

## URGENT BUSINESS

HEAD OF PAID SERVICE'S OFFICE  
HEAD OF PAID SERVICE  
Richard Holmes

21 May 2019

Dear Councillor

### CENTRAL AREA PLANNING COMMITTEE

Please find enclosed the following urgent item of business brought forward for consideration at the above meeting with the agreement of the Chairman.

- a) FUL/MAL/18/00791 - Osea Leisure Park, Goldhanger Road, Heybridge, Essex  
(Pages 3 - 22)

Yours faithfully

A handwritten signature in black ink, appearing to read 'R.A. Holmes', with a long horizontal flourish underneath.

Head of Paid Service

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**REPORT of  
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

to  
**CENTRAL AREA PLANNING COMMITTEE  
29 MAY 2019**

**URGENT ITEM OF BUSINESS**

<b>Application Number</b>	<b>FUL/MAL/18/00791</b>
<b>Location</b>	Osea Leisure Park, Goldhanger Road, Heybridge, Essex
<b>Proposal</b>	Change of Use of inner field from touring caravans occupied between 1st April - 30th September to use for stationing of Holiday Lodges, with occupation between the 1st March - 14th February each year in line with current static caravan and lodges on the wider site.
<b>Applicant</b>	Mr Christopher Powdrill
<b>Agent</b>	Mr Robert Pomery - Pomery Planning Consultants Ltd
<b>Target Decision Date</b>	31 October 2018
<b>Case Officer</b>	Kathryn Mathews
<b>Parish</b>	<b>HEYBRIDGE EAST</b>
<b>Reason for Referral to the Committee / Council</b>	Major Application

**1. INTRODUCTION**

- 1.1 This application was deferred at the Central Area Planning Committee on 17 October 2018 to allow for additional supporting information to be submitted (Minute No. 507 refers). Additional supporting information in response to the four reasons for refusal which Officers had recommended was received on 15 March 2019 which includes a 'Preliminary Ecological Appraisal and Winter Bird Survey' dated March 2019 by Essex Ecology Services Limited, a Landscape and Visual Impact Assessment (LVIA) Issues Rebuttal Note and a response from Enzygo Environmental Consultants with respect to flood risk. The applicant's agent has also responded to concerns raised with respect to the need and location of the proposed development.
- 1.2 This matter is brought forward for consideration with the agreement of the Chairman as it is past the deadline date for determination.

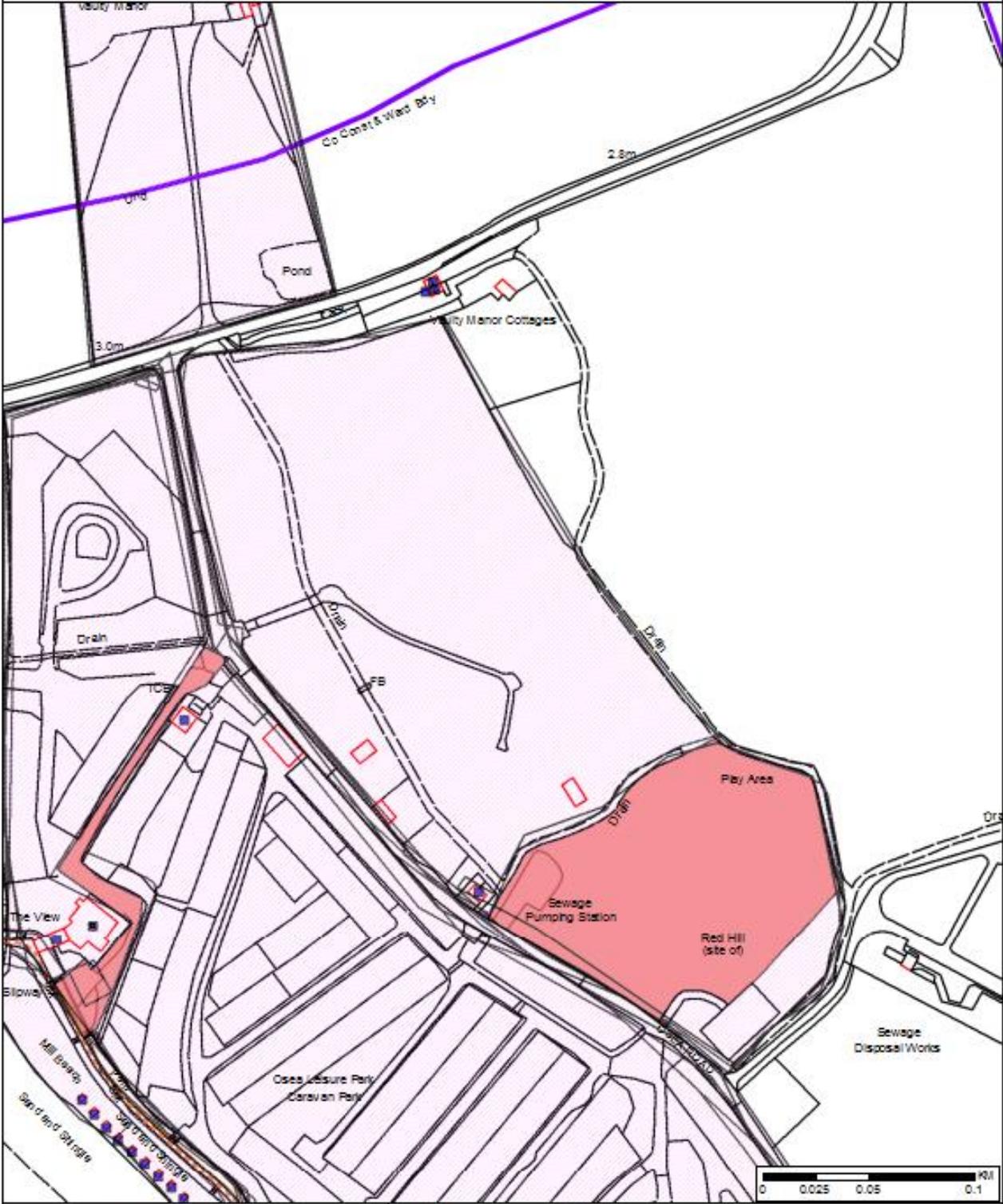
**2. RECOMMENDATION**

**REFUSE** for the reasons as detailed in Section 9 of this report.

**3. SITE MAP**

Please see overleaf.

**Osea Leisure Park**  
**FUL/MAL/18/00791**



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	Organisation: Maldon District Council	Department: Department
www.maldon.gov.uk	Comments: Central Area Committee	Date: 05/10/2018
	MSA Number: 100018588	

## **4. SUMMARY**

### **4.1 Proposal / brief overview, including any relevant background information**

- 4.1.1 The application site is located on the north-eastern side of Osea Road adjacent to a sewage treatment works to the north-east. The application site extends to 1.48ha in area.
- 4.1.2 The proposal is described as ‘Change of Use of inner field from touring caravans occupied between 1 April - 30 September to use for stationing of Holiday Lodges, with occupation between 1 March - 14 February each year in line with current static caravan and lodges on the wider site’. However, as explained in paragraph 7.2.3 below, the previous planning permission did not include use of the current application site for touring caravans, as the applicant claims.
- 4.1.3 The wider Osea Leisure Park site is outside the defined settlement boundary. It consists of static caravans occupied for holiday purposes and a small number of timber lodges used for the same purpose. Part of the site also benefits from planning permission for camping and touring caravans to the east of Osea Road (reference FUL/MAL/11/00111). All static caravans and lodges are located to the west side of Osea Road beyond which is the Blackwater Estuary, around 200m to the south-west.
- 4.1.4 The whole site is within Flood Zone 3a and is also within the ‘cordon sanitaire’ surrounding the nearby sewage pumping station. Access is taken off Goldhanger Road (the B1026) to the north and via a private road (Osea Road). The road passes by the grounds of the leisure park and also provides vehicular access to Osea Island.
- 4.1.5 This application relates to a field on the opposite side of the access road to the main leisure park complex and part of the land the subject of planning permission FUL/MAL/11/00111 referred to above. Currently the field is rough grassland with a small amount of play equipment partly enclosed by boundary hedgerows and a bund along the southern boundary of the site.
- 4.1.6 The ‘Holiday Lodges’ would be caravans which would measure 12.7m in length x 5m in width and 4m in height. 16 of the 18 caravans would be arranged around the edge of the field, and around a circular access which would enclose an area of trees, pond and a pergola along with two further caravans. Vehicular access to the site would be located in the southern corner of the site. Details of lighting bollards have also been submitted but no indication regarding where they would be located has been provided.
- 4.1.7 The application has been accompanied by a Planning, Design and Access Statement, Flood Risk Assessment, a LVIA along with the additional information referred to in section 1 of this report.
- 4.1.8 As part of the Planning, Design and Access Statement, it is stated that Osea Leisure Park is of very high quality in a beautiful location with many facilities. Information has been submitted which shows that, since 2013, by the summer months, there were no vacant plots at the Leisure Park. The current application has been submitted to meet demand. In terms of accessibility, occupiers of the lodges would be largely self sufficient as the Park meets many of their day to day needs. There are two bus stops

at the entrance to the site. There are no historic or ecological assets close by. The field accommodates up to 45 touring pitches.

- 4.1.9 The Flood Risk Assessment (FRA) concludes that the site is at risk of tidal, fluvial and surface water flooding but that this can be mitigated through an existing Flood Evacuation Management Plan, tethering all static holiday caravans, all static caravans being designed to be +600mm above external levels and ditch maintenance. The author of the FRA considers that the FRA demonstrates that the proposed development would be operated with minimal risk from flooding and would not increase flood risk elsewhere. The development should therefore not be precluded on the grounds of flood risk and drainage. A Flood Evacuation and Management Plan has also been submitted. With respect to the Sequential and Exceptions Tests, the applicant states that there are no reasonably alternative sites for the development in terms of sites with a lower flood risk and so the Sequential Test has been passed. Four licenced static holiday caravan sites in a lower flood risk zone were identified but three were not located 'in a strictly coastal location' and the fourth site did not contain sufficient space for the proposed development. Of the eight sites within a similar flood zone, the author concludes that none are subject to a lower probability of flooding from all sources as detailed by the Strategic Flood Risk Assessment due to the Osea Leisure Park's Flood Evacuation Management Plan (FEMP). With respect to the Exception Test, the applicant argues that the Site will provide ongoing benefits to the community that outweigh the stated flood risk for the proposed development on the Site and the users of the proposed additional 18 static holiday caravans will be kept safe by mitigation strategies (i.e. a FEMP) currently protecting the welfare of occupants of the static holiday caravans on the wider holiday park.

## **4.2 Conclusion**

- 4.2.1 Having assessed the proposal, it is considered that the proposed development would be unacceptable. The proposal would be located in an unsustainable location and would cause harm to the character and appearance of the area. It is also concluded that it has not been demonstrated that the proposal passes the Sequential and Exceptions Tests and so the development is considered to be unacceptable from a flood risk perspective. However, previous concerns regarding the potential impact on the internationally and nationally designated sites associated with the nearby Blackwater Estuary have been overcome. In the absence of sufficient demonstrated benefits to outweigh this harm, the proposal is contrary to the relevant Policies of the Approved Local Development Plan and it is recommended that planning permission is refused.

## **5. MAIN RELEVANT POLICIES**

Members' attention is drawn to the list of background papers attached to the agenda.

### **5.1 National Planning Policy Framework 2019 including paragraphs:**

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making

- 47-50 Determining applications
- 80-82 Building a strong, competitive economy
- 102-111 Promoting sustainable transport
- 117-121 Making effective use of land
- 124-132 Achieving well-designed places
- 148-169 Meeting the challenge of climate change, flooding and coastal change
- 170-183 Conserving and enhancing the natural environment

## **5.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:**

- Policy S1 – Sustainable Development
- Policy S7 – Prosperous Rural Community
- Policy S8 – Settlement Boundaries and the Countryside
- Policy D1 - Design Quality and the Built Environment
- Policy D2 – Climate Change and Environmental Impact of new Development
- Policy D5 – Flood Risk and Coastal Management
- Policy E5 – Tourism
- Policy N1 – Green Infrastructure Network
- Policy N2 – Natural Environment, Geodiversity and Biodiversity
- Policy T2 – Accessibility
- Policy H4 – Effective Use of Land

## **5.3 Relevant Planning Guidance / Documents:**

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Car Parking Standards
- Maldon District Design Guide

## **6. MAIN CONSIDERATIONS**

6.1 The main issues which require consideration as part of the determination of this application are the principle of the development, the impact on the character and appearance of the area, the impact of the development on the natural environment / biodiversity, highways/parking considerations and drainage / flooding. There are no existing residents close enough to the site to be adversely affected by the development proposed.

### **6.2 Principle of Development**

6.2.1 The application site is located outside the defined development boundary of Heybridge and within the countryside. Policy S8 states that, outside the defined development boundaries and other defined areas, planning permission for development will only be granted where the intrinsic character and beauty of the

countryside is not adversely impacted upon and provided it is for development within a list set out in the Policy, but which does not include new areas of caravan parks. However, Policy E5 supports developments which contribute positively to the growth of local tourism in a sustainable manner and realise opportunities that arise from the District's landscape, heritage and built environment.

- 6.2.2 The NPPF is also clear that sustainable development is at the heart of the planning system. The Framework's definition of sustainable development has three key dimensions that are mutually dependent upon each other and need to be balanced. These are the economic, social and environmental roles. This requirement is carried through to local policies via policy S1 of the approved Local Development Plan (LDP) which emphasises the need for sustainable development.
- 6.2.3 The application site forms part of a larger site which was granted planning permission in 2011 for seasonal use for touring and camping use including tepees and garden arks. Planning permission was granted for this development on the basis that the use was to diversify the types of holiday accommodation offered at the holiday park and as the structures required were temporary in nature and were to be removed when not in use / for the closed season. The approved plans do not show any accommodation on the land the subject of this application (the land was shown to be a play area). Furthermore, condition 2 requires development to be undertaken in accordance with the approved plans and condition 7 prevents the use of the site for static caravans. Therefore, the current application has been assessed on the basis of the existing use of the site as a play area.
- 6.2.4 Policy S7 supports tourism within the District but subject to other Policies within the LDP, including Policy E5 and N2.
- 6.2.5 With reference to the criteria of Policy E5:
- There is no identified need for the type of use proposed within the LDP. The applicant has put forward an economic and tourism-based case for the current proposal and makes reference to the lodges being provided 'in step with demand'. However, whilst it is acknowledged that the Economic Development Officer supports the proposal, it is considered that a need for the scale or location of the fixed caravans proposed has not been demonstrated. It is considered that the provision of tourist accommodation should be provided for through a systematic and robust process that highlights type and location of need rather than through ad-hoc planning applications. If planning permission is granted and a need for the use proposed has not been identified, this could encourage similar proposals which, cumulatively, could erode the qualities of the District which attract visitors in the first place. The additional supporting information which has been received has been considered but does not alter this conclusion. This view is supported by the appeal decision in July 2018 which related to a proposed change of use of land associated with Bradwell Marina to a static caravan park for holiday use (70 units) (reference FUL/MAL/16/00805). In dismissing the appeal, the Inspector stated that 'there was very little before me in terms of an analysis of the scale of provision on the various comparable caravan parks in the locality, how those sites are operated or the degree to which they are occupied. This omission was verbally addressed at the hearing but remains unsupported by any verifiable material such that I can only give this evidence very limited weight'

and the Inspector could not ‘with any certainty conclude that the larger, commercial sites are similarly fully let or oversubscribed’. The Inspector also considered that they had ‘very limited information about [other caravan park sites referred to] ... to enable any meaningful assessment that there is a residual, identified need for additional caravan accommodation in the area. Overall, there is a lack of definite evidence regarding existing caravan park capacity, quantifiable future demand in the sector and therefore an identified need for the 70 static caravans proposed’. The Inspector went further and concluded that ‘tourism is clearly important to the District, with a general need to grow the sector, and that may well require some forms of additional holiday accommodation. These general principles in themselves do not, however, amount to an ‘identified need’ as required by Policy E5. If that was the case, the bar would be set so low as to enable a raft of speculative and unwarranted developments, leaving the LPA with little or no control over proposals that could potentially cumulatively erode the qualities of what attracts visitors to the District in the first place. That cannot be the intended outcome of Policy E5 and nor would it result in the sustainable solutions sought by the NPPF.’

- There are no good connections with other tourist destinations, the green infrastructure network and local services. Despite claims on behalf of the applicant to the contrary, the occupiers of the mobile homes would be highly dependent on car travel to undertake their journeys. There is a limited bus service to Maldon / Heybridge between the hours of 9.30am and 4.20pm Monday to Saturday and the Goldhanger Road is not conducive to cycling. The proposal would, therefore, also fail to accord with Policy S1, which seeks to direct development within settlement boundaries.
- There would be a detrimental impact on the character and appearance of the area (see below).
- It has been demonstrated that an adverse impact on the natural environment would be avoided (see below).

6.2.6 If planning permission were to be granted, conditions could be imposed as recommended by the Environmental Health Officer to avoid the site being used for residential purposes or temporary accommodation other than holiday use.

### **6.3 Design and Impact on the Character of the Area**

6.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.

6.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF.

6.3.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:

- Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
  - Height, size, scale, form, massing and proportion;
  - Landscape setting, townscape setting and skylines;
  - Layout, orientation, and density;
  - Historic environment particularly in relation to designated and non-designated heritage assets;
  - Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
  - Energy and resource efficiency.
- 6.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (2017).
- 6.3.5 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 6.3.6 Policy E5 also requires that development does not harm the character and appearance of the area.
- 6.3.7 The LVIA considers the impact of the change of use proposed on the landscape and concludes that the landscape visual effects of the proposed development on this site are very minor and only related to the immediate setting of the site and from a short section of Public Right of Way (PRoW) 296\_39. There were no notable effects identified in the wider landscape. From the isolated location on the sea wall where proposals would be visible, it is found that the implementation of the landscape strategy proposals would improve screening and would assist the integration of the development into its setting.
- 6.3.8 The LVIA Issues Rebuttal Note subsequently submitted suggests that the north-east boundary of the site is the only edge of the site directly bordering open countryside but is enclosed by established field hedgerow and some trees. The Note's author suggests that 'Together with the enclosed nature of the site, and its distinction from any outlying coastal farmland landscape, this should be considered an accommodating context for the development and the landscape effects of the development would be quite minor' especially when the proposed reinforcement of vegetation along the site's boundaries is taken into account.
- 6.3.9 The application site is currently, predominately a field within the rural, coastal environment of the District which contains a dispersed pattern of development. The site forms part of the 'Maldon Drained Estuarine Marsh' in the Landscape Character Assessment 2006 which is identified as a landscape characteristic of the Essex coast;

large-scale, flat and generally low-lying, with distinctive drainage ditches and dykes, as well as remnant borrow dykes at the back of the enclosing sea wall. Whilst the current application site formed part of a larger site with planning permission for use by touring caravans etc (reference FUL/MAL/11/00111), this part of the site was proposed as grassland with a small play area. Even if this part of the site were to be in use for touring caravans, the current proposal is materially different in nature and extent as the proposed mobile homes and the associated works would be permanently on site. Also, rather than being in use only in summer (when the visual impact is reduced by foliage) the structures would be on site all year around, thereby, having a negative impact, particularly when viewed from Osea Road and the sea wall footpath. It is acknowledged that Osea Road is not a public highway but as it is the only means of access to the Osea Leisure Park and Osea Island, its use by the 'public' is significant.

- 6.3.10 On the basis of the above, the static mobile homes would have a materially greater visual impact on the site and its surroundings as a result of their size, number, bulk and permanence. Currently the static caravans at Osea Leisures Park are contained in the area to the west of Osea Road; the development proposed would allow this to spread beyond this current physical boundary. It is therefore considered that the proposal would be visually incongruous and cause material harm to the character and appearance of the area.
- 6.3.11 The proposal is, therefore, contrary to Policies D1, E5 and S8 of the Maldon District Approved Local Development Plan.
- 6.3.12 If planning permission were to be granted, conditions could be imposed relating to lighting and landscaping, but these conditions would not be sufficient to mitigate the harm.

#### **6.4 Access, Parking and Highway Safety**

- 6.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposal, inter alia, to sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 6.4.2 The Council's adopted Vehicle Parking Standards Supplementary Planning Document (SPD) contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which encourages the reduction in the reliance on the car and promotes methods of sustainable transport. The adopted standard for caravan parks / camping sites is one space per pitch plus one space per residential staff and one space per two other staff.
- 6.4.3 Access to the proposed development would be via Osea Road. There would be sufficient space within the site to accommodate parking for the occupiers of the proposed caravans (one space per caravan) and, whilst no employment information has been provided as part of the application submitted, as the proposal is for an extension to the existing, larger caravan park, it is anticipated that adequate provision

for off-street parking for staff could be made if existing provision were to be considered insufficient. The Highways Officer raises no objection to the proposal. As a result of the nature and scale of the development proposed, it is considered that the proposal does not raise highway safety concerns. The proposal is, therefore, compliant with Policies T2 and D1 of the Maldon District Approved Local Development Plan.

## **6.5 Flooding / Drainage**

6.5.1 Policy D5 of the Local Development Plan sets out the Council's approach to minimising flood risk. Policy S1 requires that new development is either located away from high risk flood areas or is safe and flood resilient when it is not possible to avoid such areas.

6.5.2 The Environment Agency has advised that the site is located within flood zone 3a (high probability of flooding) and that the proposed use is classified as a 'more vulnerable' development than that which exists. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site-specific FRA.

6.5.3 The application is accompanied by a Flood Risk Assessment, Flood Evacuation Management Plan, a document entitled 'Sequential and Exceptions Test' and a letter dated 23 November 2018 from the same consultants.

### **6.5.4 Sequential Test**

6.5.4.1 The aim of this test is to steer new development to areas with the lowest probability of flooding (para 155 of NPPF). It is the responsibility of the applicant to provide evidence that there are no available sites within an area of lower probability of flooding as part of the sequential test. It is important to note that this requirement does not only relate to land in the applicants control or available to the applicant.

6.5.5 A response from Enzygo Environmental Consultants to the previous Officer report has also been received which concludes, with respect to the Sequential Test, that 'there are no reasonable alternative Sites which afford the same tourism attractions (the coast) that have sufficient space for expansion that also experience a lower flood risk'. With respect to the Exceptions Test, the author of the report considers that the 'tourism development in a tourism hotspot, extending a popular operational tourism venture supported by local tourism policy (Policy E5), could not possibly carry any more weight' with respect to the wider benefits of the proposal and the development would have the ability to be safe for its lifetime.

6.5.6 The information submitted in support of the proposal which concludes that the Sequential Test has been met in this case but it is considered that the caravan parks and other land within the applicant's ownership in lower flood risk areas have still been dismissed too easily on the basis that they were not located 'in a strictly coastal location' and that Vaulty Manor is 'not a suitable location for a static holiday caravan development due to planning constraints on such use'. No explanation has been given as to why a coastal location is an overriding consideration. Therefore, it is considered that the Sequential Test has not been passed and that the proposal would not be acceptable from a flood risk perspective, contrary to Policy D5 of the Maldon District

Approved Local Development Plan. The additional supporting information submitted since the application was considered at the Central Area Planning Committee in October 2018 has been considered but does not alter Officers' view on this matter.

#### 6.5.7 Exceptions Test

6.5.7.1 The Exceptions Test is set out in paragraph 102 of the NPPF and is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. The Test essentially requires that the development will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall. As the Sequential Test has not been passed it is not necessary to undertake the Exceptions Test. However, for the sake of completeness, the proposal will also be assessed against the Exceptions Test.

6.5.8 In terms of wider sustainability benefits to the community, as stated above, the applicant has not put forward a sufficiently robust case for the current proposal. Therefore, there is insufficient information available to be able to afford any wider benefits any more than limited weight.

6.5.9 The application is accompanied by a site-specific flood risk assessment. The Environment Agency has provided the following, specialist advice:

#### Actual Flood Risk

*The flood hazard that may affect the existing development has not increased. In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise you to formally consider the emergency planning and rescue implications when making your decisions. To assist you in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA, undertaken by Enzygo, referenced SHF.206.002.HY.R.03.A and dated June 2018, are;*

- *The site is currently protected by flood defences with an effective crest level of 4.75m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level. Therefore, the site is not at risk of flooding in the present-day 0.5% (1 in 200) annual probability flood event. The defences will continue to offer protection over the lifetime of the development, provided that the hold the line SMP policy is followed and the defences are raised in line with climate change, which is dependent on future funding.*
- *If the SMP policy is not followed then at the end of the development lifetime, the 0.5% (1 in 200) annual probability including an allowance for climate change flood level would overtop the existing defences*
- *The wider Site, Development Site and proposed access/egress routes remain dry during a 0.5% AEP defended tidal event.*
- *A 0.1% ( 1 in 1000) annual probability tidal event would produce flood depths 1.4m on the wider Site (Node 135). The two access/egress routes would have flood depths of 1.0m (Node 148) and 0.9m (Node 149).*
- *If the SMP policy is not followed then at the end of the development lifetime with climate change applied to the design 0.5% annual probability flood*

*event, then the resulting on-site flood level would be 5.33mAOD through overtopping of the current defences. The resulting actual risk depth of flooding on the site using the minimum site level of 2.1 m AOD would be 3.23m deep.*

#### Residual Risk

*The FRA explores the risk of a breach of the defences using the worst case scenario, the undefended flood levels. The Maldon Strategic Flood Risk Assessment (SFRA) does not cover this area.*

- *A 0.5% AEP event would result in a flood depth of 2.4m at the Development Site. With Climate Change added to the 0.5% AEP event, flood depths of 3.5m maybe experienced within the boundary of the Development Site.*
- *The 0.1% AEP undefended fluvial event would result in a flood depth of 2.8m for the Development Site. With Climate Change added to the 0.1%AEP event would produce depths of 3.9 m respectively within the extent of the Development Site.*
- *It is proposed to site the caravans 600mm above the ground level. The lowest ground level on site is 2.1mAOD (600mm = 2.6mAOD ) and therefore dry in the present day 0.5% ( 1in 200) breach scenario*
- *An existing Flood Evacuation Management Plan (FEMP) has been updated in support of the accompanying FRA (as a standalone report). The FEMP has been updated and prepared in liaison with the LPA Emergency Planner and is necessary to ensure the safety of the development in the absence of safe access in the event of a breach flood.*

#### Reservoir Risk

*This application site is at risk from reservoir flooding. Reservoir flooding is extremely unlikely to happen providing the reservoir is appropriately managed and maintained. The local planning authority will need to evaluate the potential damage to buildings or loss of life in the event of dam failure, compared to other risks, when considering development downstream of a reservoir.*

- 6.5.10 In terms of other potential sources of flooding, the FRA concludes that the site is at low risk of flooding from rivers, groundwater and surface water, and negligible risk of flooding from sewers and reservoirs. A high risk of flooding of the egress from the site has been identified but the FRA concludes that this could be adequately mitigated through the FEMP, water vulnerable equipment being 1m above external levels and caravans being 600mm above external levels, which is considered to be reasonable.
- 6.5.11 The submitted FRA is considered to be satisfactory, demonstrating that the proposed development would be safe for occupants, for the lifetime of the development, provided that the 'hold the line' SMP policy is followed. Therefore, the development is not contrary to guidance and advice contained in the National Planning Policy Framework and the National Planning Practice Guide as well as policy D5 of the Maldon District Approved Local Development Plan but only in this respect.
- 6.5.12 A FRA accompanied the 2011 planning application. Touring caravans, which could be moved to safe / dry ground, were considered to be low risk and, therefore, the application was supported. The static caravans proposed would be at greater risk than the approved tourers (according to the 2011 FRA), especially as the Environment Agency has required that they are fixed to the ground.

- 6.5.13 The Emergency Planner raises no objection provided that the FEMP is implemented.
- 6.5.14 There is a site drainage section of the FRA submitted but the Sustainable Urban Drainage System (SUDS) team at Essex County Council (ECC) has raised no objections to the proposal provided that details of surface water drainage are required by condition. The Environment Agency recommend that the static caravans are fixed to the ground which would require concrete bases resulting in a minor increase in surface water run-off but surface water and foul drainage details could be required by condition, if necessary.
- 6.5.15 It is concluded that the proposal would not be suitably located having regard to the risk of flooding and specific policies in the NPPF relating to flood risk indicate that development should be restricted as the sequential test has not been met. The development would also be contrary to Policy D5. Overall, whilst the Exceptions Test is passed, the Sequential Test has not and, therefore, it is recommended below that planning permission is refused for this reason.

## **6.6 Natural Environment**

- 6.6.1 Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 6.6.2 Policy S8 states that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty.
- 6.6.3 Policy D1 requires that, amongst other things, all development must respect and enhance the character and local context and make a positive contribution in terms of the natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value (criterion f).
- 6.6.4 Policy N1 states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure.
- 6.6.5 Policy N2 states that, any development which could have an adverse impact on sites with designated features, priority habitats and/or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.
- 6.6.6 Chapter 15 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity minimising impacts on biodiversity and providing net gains in biodiversity where possible, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 6.6.7 Natural England objected to the proposal as originally submitted on the basis that there was insufficient information submitted with the application as originally made

to be able to conclude that the proposal would not have an adverse impact on the integrity of the Blackwater Special Protection Area (SPA), Ramsar, Special Area of Conservation (SAC) and Marine Conservation Zone (MCZ), as well as damage or destroy the interest features for which the Blackwater Site of Special Scientific Interest (SSSI) has been notified.

6.6.8 Natural England advised that the current proposal looked to further extend the occupancy period of the caravan site, above that which Natural England previously commented on, thereby resulting in almost a 12-month open season. Natural England therefore considered that the current proposal was likely to cause significant impacts upon the adjacent designated sites. The proposal, forming an extension of the existing season for occupation to the vast majority of the year, would extend to periods whereby significant numbers of overwintering birds can be expected to be present, such as wintering wading birds which use the mudflats at low tide. There was therefore the potential for impacts from the caravan park residents through recreational activities (both land and water based), such as dog walking, leading to an adverse effect on the integrity of the Blackwater SPA and Ramsar. Taking the above into account, they advised that it was necessary for the local planning authority to carry out a Habitats Regulations Assessment. Natural England advised that, as there was not enough information to determine whether the likelihood of significant effects could be ruled out, this authority should carry out an appropriate assessment. It was Natural England's advice that the proposal was not necessary for the management of the European site. They, therefore, recommended that the following information was obtained:

- information on the likely occupancy during the winter period;
- information on the impacts to wintering birds, such as Wintering bird surveys.

6.6.9 An Appropriate Assessment for the development was carried-out (by the LPA as required by the Habitats Regulations) which concluded that it had not been demonstrated that the proposal would not have a direct, adverse effect on the interest features of the nearby Blackwater Estuary Special Protection Area. Taking Natural England's advice into account, it was considered that it was not possible to conclude that the proposal was unlikely to result in significant effects on the internationally and nationally designated sites (SPA, Ramsar, SAC, MCZ and SSSI).

6.6.10 On the basis of Natural England's consultation response, even if the proposal was for non-residential use of the lodges proposed, it was concluded that the proposal would have the potential to have an adverse effect on the integrity of the internationally and nationally designated sites, contrary to Policies N1, N2, D1 and S8 of the Maldon District Approved Local Development Plan.

6.6.11 The Preliminary Ecological Appraisal and Winter Bird Survey since submitted concludes that there are no notable habitats or vegetation types in this part of the site based on a visit to the site in December 2018 and, as the site lies approximately 250m south of the Blackwater Estuary, the proposed construction of holiday lodges is not anticipated to impact the statutory designated nature conservation site. The author of the Appraisal also advises that the results of the winter bird survey indicate that the proposed new holiday lodges are unlikely to significantly impact winter birds; the installation of an information board to inform people about the importance of minimizing disturbance during the winter is recommended, and consideration should be made for nesting birds if clearance works are to take place during the breeding

season. Potential for enhancement of the ecology of the site has also been identified. The author of the Appraisal advises that 'Given the fact that even relatively low levels of human activity appear to be sufficient to cause frequent disturbance incidents, it is considered unlikely that an increase in the numbers of people staying at the park during the winter would cause a significant increase in the level of disturbance. A threshold in the levels of disturbing human activity appears to have been reached, beyond which any increase in levels is considered unlikely to have any significant effect'.

- 6.6.12 In response to the current application, Natural England have raised no objections as they consider that the proposed development will not have significant adverse impacts on the Blackwater Special Protection Area and Ramsar site. Their view is that the additional 18 units is unlikely to cause significant effect to the European site as the stretch of public footpath between Heybridge and Osea Leisure Park is more heavily used than more remote areas, and as such a baseline of public access and associated disturbance is already considered to exist. They welcome the recommended enhancement measures for information boards and timing clearance works as a matter of best practice. They also advise that the proposed development will not damage or destroy the interest features for which the Blackwater Site of Special Scientific Interest has been notified.
- 6.6.13 Officers are not aware that the proposal would generate issues in relation to protected species on-site, but a condition could be imposed on any planning permission granted requiring that an ecological survey is carried-out prior to the commencement of the development.
- 6.6.14 On the basis of the above assessment, it is considered that the proposed development would not have an adverse impact on nature conservation, subject to the imposition of conditions including a condition requiring the provision of information boards and the timing of clearance works as referred to by Natural England.

## **6.7 Other Matters**

- 6.7.1 One of the criterion of Policy D2 is that all forms of possible pollution should be minimised and that any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 6.7.2 The Environmental Health Officer has advised that, given the location of the site adjacent to a sewage treatment works, an odour assessment should be submitted prior to the determination of the application. A request for such an assessment was made to the applicant's agent in September 2018 but no response was received. The approved use of the site is as a play area (FUL/MAL/11/00111). The proposed use of the site for holiday lodges would be closer to the sewage treatment works than the existing static caravans at the Leisure Park and would be more sensitive to nuisance from odour emanating from the adjacent sewage treatment works than the permitted use of the site. Therefore, it is recommended below that planning permission is also refused on the basis that it has not been demonstrated that odour nuisance from the sewage treatment works would not adversely affect the occupiers of the proposed lodges.

## 7. ANY RELEVANT SITE HISTORY

7.1 Osea Leisure Park has been the subject of numerous previous planning applications. Those of most relevance to the determination of the current application are as follows:-

- **FUL/MAL/10/01076** - Variation of condition 2 of FUL/MAL/95/00505 to read: The caravans shall not be used for human habitation between 1 December in any one year and 28 February in the following year, with the exception of the Lodge Park (edged green on Drawing No. SHF.206.003.D.003.A) which shall not be used for human habitation between 16 January and 28 February in any one year. Approved 7 April 2011
- **FUL/MAL/11/00111** - Change of use of land to accommodate a camping and touring park. Approved 14 April 2011

The current application site forms part of the application site the subject of the above planning permission . That application stated that 4.5ha would be utilised for touring caravans, tent pitches, self-catering tents, tepees and GardenARKS (cabin style eco-driven accommodation), for seasonal use. The land the subject of the current application was identified as a play area on the approved drawings as part of this previous application.

- **FUL/MAL/14/00264** - Variation of condition 2 of FUL/MAL/10/01076 to extend the time of occupancy of the Lodge Park for 11.5 months and extend the occupancy over the Christmas and New Year for the main park in order to bring the site in line with the current industry standards for an extended holiday season. The proposed variation of condition is to read: 'The Caravans shall not be used for human habitation between 1st December and 21st December (inclusive) or between 4th January and 28th February (inclusive), with the exception of the Lodge Park (edged green on drawing No: CRM.206.001.D.003) which shall not be used for human habitation between 15 February and 28 February (Inclusive)'. Approved 26 June 2014.
- **FUL/MAL/17/00593** - Change of use of inner field from touring caravans 1st April - 30th September to static caravans 1st March - 31st November in line with current static caravan timings. Withdrawn 18 October 2017
- **FUL/MAL/18/00120** - Vary condition 2 of approved application FUL/MAL/14/00264 (Variation of condition 2 of FUL/MAL/10/01076 to extend the time of occupancy of the Lodge Park for 11.5 months and extend the occupancy over the Christmas and New Year for the main park in order to bring the site in line with the current industry standards for an extended holiday season. The proposed variation of condition is to read: 'The Caravans shall not be used for human habitation between 1st December and 21st December (inclusive) or between 4th January and 28th February (inclusive), with the exception of the Lodge Park (edged green on drawing No: CRM.206.001.D.003) which shall not be used for human habitation between 15th February and 28th February (Inclusive)) to allow the Square Slip to also only not be used for human habitation between 15th February and 28th February. Approved 24 February 2018
- **FUL/MAL/18/01002** - Construction of new open terrace with retractable awning over (revised proposal) – refused 13 November 2018.

- **FUL/MAL/19/00404** - Variation of condition 2 on approved planning application FUL/MAL/18/00120 to allow increase of occupation of all of the accommodation on the leisure park from 9 months to 11.5 months each year (not just the Square Slip and Lodge Park areas) excluding 15th February and 28th February (inclusive) each year – undetermined to date.

## 8. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

### 8.1 **Representations received from Parish / Town Councils**

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Heybridge Parish Council	This encourages local business and supports tourism.	Noted.

### 8.2 **Statutory Consultees and Other Organisations** (*summarised*)

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
SUDS Team at ECC	No objection subject to a condition requiring a detailed surface water drainage scheme for the site.	Refer to section 6.5.
Natural England	No objections - the proposed development will not have significant adverse impacts on the Blackwater Special Protection Area and Ramsar site. The recommended enhancement measures are welcomed. The development will also not damage or destroy the interest features for which the Blackwater Site of Special Scientific Interest has been notified.	Noted – refer to section 6.6 of report.
Environment Agency	Provided that the caravans are used for short term holiday use and will be safe for their lifetime, recommend that a condition is appended to any planning permission granted requiring that the	Refer to section 6.5.13. It is noted that the Sequential Test is to be determined by the local planning authority and not the Environment Agency.

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
	development is carried-out in accordance with the Flood Risk Assessment	
County Highways	No objection	Noted – refer to section 6.4

### 8.3 Internal Consultees (*summarised*)

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health Officer	As site right next to sewage treatment works, prior to a decision being made, an odour assessment should be submitted. The site would require a licence under the Caravan Sites and Control of Development Act 1960. This Service would want to avoid a holiday site being used for residential purposes or temporary accommodation other than holiday use, therefore conditions are recommended. Informatives are also recommended.	Refer to sections 6.2 and 6.7. The need for a Licence could be the subject of an informative.
Economic Development Officer	Support -would contribute further to tourism in the Maldon District and the economic prosperity of this business and others in the District.	Refer to section 6.2
Emergency Planner	No comments as long as the existing flood warning and evacuation plan is used as intended in the event of an incident	Refer to section 6.5

### 8.4 Representations received from Interested Parties (*summarised*)

8.4.1 No letters of representation were received.

**9. REASONS FOR REFUSAL**

- 1 The application site is remote from community facilities, in a countryside location. Insufficient justification or evidence has been provided as part of the application to demonstrate the need for the additional tourist accommodation within the Heybridge area, contrary to policies S1 and E5 of the Maldon District Approved Local Development Plan and the NPPF.
- 2 The development would be located within a countryside location and would cause harm to the character and appearance of the open, flat, coastal, low lying landscape within which the site is location. As a result, the proposal would be visually incongruous and cause material harm to the intrinsic beauty, character and appearance of the area, contrary to Policies S1, S7, S8, D1 and E5 of the Maldon District Approved Local Development Plan and the NPPF.
- 3 It has not been demonstrated that the proposal passes the Sequential Test and that it would, therefore, be acceptable from the flood risk perspective, contrary to Policy D5 of the Maldon District Approved Local Development Plan and the NPPF.
- 4 It has not been demonstrated that odours emanating from the adjacent sewage treatment works would not have an adverse impact on the occupiers of the proposed holiday lodges to the detriment of their amenity, contrary to Policy D2 of the Maldon District Approved Local Development Plan and the NPPF.

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