officer report as needed. If you believe this condition does not apply, we strongly recommend contacting the Local Planning Authority (LPA) for clarification. Tendring District Council serves as the planning authority responsible for determining the approval of a Biodiversity Gain Plan in relation to this permission.

BIODIVERSITY GAIN PLAN REQUIREMENTS:

For the Biodiversity Gain Plan requirements, please refer to both paragraphs 14 and 15 of the Environment Act Sch 14 Part 2 as amended by The Biodiversity Gain (Town and Country Planning) Modifications and Amendments (England) Regulations 2024.

<https://www.legislation.gov.uk/ukpga/2021/30/schedule/14/enacted>

In summary, the Biodiversity Net Gain (BNG) plan must achieve a minimum biodiversity net gain of 10% and should typically include the following:

- Steps taken or to be taken to minimize adverse effects of the development on the biodiversity of the onsite habitat and any other habitat.
- Pre-development and post-development biodiversity assessments of the onsite habitat.
- Allocation of any registered offsite biodiversity gain to the development and its biodiversity value in relation to the development.
- Details of any biodiversity credits purchased for the development.
- Plans for maintaining and securing the net gain on and/or off site for at least 30 years after completion of the development.

The Local Authority will ensure the submitted details meet the requirements of the Town and Country Planning Act 1990 as amended, Environment Act as amended, associated legislation and guidance.

Ways to achieve 10% BNG may include:

- 1) Enhancement and restoring biodiversity on-site (within the red line boundary of a development site).
- 2) If proposals can only achieve part of their BNG on-site, they can deliver through a mixture of on-site and off-site. Developers can either make off-site biodiversity gains on their own land outside the development site or buy off-site biodiversity units on the market as close as possible to the site.
- 3) If developers cannot achieve on-site or off-site BNG, they must buy statutory biodiversity credits from the government. This must be a last resort. The government will use the revenue to invest in habitat creation in England.

Developers may combine all 3 options but must follow the steps in order. This order of steps is called the biodiversity gain hierarchy.

CONDITIONS AND LEGAL AGREEMENT:

The Local Authority is responsible for ensuring that the biodiversity gain objective is achieved, whether it be onsite, offsite, or through the purchase of credits, and that it is secured by legal agreement as necessary. It is essential to highlight that planning conditions operate within a strict timeframe. Therefore, any legal agreements required to

secure the biodiversity gain must be completed prior to the consideration of the planning condition. Failure to comply with this requirement may result in the refusal of the condition.

4 BURNING OF MATERIALS

CONDITION: No materials produced as a result of the site development or clearance shall be burned on site.

REASON: 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).

5 ASBESTOS

Should any asbestos containing materials be present on the development site or used within the original construction of the building in question, it must be safely removed by a qualified contractor, with relevant transfer notes being obtained to confirm safe and responsible removal and disposal.

REASON: to ensure that any risks (to future users of the land and neighbouring land and to controlled waters, property and ecological systems) arising from any land contamination are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

6 FURTHER APPROVAL - WASTE MANAGEMENT

CONDITION: Prior to the first use of the development, precise details of the proposed interim storage, management timetable and disposal arrangements of all liquid and solid animal/vegetable/other waste from the site outlined in red on the approved plans shall be submitted to and approved, in writing, by the Local Planning Authority. The development thereafter shall be carried out only in accordance with the details as approved by the Local Planning Authority.

REASON: In the interests of the amenities of the locality and to safeguard the environment.

NOTE/S FOR CONDITION:

This condition shall engage and requires details to be agreed prior to the commencement of use. This condition is imposed to ensure harm to the environment is avoided.

10. **Informatives**

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highways 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

Biodiversity Enhancements Informative

In accordance with the Council's general duty to conserve and enhance biodiversity, you are strongly encouraged to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Suggested enhancements could include:

<https://www.rhs.org.uk/wildlife/in-the-garden/encourage-wildlife-to-your-garden>

11. Equality Impact Assessment

In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.

It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral