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Council Chamber 01621 859677

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

15 January 2019

Dear Councillor

You are summoned to attend the meeting of the;

CENTRAL AREA PLANNING COMMITTEE

on **WEDNESDAY 23 JANUARY 2019 at 7.30 pm.**

in the Council Chamber. Maldon District Council Offices, Princes Road, Maldon.

A copy of the agenda is attached.

Yours faithfully



Head of Paid Service

COMMITTEE MEMBERSHIP

CHAIRMAN

Councillor B E Harker

VICE-CHAIRMAN

Councillor Miss M R Lewis

COUNCILLORS

Miss A M Beale
A T Cain
I E Dobson
Mrs B D Harker
M S Heard
M R Pearlman
S J Savage
Mrs N G F Shaughnessy
Rev. A E J Shrimpton

Ex-officio non-voting Members: Councillor Mrs P A Channer, CC

Please note: Limited hard copies of this agenda and its related papers will be available at the meeting. Electronic copies are available via the Council's website.

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AGENDA
CENTRAL AREA PLANNING COMMITTEE
WEDNESDAY 23 JANUARY 2019

1. **Chairman's notices (please see overleaf)**

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 14)

To confirm the Minutes of the meeting of the Committee held on 12 December 2018 (copy enclosed).

4. **Disclosure of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, other Pecuniary Interests or Non-Pecuniary Interests relating to items of business on the agenda having regard to paragraphs 6-8 inclusive of the Code of Conduct for Members.

(Members are reminded that they are also required to disclose any such interests as soon as they become aware should the need arise throughout the meeting).

5. **FUL/MAL/18/01032 - Units At Bentalls Industrial Complex, Colchester Road, Heybridge, Essex, CM9 4NW** (Pages 15 - 34)

To consider the report of the Director of Strategy, Performance and Governance (copy enclosed, Members' Update to be circulated)*.

6. **FUL/MAL/18/01293 - Car Park, Butt Lane, Maldon** (Pages 35 - 44)

To consider the report of the Director of Strategy, Performance and Governance (copy enclosed, Members' Update to be circulated)*.

7. **FUL/MAL/18/01365 - South Embankment, Northey Island, Maldon, Essex** (Pages 45 - 62)

To consider the report of the Director of Strategy, Performance and Governance (copy enclosed, Members' Update to be circulated)*.

8. **Any other items of business that the Chairman of the Committee decides are urgent**

Reports for noting:

In accordance with the decision of the Council made on 2 November 2017 (Minute No. 542 refers), the following report is for noting and a copy has been placed in the Members' Room and on the I drive for Members' information.

- Other Area Planning and Related Matters – Appeals Lodged and Appeal Decisions
-

Note:

1. The Council operates a facility for public speaking. This will operate only in relation to the consideration and determination of planning applications under Agenda Items No. 5 – 7.
2. The Committee may hear from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to speak is afforded only to those having previously made previous written representation.
3. Anyone wishing to speak must notify the Committee Clerk or a Planning Officer between 7pm and 7.20pm prior to the start of the meeting.
4. For further information please ring 01621 875791 or 876232 or see the Council's website – www.maldon.gov.uk/committees

* Please note the list of related Background Papers attached to this agenda.

NOTICES

Sound Recording of Meeting

Please note that the Council will be recording any part of this meeting held in open session for subsequent publication on the Council's website. At the start of the meeting an announcement will be made about the sound recording. Members of the public attending the meeting with a view to speaking are deemed to be giving permission to be included in the recording.

Fire

In event of a fire, a siren will sound. Please use the fire exits marked with the green running man. The fire assembly point is outside the main entrance to the Council Offices. Please gather there and await further instruction.

Health and Safety

Please be advised of the different levels of flooring within the Council Chamber. There are steps behind the main horseshoe as well as to the side of the room.

Closed-Circuit Television (CCTV)

Meetings held in the Council Chamber are being monitored and recorded by CCTV.

BACKGROUND PAPERS

The Background Papers listed below have been relied upon in the preparation of this report:

1. The current planning applications under consideration and related correspondence.
2. All third party representations and consultation replies received.
3. The following Statutory Plans and Supplementary Planning Guidance, together with relevant Government legislation, Circulars, Advice, Orders, Directions and Guidance:

Development Plans

- Maldon District Local Development Plan approved by the Secretary of State 21 July 2017
- Burnham-on-Crouch Neighbourhood Development Plan (2017)

Legislation

- The Town and Country Planning Act 1990 (as amended)
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
 - The Planning and Compensation Act 1991
 - The Planning and Compulsory Purchase Act 2004 (as amended)
- The Planning Act 2008
 - The Town and Country Planning (General Permitted Development) Order 1995 (as amended)
 - The Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended)
 - The Town and Country Planning (Development Management Procedure) (England) Order 2015
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (Control of Advertisements) (England) Regs 2007
- The Town and Country Planning (Environmental Impact Assessment) Regs 2011
- Localism Act 2011
- The Neighbourhood Planning (General) Regulations 2012 (as amended)
- The Neighbourhood Planning (Referendum) Regulations 2012 (as amended)
- The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)
- Growth and Infrastructure Act 2013
- Housing and Planning Act 2016
- Neighbourhood Planning Act 2017
- The Town and Country Planning (Brownfield Land Register) Regulations 2017

Supplementary Planning Guidance and Other Advice

i) Government policy and guidance

- National Planning Policy Framework (NPPF) and Technical Guidance
- Planning Practice Guidance (PPG)
- Planning Policy for Traveller Sites
- Relevant government circulars
- Relevant Ministerial Statements (as referred to in the Report)

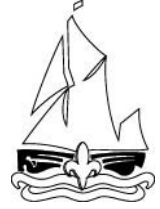
ii) Essex County Council

- Essex Design Guide 1997 (Note: superseded by Maldon Design Guide)
- Essex and Southend on Sea Replacement Waste Local Plan 2017

iii) Maldon District Council

- Five Year Housing Land Supply Statement 2016 / 17
- Maldon Design Guide - 2017
- Central Maldon and Heybridge Masterplan - 2017
- Planning Policy Advice Note (version 5) - May 2016
- Infrastructure Delivery Plan (All versions, including update in Council's Hearing Statement)
- Infrastructure Phasing Plan (January 2015 and January 2017 update for Examination)
- North Heybridge Garden Suburb Strategic Masterplan Framework - 2014
- South Maldon Garden Suburb Strategic Masterplan Framework - 2014
- Vehicle Parking Standards Supplementary Planning Document (SPD) - July 2006
- Accessibility to Buildings SPD – December 2006
- Children's Play Spaces SPD – March 2006
- Sadd's Wharf SPD – September 2007
- Heybridge Basin Timber Yard SPD – February 2007
- Developer Contributions Guide - 2010
- Affordable Housing Guide – June 2006
- Heybridge Basin Village Design Statement –2006
- Wickham Bishops Village Design Statement – 2010
- Althorne Village Design Statement - 2015
- Woodham Walter Village Design Statement – 2017
- Various Conservation Area Appraisals

Copies of all Background Papers are available for inspection at the Maldon District Council Offices, Princes Road, Maldon, Essex CM9 5DL during normal office hours.



**MINUTES of
CENTRAL AREA PLANNING COMMITTEE
12 DECEMBER 2018**

PRESENT

Vice-Chairman
(in the chair)

Councillor Miss M R Lewis

Councillors

Miss A M Beale, I E Dobson, M S Heard, S J Savage,
Mrs N G F Shaughnessy and Rev. A E J Shrimpton

690. CHAIRMAN'S NOTICES

The Chairman drew attention to the list of notices published on the back of the agenda.

691. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors B E Harker, A T Cain, Mrs B D Harker, M R Pearlman, and Mrs P A Channer, CC.

692. MINUTES OF THE LAST MEETING

RESOLVED

- (i) that the Minutes of the meeting of the Committee held on 14 November 2018 be received.

Minute No. 595 – Disclosure of Interests

That the fourth paragraph be edited to include the amendment, shown as underlined:

“Councillor S J Savage declared a non-pecuniary interest in Agenda Item 5, FUL/MAL/18/00699 - Blackwater Leisure Centre, Maldon as he lives in close proximity to the existing Watership Down premises.”

RESOLVED

- (ii) that subject to the above amendment the Minutes of the meeting of the Committee held on 14 November 2018 be confirmed.

693. DISCLOSURE OF INTEREST

Councillor Miss M R Lewis declared a non-pecuniary interest in Agenda Item 7, FUL/MAL/18/01286 – Rear of 119 High Street, Maldon, Essex, as she knows the applicant.

Councillor S J Savage declared a non-pecuniary interest in Agenda Item 6, FUL/MAL/18/01174 – Connect House, Quayside Industrial Estate, Bates Road, Maldon, Essex, as he resides within the emission fallout area of the chimneys.

Councillor M S Heard declared a non-pecuniary interest in Agenda Item 7, FUL/MAL/18/01286 – Rear of 119 High Street, Maldon, Essex, as he knows the applicant.

Councillor N G F Shaughnessy declared a non-pecuniary interest in Agenda Item 7, FUL/MAL/18/01286 – Rear of 119 High Street, Maldon, Essex, as she knows the applicant.

694. FUL/MAL/18/00975 - BEELEIGH ABBEY, ABBEY TURNING, MALDON, ESSEX, CM9 6LL

Application Number	FUL/MAL/18/00975
Location	Beeleigh Abbey, Abbey Turning, Maldon, Essex, CM9 6LL
Proposal	Construction of an aluminium framed ornamental glasshouse.
Applicant	Christopher Foyle
Agent	Mr Michael Dyson – Laurie Wood Associates
Target Decision Date	19.12.2018
Case Officer	Louise Staplehurst
Parish	MALDON NORTH
Reason for Referral to the Committee / Council	Major Application

A Members' Update had been submitted advising of Historic England's response which was received post publication of the report.

A brief discussion ensued in which the ward Member confirmed their concurrence with the Officers recommendation.

The Chairman put the Officers recommendation of approval to the Committee and upon a vote being taken the application was approved.

RESOLVED that the application be **APPROVED** subject to the following conditions:

- 1 The proposed development shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents: VPF 5543/M 1 OF 3, VPF 5543/M 2 OF 3, VPF 5543/M 3 OF 3, 258-01 rev C, 258-02 rev E.

- 3 The materials used in the construction of the glasshouse hereby approved shall be as set out within the application form/plans hereby approved.

695. FUL/MAL/18/01174 - CONNECT HOUSE, QUAYSIDE INDUSTRIAL ESTATE, BATES ROAD, MALDON, ESSEX, CM9 5FA

Application Number	FUL/MAL/18/01174
Location	Connect House, Quayside Industrial Estate, Bates Road, Maldon, Essex, CM9 5FA
Proposal	Change of use of Connect House from industrial warehousing (Use Class B2) to short term operating reserve and peak power ('STOR') embedded generating plant (sui generis) together with external alterations to Connect House including demolition of the eastern section of the building and the internal building service area on the western elevation; erection of an external chimney with 6 integrated exhaust stacks, auxiliary equipment, 6 radiator cooling units, HV switchboard enclosure, gas kiosk, substations, acoustic barrier and security fence and associated works.
Applicant	Blackwater Power Ltd
Agent	Lichfields
Target Decision Date	04.12.2018 – requested EOT to 17.12.2018
Case Officer	Kathryn Mathews
Parish	MALDON NORTH
Reason for Referral to the Committee / Council	Call-in by Councillor Rev. A E J Shrimpton for the reason of public interest

Following the Officer's presentation, Mr Chris Wickins, the Applicant, addressed the Committee.

A discussion ensued where Members raised concerns over the potential impact on air quality within the district, the use of fossil fuels and the height of the acoustic barrier. The Committee commented on the chimneys height with the majority of Members approving of the reduction in height from the original plan.

Councillor Rev. A E J Shrimpton proposed that the application be refused, contrary to the Officer's recommendation. This was duly seconded by Councillor S J Savage.

The Committee discussed how the site would mitigate any shortfall in energy for the surrounding area, noting that it would only be operational when required. Consideration was given to the impact on residents and the industrial area. One Member queried whether the application was in keeping with European Union (EU) directives.

Councillor I E Dobson requested that a recorded vote was taken.

The Group Manager Planning Services advised that the National Planning Policy Framework (NPPF) encourages the use of renewable energy but does not object to the use of fossil fuels, and directed Members attention to the comments on the air quality within the report. It was confirmed that compliance with EU directives would be the applicant's responsibility.

Members thanked Blackwater Power Ltd for the prospect of preventing power outages.

The Vice-Chairman put the proposal of refusal, contrary to the Officer's recommendation, to the Committee.

In favour: Councillors S J Savage and Rev. A E J Shrimpton.

Against: Councillors M S Heard, N G F Shaughnessy, Miss A M Beal, I E Dobson and Miss M R Lewis.

The Vice-Chairman put the Officers recommendation of approval to the committee.

In favour: Councillors N G F Shaughnessy, M S Heard, Miss A M Beal, I E Dobson and Miss M R Lewis.

Against: Councillors S J Savage and Rev. A E J Shrimpton.

RESOLVED that the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents: PL_MA_001rev.01, PL_MA_002.rev.5, PL_MA_BP_005rev.04, PL_MA_SE_006rev.04, PL_MA_PBP_007rev.03 received on 27/11/18, PL_MA_NSE_008rev.00, Flood Risk Assessment & Drainage Strategy 619874-MLM-ZZ-XX-RP-C-0001 by MLM Group dated 27/09/2018, Air Quality Assessment 776933-MLM-ZZ-XX-RP-J-0001 by MLM Group dated 26/11/2018, Acoustic Technical Report ref.102509-MLM-ZZ-XX-RP-U-0001 by MLM Group dated 27/09/2018, Tree Survey and Impact Assessment 1111-KC-XX-YTREE-TreeSurvey-and-ImpactAssessment-RevA dated September 2018, 1111-KC-XX-YTREE-TCP01rev0, 1111- KC_XX_YTREE_TPP01rev.A.
3. Details of all external plant and machinery to be installed at the site shall be submitted to and approved in writing by the Local Planning Authority prior to their use. The plant and machinery shall be installed and operated in accordance with the approved details and retained as such in perpetuity.
4. The development shall not be occupied until a Flood Warning and Evacuation Plan has been submitted to and approved by the Local Planning Authority. The Flood Warning and Evacuation Plan shall be made available for inspection by all occupiers and customers to the site and shall be displayed in a visible location all times thereafter.
5. Details of all external illumination of the site including the luminance and spread of light and the design and specification of the light fittings shall be submitted to and approved in writing by the Local Planning Authority. All illumination within the site shall be retained in accordance with the approved details. There shall be no other lighting of the external areas of the site unless otherwise agreed in writing by the Local Planning Authority.
6. Prior to the commencement of the use hereby permitted, provision shall be made for the storage of three bicycles within the site in accordance with details which have been submitted to and gained the prior written approval of the Local Planning Authority. The approved facility shall be secure, convenient, covered, maintained free from obstruction and retained thereafter. The storage shall be retained as approved in perpetuity.
7. The use hereby permitted shall not commence until details of flood resilience / resistance measures to be incorporated into the development have been

submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and retained as such thereafter.

8. Any gates / barriers provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the highway boundary.
9. Prior to commencement of the development, the areas within the curtilage of the site for loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.
10. All measures set out within the noise assessment, including all acoustic fencing, shall be in place prior to the first beneficial use of the building hereby approved and shall be retained as such in perpetuity.

696. FUL/MAL/18/01286 - REAR OF 119 HIGH STREET, MALDON

Application Number	FUL/MAL/18/01286
Location	Land Rear Of 119 High Street, Maldon, Essex
Proposal	Single storey 1 bedroom dwelling
Applicant	Mrs Judy Smith
Agent	Annabel Brown Architect
Target Decision Date	27 December 2018
Case Officer	Kathryn Mathews
Parish	MALDON NORTH
Reason for Referral to the Committee / Council	The application was referred by Councillor M R Pearlman in the public interest.

The Committee received the Officer's report on the application.

A discussion ensued on the redevelopment of the site, noting that a previous application had been dismissed at appeal. Members questioned whether the application would detract from the Grade 2 listed building at the front of the site.

Councillor Rev. A E J Shrimpton proposed that the application be refused, contrary to the Officer's recommendation. This was duly seconded by Councillor S J Savage.

The Group Manager Planning Services advised the Committee that the reasons for refusal on a prior application at a site would not necessarily be applicable to any new application. Members were informed that the current application mitigates prior concerns raised by the Inspector as this application was for a single story dwelling.

The Committee discussed whether there would be a loss of commercial property from the High Street and whether it was fit for the conservation area. Members commented on whether it would complement surrounding properties and that it was considered visually unobtrusive.

Officers were complimented for considering the surrounding archaeology in their report.

The Chairman put the proposal of refusal to the Committee and upon a vote being taken the proposal was rejected.

The Chairman then put the Officer's recommendation of approval to the Committee. Upon a vote being taken this was duly agreed.

RESOLVED that the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents: A17509-PP04; A17509A BLOCK PLAN; A17509 -Survey02.
3. All loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.
4. No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title has submitted an archaeological assessment by an accredited archaeological consultant to establish the archaeological significance of the site. Such archaeological assessment shall be approved by the local planning authority and will inform the implementation of a programme of archaeological work. The development shall be carried out in a manner that accommodates such approved programme of archaeological work.
5. No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title has secured the implementation of a programme of archaeological work from an accredited archaeological contractor in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in a manner that accommodates the approved programme of archaeological work. The archaeological work will comprise trial-trenching of the site, followed by full excavation if archaeological features are identified. All fieldwork should be conducted by a professional recognised archaeological contractor in accordance with a brief issued by Essex County Council.
6. No development shall take place above slab level until a sample of the materials to be used in the construction of the external surfaces of the building have been submitted to the Local Planning Authority for approval in writing. The development shall be carried out in accordance with the approved materials.
7. No development shall take place above slab level until large-scale drawings of all new windows and doors – illustrating elevations at 1:20 and section details (including of glazing bars) at 1:2 - have been submitted to the Local Planning Authority for approval in writing. All external joinery shall be of painted timber only. The development shall be carried out in accordance with the approved materials/details.
8. The development hereby permitted shall be carried-out, as follows:-
 - All weatherboarding shall be of black painted timber and featheredged in profile.
 - All brickwork shall be laid in a Flemish bond and all bricks shall be bedded in mortar with a flush external joint profile.
 - All the external doors, fascias, soffits and the louvres on the northern gable shall be of timber only.
9. Details of the materials to be used for all hard surfacing, shall be submitted to and approved in writing by the local planning authority, prior to their use on site.

- The surfacing shall be completed in accordance with the approved details prior to the commencement of the beneficial use of the building hereby permitted.
10. Prior to the beneficial occupation of the dwelling hereby permitted, all means of enclosure to be erected shall be installed in accordance with details which shall have been submitted to and gained the prior written agreement of the local planning authority. The means of enclosure shall be retained as permitted in perpetuity.
 11. Once the dwelling hereby permitted is occupied, refuse shall only be stored and collected in accordance with details which shall have been submitted to and gained the prior written consent of the local planning authority. Subsequently refuse shall only be stored and collected in accordance with the approved details.
 12. Prior to the commencement of the use hereby permitted, provision shall be made for the storage of bicycles within the site in accordance with details which have been submitted to and gained the prior written approval of the local planning authority. The approved facility shall be secure, convenient, covered, maintained free from obstruction and retained thereafter. The storage shall be retained as approved in perpetuity.
 13. Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no garages, extensions, or separate buildings (other than ancillary outbuildings not exceeding 10 cubic metres in volume) shall be erected within the site and no dormer window or other form of addition or opening shall be constructed in the roof or gable walls of the building without planning permission having been obtained from the local planning authority.

There being no further items of business the Chairman closed the meeting at 8.25 pm.

COUNCILLOR MISS M R LEWIS
CHAIRMAN

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

to
CENTRAL AREA PLANNING COMMITTEE
23 January 2019

Application Number	FUL/MAL/18/01032
Location	Units At Bentalls Industrial Complex Colchester Road Heybridge Essex CM9 4NW
Proposal	Section 73A application for the change of use to storage and distribution (Use Class B8).
Applicant	Mr A Gunn
Agent	Mrs C Legg - Smart Planning Ltd
Target Decision Date	11.01.2019 E.o.T. 25 January 2019
Case Officer	Spyros Mouratidis
Parish	HEYBRIDGE WEST
Reason for Referral to the Committee / Council	Major Application Not Delegated to Officers

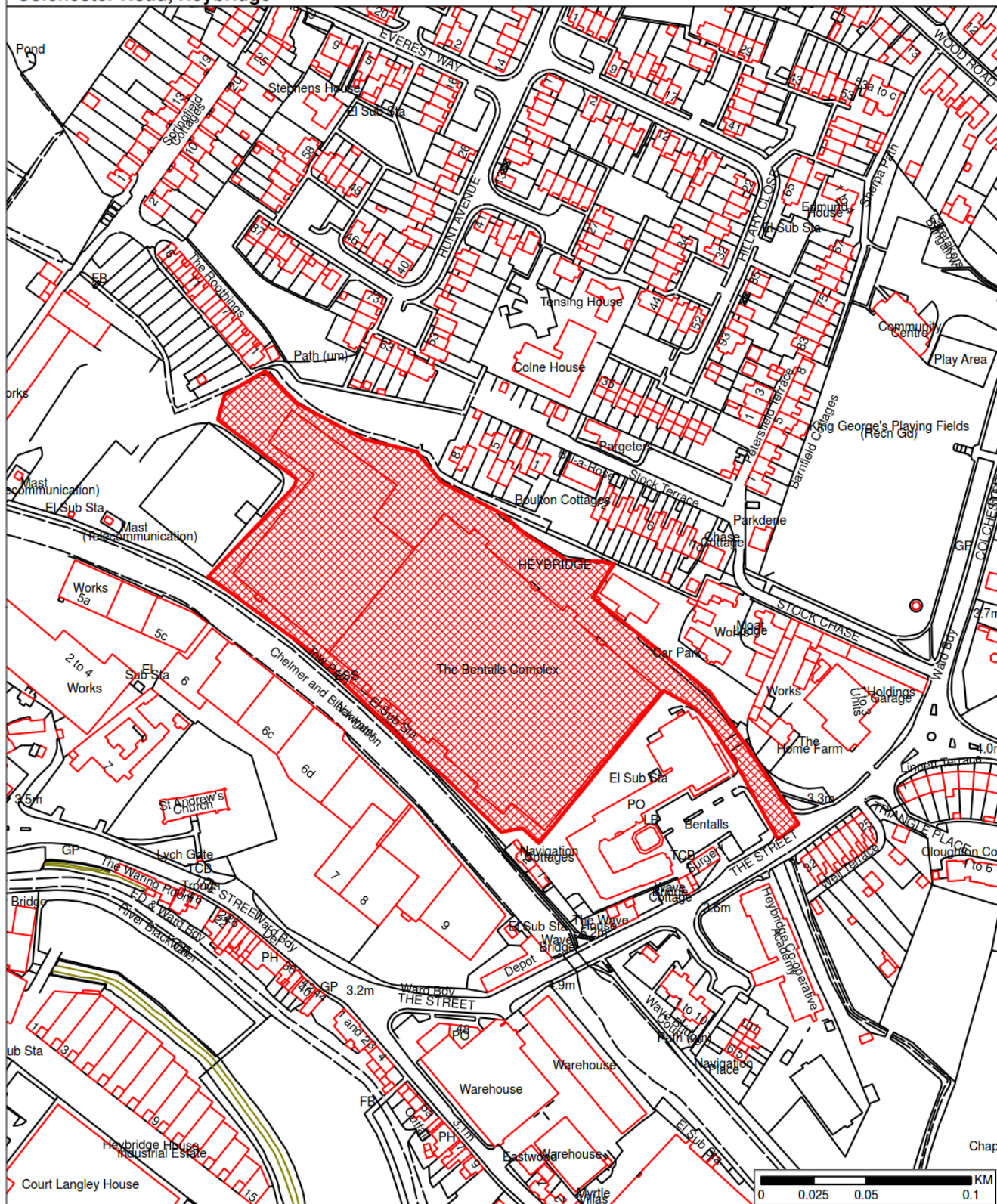
1. RECOMMENDATION

APPROVE subject to the conditions (as detailed in Section 8 of this report).

2. SITE MAP

Please see overleaf.

18/010312/FUL - Units at Bentalls Industrial Complex Colchester Road, Heybridge



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Maldon District Council 100018588 2014

www.maldon.gov.uk

Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: Central Area Planning Comm

Date: 03/01/2019

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 Planning permission is sought for the change of use of the Application Site from print works, a use falling within Use Class B2 (General Industrial) to a storage and distribution centre, a use falling within Use Class B8 (Storage or distribution). No external changes are proposed. As the use has already commenced, the application is retrospective in nature and has been submitted under the provisions of Section 73A of the Town and County Planning Act 1990 as amended.
- 3.1.2 The Application Site lies within settlement boundary of Maldon and Heybridge, on the Heybridge Centre as defined in the Council's Central Area Masterplan SPD. It should be noted that although the attached plan shows that the road is named The Street, all the properties after the Wave Bridge are registered with their addresses being on Colchester Road. This part of the highway is also shown in the Council's records as Bentall's Approach. Approximately 80m to the east of the access is the junction of Colchester Road with Goldhanger Road.
- 3.1.3 The Application Site is part of the Bentalls Industrial Estate. To the southeast is the Home Farm Industrial Estate, to the south is the Bentalls Shopping Centre, to the west, across the canal is the Street Industrial Estate. There are residential properties to the south (Navigation Cottages, Well Terrace), north (the Roothings) and north east (Hunt Avenue and Stock Chase) of the site.
- 3.1.4 As already mentioned the site is within the area covered by the Central Area Masterplan SPD and is recognised as an opportunity site. It also lies within a designated employment area and a Food Zone 3. Moreover, the site is adjacent to the Chelmer and Blackwater Navigation Conservation Area and the River Chelmer local wildlife site Ma01 as designated in the approved Local Development Plan (LDP).

3.2 Conclusion

- 3.2.1 The application is for an employment use within a designated employment area. Subject to conditions to establish that the associated noise generation will not be detrimental to the amenity of the neighbouring residents or that appropriate measures will be put in place to attenuate any detrimental disturbance, the application is for an acceptable development. Given that there are no external alterations to the building, the character and appearance of the area will not be impacted by the development and the significance of the adjacent conservation area will be preserved. In addition, there will not be any increase of flood risk as the footprint of the built area will remain the same. No adverse impact is anticipated for the adjoining local wildlife site or the highways in the vicinity of the application site. Overall, having regard to all material planning considerations, the development is in line with local policies S1, S5, D1, D2, D3, D5, E1, N2, I2, T1 and T2 of the approved LDP and national policies contained in the National Planning Policy Framework.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework (NPPF) 2018 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
- 54-57 Planning conditions and obligations
- 80-84 Building a strong, competitive economy
- 85-90 Ensuring the vitality of town centres
- 102-111 Promoting sustainable transport
- 117-121 Making effective use of land
- 148-169 Meeting the challenge of climate change, flooding and coastal change
- 170-183 Conserving and enhancing the natural environment
- 184-202 Conserving and enhancing the historic environment

4.2 Maldon District Local Development Plan (LDP) 2014 – 2029 approved by the Secretary of State:

- S1 Sustainable Development
- S5 The Maldon and Heybridge Central Area
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Change
- E1 Employment
- N2 Natural Environment and Biodiversity.
- T1 Sustainable Transport
- T2 Accessibility
- I2 Health and Wellbeing

4.3 Relevant Planning Guidance / Documents:

- Planning Practice Guidance (PPG)
- Maldon and Heybridge Central Area Masterplan SPD (CAMp)
- Maldon District Design Guide SPD (MDDG)
- Maldon District Vehicle Parking Standards SPD (MDVPS)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The Local Planning Authority has to determine planning applications in line with the local plan unless other material planning considerations indicate otherwise. Policy S1 of the approved LDP states that:

*“When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF and will apply the following key principles in policy and decision making:
(...)*

3) Promote the effective use of land and prioritise development on previously developed land and planned growth at the Garden Suburbs and Strategic Allocations;”

- 5.1.2 The application site is previously developed land as it is part of an industrial estate where the buildings have remained. Policy S5 relates to the Maldon and Heybridge Central Area which incorporates the Causeway Regeneration Area. The policy states:

“The Central Area will continue to act as the focal point within the District for retail, commercial, industrial, community and tourism activities. (...) The development and regeneration strategy for the Central Area comprises the following:

1) Development and regeneration will take place having regard to a masterplan endorsed by the Council;

(...)

3) Renewal of the Causeway Regeneration Area to improve the supply of high quality Use Class B floorspace (commercial and industrial), and increase employment. This will include the provision of: modern workspaces suitable for small and medium sized enterprises; start-up units; support for existing businesses that are seeking to expand and mixed-use developments which enable significant numbers of jobs to be created;

(...)

5) Increase public access next to, and enhance the setting of the riverside to create a vibrant environment that incorporates a range of uses;

6) Maintain and encourage the wider use of walking and cycling across the area through an improved public realm and improved linkages and connectivity between the town centre, the Causeway, the Hythe, and the Leisure Quarter and other key attractions;

7) Preserve and enhance the quality of the historic character including the built environment, archaeology and historic skyline within the context of its riverside, estuarine and rural location;

8) Actively manage traffic and visitors to the town and surrounding area through enhanced public transport provision and the use of effective car park management;

9) Protect the sensitive environmental relationship between the Central Area and the adjacent environmentally designated areas including the River Blackwater and Chelmer and Blackwater Navigation; and

10) Minimise all forms of flood risk and ensure that flood infrastructure are effectively managed.”

5.1.3 The CAMp includes six objectives and eighteen (18) projects. The Application Site is part of project 13, Wyndham Heron and Rootings and it is expected to contribute to objectives CA1 – Town centre economy and CA4 access to the river/ water. It is envisaged that the renewal of the site will incorporate employment and mixed use buildings, that a comparable number of employment spaces will be created as when the site was fully used, that there will be an improvement in the quality of the canal frontage and there will be a footbridge to connect the site with the rest of Heybridge. The application merely seeks the change of use of the application site. Hence, although it is not a project toward the realization of the project 13 of the CAMp, it does not conflict with the project. Furthermore the envisaged project 13 in the CAMp is a long term one and as such in the short or medium term a use should be encouraged in line with other policies. The Urban Design officer has been consulted for the application and has raised no objections for the development.

5.1.4 Policy E1 of the approved LDP designates the Application Site as part of the employment site E1 (I), The Causeway, Maldon and Heybridge. In this employment site uses falling within use classes B1, B2 and B8 are considered appropriate. For the designated existing employment sites the policy states:

“The areas indicated below and defined on the Policies Map will be reserved for employment development. Planning applications for development will only be permitted for employment purposes if they accord with the use class specified. (...) Proposals to develop vacant employment sites and buildings, or to modernise or redevelop existing employment sites and buildings will be viewed favourably, especially where this supports the retention of existing businesses and/or provides employment space that meets the current needs of local businesses in the District.”

5.1.5 The development has resulted in a use falling within use class B8. Therefore, considering the previous paragraphs the principle of the development is acceptable in line with policies S1, S5 and E1 of the approved LDP. Other material planning considerations will be discussed in the following sections of the report.

5.2 Design and Impact on the Character of the Area and on Designated Heritage Assets

5.2.1 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. These principles have been incorporated in policy D1 of the LDP and the MDDG.

5.2.2 The Application Site is adjacent to the Chelmer and Blackwater Navigation Conservation Area. A Conservation Area is “an area of special architectural or historic interest” with a character which is “desirable to preserve or enhance” (Planning (Listed Buildings & Conservation Areas) Act, 1990). This special character derives from a range of factors including the design of the buildings as well as the materials used. According to policy D3 of the approved LDP any proposal within a conservation area requires clear and convincing justification and can only be considered acceptable if it would not harm the building, its settings and any feature

that contributes to the special architectural or historic interest or the benefits from the proposal overwhelmingly outweigh the loss or harm.

- 5.2.3 The application is for regularization of the existing use. Not external alterations are proposed or have been carried out. Therefore, the development has not altered the character and appearance of the area in any material way. Moreover, the development has not harmed the significance of the adjacent conservation area. The Conservation Officer has been consulted for the application and has raised no objections for the development. On this basis the impact of the proposal upon the designated heritage asset and the character and appearance of the area is acceptable in accordance with the relevant sections of policies D1 and D3 of the approved LDP. The installation of external plant or machinery or the storage of items externally has the potential to cause harm to the surrounding area. Conditions to control these associated activities would meet the six tests of national guidance.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. Similarly policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. 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.
- 5.3.2 The nature of a B8 use is materially different from a B2 use. While it is noted that what is undertaken on site is significantly less disturbing than the continuous operation of a printing factory (the previous use of the Application Site), the nature of the existing use has the potential to cause more wide spread noise and disturbance. Whilst the B2 use was carried out within the building and hence most of the noise could be contained, the B8 use will generate noise from vehicle movements which are carried out mainly outside the building. Furthermore, as the application site has speed bumpers which could exacerbate the noise generated from the vehicles, in addition to the noise from the vehicles' running engines or reversing movements or the noise from employees working around the vehicles.
- 5.3.3 A condition about the hours of operation would limit these sources of disturbance to specific working hours when the ambient noise levels would be higher due to other activities. However, there is the potential of undue noise and disturbance even within the permitted hours of operation. As such, a condition requiring an acoustic report which would also identify any appropriate mitigation measures as suggested by the Council's Environmental Health team, would meet the six tests of the national policy.
- 5.3.4 The Council's Environmental Health team has also suggested conditions about the hours of operations and deliveries, the installation of external plant or machinery. These conditions would meet the six tests of the national policy. A condition about external illumination would not meet the six tests given that illumination can currently be installed without planning permission. Bearing in mind that the storage, loading and unloading of items will be carried inside the buildings, there are no sufficient circumstances to justify taking away existing rights. Subject to the appropriately worded conditions, the impact of the development on the residential amenity of

neighbouring occupiers is acceptable in line with the relevant part of local policies D1 and D2 of the approved LDP.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 of the approved LDP aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide 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.
- 5.4.2 The Council's adopted MDVPS contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety, and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
- 5.4.3 The development has not altered the highway access or parking arrangements on site. Whilst the nature of the use could create significant traffic carried out by HGVs, the location of the site is in an area with good connections to primary highway network and according to the submitted supporting statement, the lorry movements are not expected to be more than four per day after the expected 36 movements during the initial six weeks when the units on site are being filled. It was estimated that this initial period would be over by December 2018. It is not considered that the aforementioned movements would be detrimental to the highway network of the area.
- 5.4.4 Whilst there is no additional floorspace created there is still the requirement for appropriate provision of car, cycle and other parking on site. As noted in Table 1 below, the MDVPS requires for B8 use of warehouse distribution one car parking space per 100m², one cycle parking space per 500m² for employees, one cycle parking space per 1000m² for visitors and one lorry space per 200m². The total requirement for the buildings on site which cover an area of approximately 16,750m² is shown on Table 1 below:

Table 1: Vehicle parking standards and required parking for the Application Site.

Type of parking	Car parking	Cycle parking	Operational (lorries)
Parking Standard B8 Warehouse Distribution	1 space / 100m ²	E: 1 space / 500m ² V: 1 space / 1000m ²	1 space / 200m ²
Amount required	168	51	84
Parking Standard B2 General Industry	1 space / 50m ²	E: 1 space / 100m ² V: 1 space / 400m ²	N/A
Amount required	336	210	N/A

Source: MDVPS and officer's calculations on the basis of the MDVPS.

- 5.4.5 It should be noted that whilst the required provision of parking spaces is the minimum required in accordance with the MDVPS, there are material considerations that should be taken into account. The Application Site is located within a central location where there is good connection with public transport. Furthermore, the lawful use of the Site is for a use falling within Use Class B2. As noted on Table 1, the required parking provision for such a use according to the MDVPS is substantially higher than the required provision for a B8 use; the car parking provision is double, the required provision for cycle parking for employees is five times higher etc. Whilst there is no required provision in the MDVPS for lorries in relation to a B2 use, the Application Site was visited by lorries on a frequent basis because of the activities associated with the lawful use. The fact that the site operated as a B2 use for a number of years without any detrimental issues in relation to parking indicates that there is no need to require the full amount of parking spaces calculated in Table 1 particularly as a B2 use could be operated from the site lawfully and there is a great shortfall in on-site parking provision. It is noted that the Highways Authority has raised no objections for the application.
- 5.4.6 The Applicant has indicated that 15 full-time, ten of which on site, and 25 part-time jobs will be created. In the accompanying statement it is stated that at busy periods up to 35 employees will be on site as a result of the use. A provision for 35 car parking spaces would be a reasonable requirement. Given the existing parking and extended hardsurface provided on site, the parking provision required for vehicles could be accommodated on site. Considering the ratio of car parking to cycle parking contained on the MDVPS, a total of eleven cycle parking spaces should be provided on site. As there is no cycle parking provision on site, a condition to require the provision of eleven cycle parking spaces in total would meet the six tests of the national guidance. On this basis, the proposal is considered acceptable in terms of access, parking and highway safety.
- 5.4.7 A travel management plan has been submitted to support the application. There is a commitment to reduce private vehicle movements by incorporating appropriate measures. The measures include the display of the adjacent cycling routes on notice boards, the provision of on-site changing facilities, the promotion of car sharing with dedicated spaces and promotional material etc. These measures can be incorporated in the decision notice as conditions if the application was to be successful. However, in order for conditions to be imposed the six tests should be met and in this instance the proposed measures would not be necessary to make the development acceptable.

As such they would not meet the tests and therefore should not be imposed as conditions. It is also proposed by the Applicant that the travel management plan is monitored every six months. This can only be achieved with a Section 106 agreement. The three tests for planning obligations should be met. In this case, a S.106 agreement to monitor the travel management plan would not be necessary to make the development acceptable in planning terms. As such it would fail the tests and therefore should not be imposed

5.5 Ecology

- 5.5.1 Paragraph 180 of the NPPF states that in order to prevent unacceptable risks from pollution, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Paragraph 170 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by, among others, preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.
- 5.5.2 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account, among others, noise, smell, light, visual impact and pollution of the development. Policy D2 seeks all development to minimise its impact on the environment by incorporating measures to minimise all forms of possible pollution including air, land, water, odour, noise and light. 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.
- 5.5.3 As already mentioned in section 3 of the report, the Application Site is adjacent to River Chelmer local wildlife site Ma01 as designated in the approved LDP. Policy N2 of the LDP states that:

“Development proposals which help to improve the condition of existing international, national or local designations will be encouraged.

All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect 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.

(...)

Biodiversity by design - Wherever possible, all development proposals should incorporate ecologically sensitive design and features. Where appropriate, development proposals near any watercourses or water bodies should provide a sufficient buffer which will be beneficial from the perspective of minimising the encroachment of development, providing ecological enhancements, and preventing pollution.”

- 5.5.4 It is considered that the development has not improved but also has not negatively affected the locally designated site. The Application Site is covered by concrete and or buildings which offer limited opportunities to local wildlife. As there are no physical alterations, there is little scope in achieving gains for biodiversity; a condition to require changes to this effect would not meet the six tests of the national guidance. On this basis the development is not in conflict with policy N2 of the LDP as it does not harm the locally designated site. As this is a locally designated site Habitat Regulations are not applicable. Nevertheless, Natural England has been consulted and raised no objections to the development.

5.6 Flood Risk

- 5.6.1 The application site is located within Flood Zone 3a, defined by PPG as having a high probability of flooding. Policy D5 of the LDP, in line with national policy, provides local flood risk considerations and seeks to direct development to the lower risk flood zones. The development is a change of use and does not involve any operational development. Paragraph 164 of the NPPF states that:

“Applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 50.”

- 5.6.2 The application of the sequential or the exception test is not required. The use of the site for storage and distribution is classed as a less vulnerable use as per the relevant classification table contained in the PPG¹. This is the same classification as the lawful use of the site for general industrial purposes.
- 5.6.3 In line with footnote 50 of the NPPF, a site specific flood risk assessment (FRA) has been provided by the Applicant prepared by Waterco Consultants and dated October 2018. The FRA recognises that while the site benefits from flood defenses there is a high probability in a rare event these defenses to be breached and the safe refuge on site will be only on the first floor as there is no safe access through areas not at risk of flooding.
- 5.6.4 The FRA proposes some flood resistance/ resilience measures however, a condition to require these measures to be incorporated would not meet the six tests as it would not be necessary to make the development acceptable; the development does not involve any physical alterations and the use is falling within the same classification of vulnerability from flooding as the lawful use. The Council’s Environmental Health and the Lead Local Flood Authority suggested a condition about surface water drainage. As already stated, the Application Site is already developed and the application does not include any operational development. A condition about surface water drainage would not meet the six tests. While the site is at actual risk of flooding, this risk would not change whatever the outcome of this application.

¹ Table 2: Flood risk vulnerability classification, Paragraph: 066, Reference ID: 7-066-20140306, Revision date: 06 03 2014, PPG available online: <https://www.gov.uk/guidance/flood-risk-and-coastal-change#flood-zone-and-flood-risk-tables>

- 5.6.5 A flood warning and evacuation plan (FWEP) has been submitted by the Applicant's Agent in response to comments from the Emergency Planner. A condition to require this to be displayed at all times on the premises, in line with the advice from the Emergency Planner, would meet the six tests of the national guidance. The Environment Agency has been consulted and raised no objection to the application. Subject to the appropriately worded condition about the display of the FWEP on the premises, the development is acceptable in relation to flood risk.

5.7 Other Material Considerations

Land contamination

- 5.7.1 According to the submitted accompanying statement, the previous company submitted a report to the Environment Agency to confirm that the site was left in an appropriate and safe condition. This is sufficient to assume that there is no detrimental contamination on the site. The Council's Environmental Health team and the Environment Agency have been consulted for the application and raised no objections in relation to land contamination. The storage of dry food that is currently carried out is not expected to create any contamination on the land in the future.

Impact on health

- 5.7.2 Policy I2 of the LDP seeks to ensure that the District's health and wellbeing is improved by ensuring increased opportunities for higher levels of physical activities. This is in line with the national policy as stated in the NPPF. The development is located in a central and sustainable location where the opportunity for local employees to walk or cycle to work is increased due to the available infrastructure. Furthermore, a condition to require the creation of cycle parking spaces apart from complying with the MDVPS it will increase the opportunities for higher levels of physical activity in line with local and national policy.

Condition to limit permitted development rights

- 5.7.3 A use falling within Use Class B8 can be changed without planning permission to a use falling within Use Class B1 (business). The LDP policy E1 identified that a B1 use for this area would be appropriate. Under the current development order the site can also be changed to a use falling within Use Class C3 (dwellinghouses) for a temporary period and subject to a prior approval process. Furthermore there is no guarantee what the future permitted development rights will be. Hence, a condition stating that the use of the site is only for a B8 use would meet the six tests.

Planning balance

- 5.7.4 Weighing all the matters discussed in the previous sections of the report, along with the planning history, any consultation responses and any representations from interested parties (particulars of which are in the following sections of the report), it is considered that, subject to appropriately worded conditions, the development is acceptable and accords with local policies S1, S5, D1, D2, D3, D5, E1, N2, I2, T1 and T2 of the approved LDP and national policies contained in the NPPF.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/89/00189/FUL** – Industrial use for the storage and sorting of waste and recyclable materials, APPROVED 21.04.1989

- **FULF/MAL/90/00314** - Light industrial units for B2 or B8 use - phased construction A and B – APPROVED 22.05.1990
- **FUL1/MAL/90/00314** - Renewal of consent - light industrial units for B2 or B8 use (phased construction A and B) – APPROVED 20.06.1995
- **FUL/MAL/98/00576** - Proposed warehouse loading areas and associated car parks – APPROVED 10.09.1998
- **FUL/MAL/00/00081** - Change of use from retail use (A1) to warehouse and storage (B8) APPROVED 26.05.2000
- **FUL/MAL/00/01011** - Proposed change of use of existing warehouse to part of printing works. – APPROVED 26.04.2001
- **FUL/MAL/02/01346** - Extension to existing industrial unit to form enclosed loading/unloading area. – APPROVED 24.04.2003
- **FUL/MAL/03/00828** - Extension to existing industrial unit to form enclosed loading/ unloading area, (amended proposed to enlarge sliding door opening to North East elevation) – APPROVED 16.09.2003
- **FUL/MAL/04/00695** - New single storey entrance and reception. – APPROVED 01.10.2004
- **FUL/MAL/05/00056** - New factory building housing new print works and link corridor. REFUSED 31.03.2005
- **FUL/MAL/05/00620** - New factory building housing new print works and link corridor– APPROVED 23.08.2005

Other planning history on site:

- **FULF/MAL /90/00240** - Additional mezzanine floor space to existing industrial building and press cooling – APPROVED 26.06.1990
- **FULF/MAL /90/01025** - Variation of Condition 4 of consent ref. MAL/240/90 to omit footpath to south of – WITHDRAWN 11.10.1991
- **FUL/MAL/94/00467** - Addition of exhaust stack to a height of 3m above ridge of roof. Outlet of proposed emission control arrestment device – APPROVED 01.08.1994
- **FUL/MAL/95/00329** - Insertion of two roller shutter doors – APPROVED 20.06.1995
- **FUL/MAL/97/00538** - Roof mounted exhaust ducts from printers – APPROVED 02.10.1997
- **FUL/MAL/98/00435** - Single storey extension to form enclosure to existing equipment – APPROVED 16.07.1998
- **FUL/MAL/98/00436** - Single storey extension to form stores APPROVED 16.07.1998
- **FUL/MAL/98/00813** - Erection of two stainless steel flues above roof line over new press – APPROVED 01.12.1998
- **FUL/MAL/00/00088** - Proposed erection of 2 no. stainless steel flues above the roof line over the new press – APPROVED 30.03.2000
- **FUL/MAL/00/00207** - Proposed extension for skip storage – APPROVED 26.05.2000

- **FUL/MAL/00/00238** - Proposed erection of a canopy – APPROVED 02.05.2000
- **FUL/MAL/03/01074** - Resiting and replacement of portakabin – APPROVED 15.12.2003
- **FUL/MAL/04/01220** - Retention of 2 no. floodlight columns – APPROVED 28.04.2005
- **FUL/MAL/05/00184** - 5 no. roof extract vents and 1 no. roof exhaust stack to existing building – REFUSED 18.05.2005
- **FUL/MAL/05/00617** - 5 No. roof extract vents and 1No. roof exhaust stack to existing building– APPROVED 23.08.2005
- **FUL/MAL/05/00622** - Temporary warehouse for storage – APPROVED 23.08.2005
- **FUL/MAL/08/00436** - Retention of portakabin (renewal of planning permission FUL/MAL/03/01074) – APPROVED 29.05.2008
- **FUL/MAL/13/00577** - Retention of portakabin (renewal of planning permission FUL/MAL/03/01074 and FUL/MAL/08/00436) APPROVED 28.08.2013

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 **Representations received from Parish / Town Councils**

Name of Parish / Town Council	Comment	Officer Response
Heybridge Parish Council	No response	

7.2 **Statutory Consultees and Other Organisations**

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highways Authority	No objection	Noted
Environment Agency	<p>No objection – The site is in Flood Zone 3a and the use is a 'less vulnerable' as defined in the PPG. To comply with the NPPF the application is required to pass the Sequential Test and be supported by a site specific Flood Risk Assessment (FRA). The key points to note from the submitted FRA are:</p> <ul style="list-style-type: none"> - The site benefits from flood defences. - The defences have an effective crest level 	<p>Comments noted. Please note that there is no requirement to pass the sequential test as per paragraph 164 of the NPPF. Please also see the consultation response from the Council's Emergency Planner.</p>

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>which is below the flood risk probability and the site is at actual risk of flooding.</p> <ul style="list-style-type: none"> - In the event of flooding there will be safe refuge above the 1:1000 including climate change level on the first floor. <p>No objections to the proposed development on flood risk access safety grounds because an Emergency Flood Plan has been submitted.</p>	
Natural England	No comment	Noted
Lead Local Flood Authority	No objection – the application is for a change of use.	Noted
Cadent Gas Network	No objection – There is apparatus within the application site. No activities should be carried out near the apparatus.	Noted – no activities are proposed near the apparatus.
Anglian Water Services	No response	
Essex and Suffolk Water	No objection	

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Urban Design Officer	No objection - The site is within the Maldon and Heybridge Central Area Masterplan SPD area and is an identified 'opportunity site' within the Development Framework as a redundant site. The application proposes re-use of the existing redundant building.	Noted

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	No objection - The proposed change of use will have no impact upon the setting or significance of the Chelmer and Blackwater Navigation Conservation Area.	Noted
Environmental Health	No objection subject to conditions about external illumination, hours of operation and deliveries, no external machinery, no external plant or equipment, noise mitigation and surface water drainage.	Noted – The proposed condition are considered to meet the six tests of national policy with the exception of the conditions about external illumination (see section 5.3) and surface water drainage (see section 5.6).
Economic Development	No objection - The economic activity proposed at this site will bring substantial income to the Maldon District and create a minimum of 15 jobs.	Noted
Emergency Planner	No objection – provided that the detail within the flood risk assessment around evacuation is included into a separate flood warning and evacuation plan and disseminated to users of the site	Noted. A condition to this effect would meet the six tests of the national policy.

7.4 Representations received from Interested Parties

- 7.4.1 1 representation was received **commenting** on the application and summarised as set out in the table below:

Comment	Officer Response
Having lived with Heron print and all the problems they caused with noise, pollution etc. A normal operation, daytimes and weekdays only, would be welcomed. Preferably, given the housing problems, the factory/storage should go to a brownfield site out of town and this site is then turned to housing.	Noted. Hours of operations condition would be in line with the six tests of national policy.

8. PROPOSED CONDITIONS

- 1 Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order), premises shall only be used for purposes falling within Use Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) and for no other purpose.

REASON In order to ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with policies S1, S5, D1, D2, N2, T1 and T2 of the approved LDP and national policies contained in the NPPF.

- 2 The use of the premises shall only operate between 07:00 hours and 19:00 hours Mondays to Fridays, 08:00 hours and 13:00 on Saturdays and at no time on Sundays, Bank and Public Holidays.

REASON To ensure appropriate use of the site in the interests of protecting the amenities of adjacent occupiers in accordance with local policies D1 and D2 of the approved LDP and national policies contained in the NPPF.

- 3 No machinery shall be operated nor shall any process be carried out and no deliveries or collections undertaken at the site other than between 07:00 hours and 19:00 hours on weekdays and between 08:00 hours and 13:00 hours on Saturdays and not at any time on Sundays and Public Holidays.

REASON To ensure appropriate use of the site in the interests of protecting the amenities of adjacent occupiers in accordance with local policies D1 and D2 of the approved LDP and national policies contained in the NPPF.

- 4 No process loading or unloading shall be undertaken outside the buildings.

REASON To ensure appropriate use of the site in the interests of protecting the amenities of adjacent occupiers in accordance with local policies D1 and D2 of the approved LDP and national policies contained in the NPPF.

- 5 No extraction or ventilation equipment, vents, air conditioning units or similar plant equipment shall be installed or fitted to any external part of the buildings except in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The scheme as approved and installed shall be retained as such thereafter.

REASON To safeguard the visual amenity of the area and to ensure appropriate use of the site in the interests of protecting the amenities of adjacent occupiers in accordance with local policies D1 and D2 of the approved LDP and national policies contained in the NPPF.

- 6 No items shall be stored outside of the buildings.

REASON To safeguard the visual amenity of the area and to ensure appropriate use of the site in the interests of protecting the amenities of adjacent occupiers in accordance with local policies D1 and D2 of the approved LDP and national policies contained in the NPPF.

- 7 The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within three months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-

- i. within three months of the date of this decision a scheme, including a timetable for its implementation, to assess, establish and rank the noise sources associated with the operation hereby permitted and to evaluate

the Applicant's preferred mitigation measures as to whether they are appropriate for the established noise sources, carried out by a suitably competent person, shall have been submitted for the written approval of the local planning authority; or

- ii. if within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
- iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State
- iv. the approved scheme shall have been carried out and completed in accordance with the approved details and timetable.

REASON To ensure appropriate use of the site in the interests of protecting the amenities of adjacent occupiers in accordance with local policies D1 and D2 of the approved LDP and national policies contained in the NPPF.

- 8 The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within three months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-

- i. within three months of the date of this decision a scheme, including a timetable for its implementation, to provide at least 12 covered and secure cycle parking spaces within the Application Site shall have been submitted for the written approval of the local planning authority; or
- ii. if within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
- iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State
- iv. the approved scheme shall have been carried out and completed in accordance with the approved details and timetable.

REASON To ensure appropriate parking provision exists on site and to encourage the use of bicycles in line with local policies D1, T1, T2 and I2 of the approved LDP, the guidance provided in the MDVPS (2018) Supplementary Planning Document and national policies contained in the NPPF.

- 9 The submitted Flood Warning and Evacuation Plan prepared by Smart Planning with reference 18.5388 shall be available at all time on the premises and its conclusions shall be adhered to in perpetuity.

REASON To ensure appropriate parking provision exists on site and to encourage the use of bicycles in line with local policies D1, T1, T2 and I2 of the approved LDP, the guidance provided in the MDVPS (2018) Supplementary Planning Document and national policies contained in the NPPF.

INFORMATIVES

1. The Applicant is advised to consult Environment Services on any requirements we may have regarding Food Safety and Health & Safety matters at the premises. New food business will need to register with Environment Services 28 days before it commences operation and comply with EC Regulation 852/2004.
2. The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The Chelmer & Blackwater Navigation and Heybridge Hall Ditch are both designated as 'Main River'. Application forms and further information can be found at: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> Anyone carrying out these activities without a permit where one is required is breaking the law.
3. Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.
If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.
If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.
All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.
Email: plantprotection@cadentgas.com Tel: 0800 688 588
4. No works to infill ditches should be undertaken without prior consent from Essex County Council. You should also be aware that works of this nature may require planning permission
No raising of land in flood plains should take place without prior consent from Essex County Council. You should also be aware that works of this nature may require Environment Agency consent if in a flood plain.
The removal of land drains likely to interrupt the flow may require prior consent from Essex County Council on 08457430430 or floods@essex.gov.uk. You should also be aware that works of this nature may require planning permission.



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

to
**CENTRAL AREA PLANNING COMMITTEE
23 JANUARY 2019**

Application Number	FUL/MAL/18/01293
Location	Car park Butt Lane Maldon
Proposal	Change the use of part of the car park to a weekly retail market on Thursdays and Saturdays on a permanent basis. Operational times, including set up and removal 06:30-17:30.
Applicant	Maldon District Council – Richard Holmes
Agent	None
Target Decision Date	28/01/19
Case Officer	Kathryn Mathews
Parish	MALDON NORTH
Reason for Referral to the Committee / Council	Council application Council Owned Land

1. RECOMMENDATION

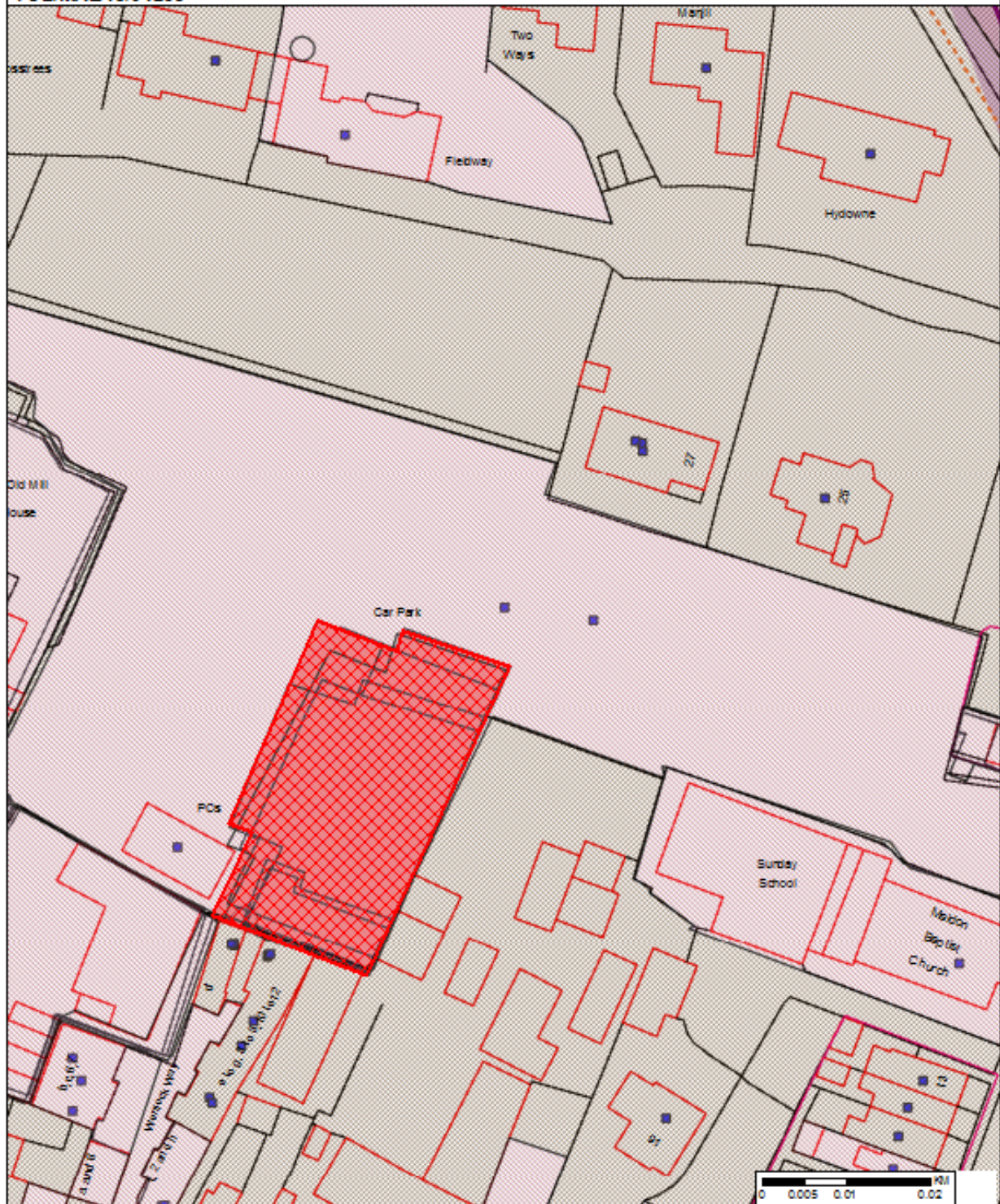
APPROVE subject to the conditions (as detailed in Section 8 of this report).


This application falls to be considered by the Area Planning Committee, but under its terms of reference if the Committee is minded to refuse permission the application will need to be determined by the Council and the Committee will need to recommend accordingly.

2. SITE MAP

Please see overleaf.

Butt Lane Car Park Maldon
FUL/MAL/18/01293



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Central Area Committee
	Date:	31/12/2018
	MSA Number:	100018588
www.maldon.gov.uk		

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 This application seeks permission for the proposed change of use of part of the Butt Lane car park to a weekly retail market on Thursdays and Saturdays on a permanent basis. Operational times, including set up and removal, would be 06:30-17:30. The market would consist of approximately 10 stalls which will be assembled and disassembled each market day.
- 3.1.2 The application relates to the south-eastern corner of the Butt Lane car park, which is owned by Maldon District Council. The application site covers an area of approximately 605sq. m. which covers 38 existing car parking spaces. The site is accessed from the surrounding car park itself with additional pedestrian access from Wenlock Way.
- 3.1.3 Planning permission exists for the use of the same part of the car park as a retail market on Thursdays (reference FUL/MAL/17/00647). Part of this area (70sq.m.) also has planning permission as a retail market on Saturdays (reference FUL/MAL/17/00648).
- 3.1.4 The application site is located within the development boundary for Maldon, the Town Centre and the Conservation Area as defined in the Maldon District Approved Local Development Plan (MDLDP).

3.2 Conclusion

- 3.2.1 As discussed within this report, it is considered that the proposed market use on Thursdays and Saturdays would be acceptable on a permanent basis subject to it being operated within the hours specified.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2018 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
- 85-90 Ensuring the vitality of town centres
- 102-111 Promoting sustainable transport
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places
- 184-192 Conserving and enhancing the historic environment

4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:

- S1 Sustainable Development
- S5 Maldon and Heybridge Central Area
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- E2 Retail Provision
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Car Parking Standards
- Essex Design Guide
- Maldon District Design Guide (MDDG)
- Maldon and Heybridge Central Area Masterplan

5. MAIN CONSIDERATIONS

5.1 The main issues which require consideration as part of the determination of this application are the principle of development, the impact on the character and appearance of the Conservation Area, any impact on the amenity of the occupiers of local residents and highway safety/access/parking.

5.2 Principle of Development

- 5.2.1 Policy S1 refers to the NPPF's presumption in favour of sustainable development and makes specific reference to the local economy, housing growth, effective use of land, prioritising development on previously developed land, design, the environment, sustainable communities, the effects of climate change, avoiding flood risk area, the historic environment, local infrastructure and services, character and appearance, minimising need to travel.
- 5.2.2 Policy S5 states that proposals for retail, office, housing, community, leisure uses and other town centre uses will be supported where they contribute to the regeneration and diversification of Maldon Town Centre.
- 5.2.3 The application site is in a mixed-use area within the Town of Maldon and, therefore, the principle of the development is not unacceptable in principle, subject to an assessment of the proposal as set out below.

- 5.2.4 The market helps to strengthen and maintain the role of Maldon town centre by improving the range of retailing which helps to promote the vitality and viability of the town centre environment. There has been planning permission for a market use since 2004. The application is therefore acceptable in principle.
- 5.2.5 The Government advises against granting repetitive temporary planning permissions. As part of the NPPG Use of Planning Conditions, it states that *‘Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.’* Such circumstances do not apply in this case and, therefore, granting a permanent planning permission for the development proposed is considered appropriate.

5.3 Design and Impact on the Character of the Area

- 5.3.1 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.

- 5.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:

“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.

- 5.3.3 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.

- 5.3.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.3.5 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to desirability of preserving or enhancing the character or appearance of the conservation area. Similarly, policy D3 of the approved Maldon District Local Development Plan states that development proposals that affect heritage assets must preserve or enhance its special character, appearance, setting and any features and fabric of architectural or historic interest. Where a proposed development would cause less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 5.3.6 Maldon is historically a market town and there is no objection to the continued use of part of the Butt Lane Car Park to hold the Maldon retail market. The proposed change of use is considered to improve the vitality and viability of the Maldon Town Centre, and therefore is considered to promote the overall vitality of the town centre environment which in turn contributes to the character of Maldon Conservation Area. As such, the proposal is not considered to have a detrimental impact on the special character of the Maldon Conservation Area.
- 5.3.7 The Conservation Officer raises no objection to the proposal.

5.4 Impact on Residential Amenity

- 5.4.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).
- 5.4.2 The proposed market spaces are located within close proximity to residential properties at Old Mill Close and Wenlock Way, as a result the impact of the proposed use on the residential amenity of the occupiers of these properties has been assessed.
- 5.4.3 The change of use would result in an intensification of the use site by increasing the area permitted to be covered by the Saturday market, and, therefore, a potential increase in noise disturbance to local residents. However, given the limited time the proposed use would operate each week and the busy town centre location of the site, it is considered that the use proposed would not cause demonstrable harm to local residents by reason of noise disturbance.
- 5.4.4 Furthermore, the Environmental Health Officer raises no objection to the proposal on the basis that no complaints regarding the existing use have been received.
- 5.4.5 Whilst not referred to by the Environmental Health Officer in response to the current application, a condition requiring that no amplified music is played could be imposed in the interests of protecting the amenity of local residents.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposal, inter alia, to include 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.
- 5.5.2 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards.
- 5.5.3 It is acknowledged that the use would result in car parking spaces being unavailable on market days. However, there is no evidence to suggest that the use of the site has resulted in any on-street car parking, detrimental to the free flow of traffic or highway safety. Furthermore, taking into account the overall number of car parking spaces available within the town centre as a whole and the economic benefits of there being a market within the town centre, no objection to the proposal on the basis of car parking is raised.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/04/00971** - Change of use of part of car park to Maldon retail market, 2 days per week (Thursday and Saturday). Approved - 09.12.2004.
- **FUL/MAL/06/01022** - Continued use of part of car park as retail market on 2 days per week (Thursday and Saturday). Approved - 28.11.2006.
- **FUL/MAL/07/00469** - Change of use of part of car park to Retail Market for 2 days per week (Thursday and Saturday) until 31 August 2008. Approved - 30.07.2007.
- **FUL/MAL/08/00643** - Use of part of car park for Maldon retail market 2 days per week (Thursday and Saturday) until 31 August 2010. Approved - 29.07.2008.
- **FUL/MAL/10/00401** - Use of part of car park for Maldon retail market 2 days per week (Thursday and Saturday) until 31 August 2012. Approved 10.08.2010.
- **FUL/MAL/11/00344** - Continuation of use of part of car park for Maldon retail market 2 days per week (Thursday and Saturday) until 31 August 2013. Approved 23.06.2011.
- **FUL/MAL/13/00448** - Change of use for Market stalls 2 days a week. Approved 26.06.2013.
- **FUL/MAL/15/00809** - Change of use of part of car park to Maldon retail market 2 days a week (Thursdays and Saturdays) until 31 August 2016. Approved 8 September 2016.
- **FUL/MAL/16/00664** - Change of use of part of Butt Lane car park to Maldon Retail Market 1 day a week (Saturdays) until 31 August 2017. Approved 25 August 2016

- **FUL/MAL/16/00665** - Change of Use of part of Butt Lane car park to Maldon Retail Market 1 day a week (Thursdays) until 31 August 2017. Approved 25 August 2016
- **FUL/MAL/17/00647** - Change of use of part of car park to Maldon retail market on a Thursday until 31 August 2019. Approved 07.08.2017
- **FUL/MAL/17/00648** - Change of use of part of car park to Maldon retail market on a Saturday until 31 August 2019. Approved 09.08.2017

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Maldon Town Council	Recommends approval	Noted

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Highways	No objection	Noted

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	No objection - proposal would cause no harm to the significance of conservation area and would effectively preserve the area's special character.	Noted – refer to section 5.3 of report
Environmental Health Officer	No complaints received from nearby residents about the market. Therefore, no objection raised to the market being permanent	Noted – refer to section 5.4 of report
Urban Design	No objection	Noted – refer to section 5.3 report

7.4 Representations received from Interested Parties

7.4.1 No representations received.

8. PROPOSED CONDITIONS

1. The development hereby permitted shall be carried out in complete accordance with the approved Location Plan specifically referenced on this decision notice as well as the submitted detailed specifications.
REASON To ensure that the development is carried out in accordance with the details as approved in accordance with policies D1 and D3 of the MDLDP and the NPPF.
2. The Maldon retail market hereby permitted shall operate only between the hours 06:30 to 17:30 on Thursdays and/or Saturdays only with no setting up of any stall prior to 06:30. All stalls and related equipment shall be removed from the site prior to 17:30 hours on each day.
REASON In the interests of the amenity of local residents in accordance with Policy D1 of the MDLDP and the NPPF.
3. There shall be no amplified sound used within the site edged in red on the Location Plan.
REASON In the interests of the amenity of local residents in accordance with Policy D1 of the MDLDP.

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**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**
to
CENTRAL AREA PLANNING COMMITTEE
23 JANUARY 2019

Application Number	FUL/MAL/18/01365
Location	South Embankment Northey Island Maldon
Proposal	Removal of concrete blocks facing embankment. Infilling of borrow ditch and lowering of embankment to allow saltmarsh habitat creation behind (0.15ha). Construction of closing bank to prevent flooding to adjacent field to east. Repair to section of embankment to west.
Applicant	Mrs Nina Crabb - The National Trust
Agent	Mrs Nina Crabb - The National Trust
Target Decision Date	12/02/19
Case Officer	Kathryn Mathews
Parish	MALDON EAST
Reason for Referral to the Committee / Council	Major application Member call-in by Councillor Miss Miriam R Lewis in the public interest - particularly concerned about the conflict with our SMP and the adopted "hold the line" position. Member call-in by Councillor Mrs Brenda D Harker in the public interest. Member call-in by Councillor Stephen J Savage at the request of Maldon Town Council and public interest.

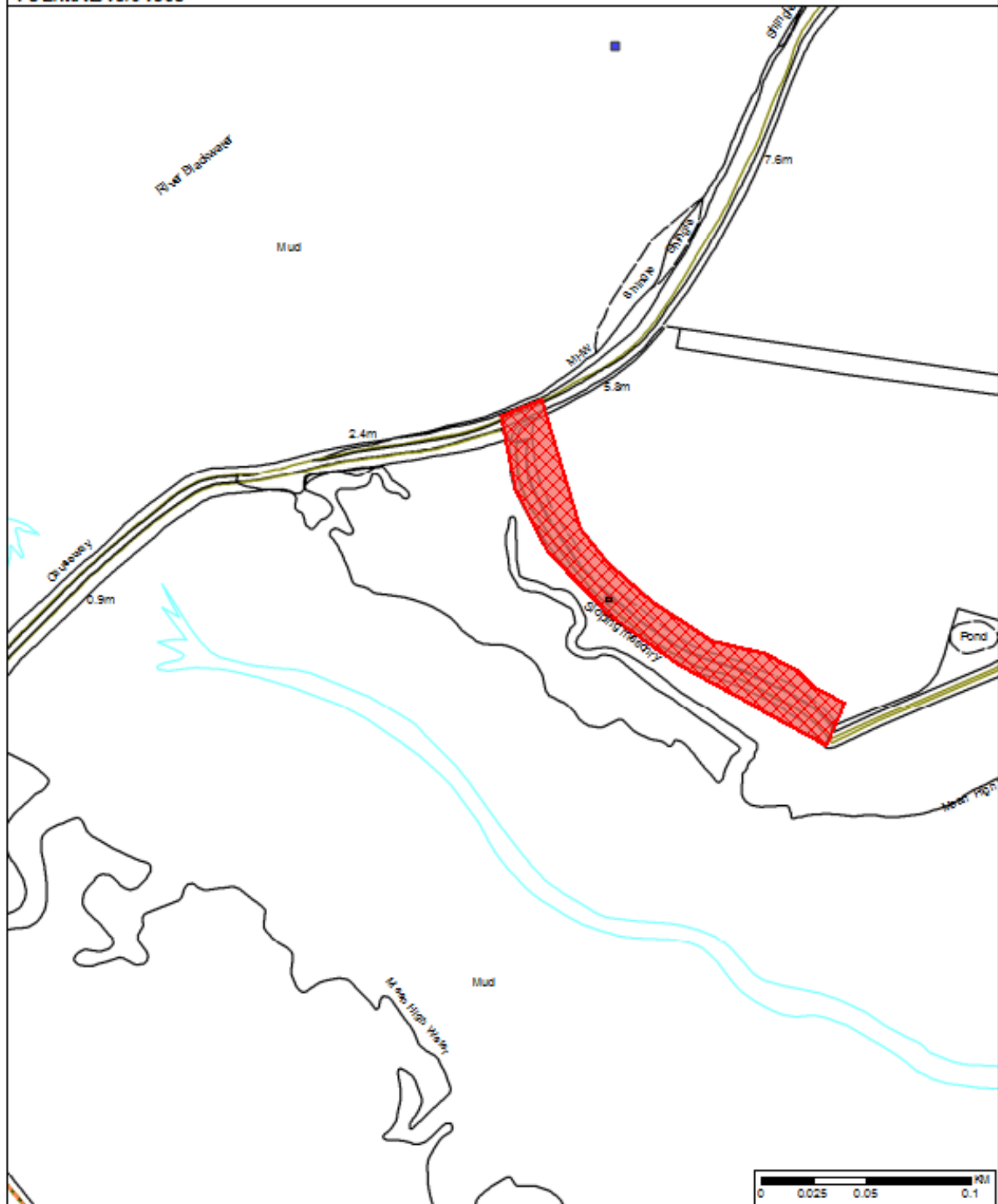
1. RECOMMENDATION


APPROVE subject to the conditions (as detailed in Section 8 of this report).

2. SITE MAP

Please see overleaf.

South Embankment Northey Island
FUL/MAL/18/01365



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Central Area Committee
	Date:	04/01/2019
	MSA Number:	100018588

www.maldon.gov.uk

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The project would be located at the South Embankment of Northey Island which runs from the island's causeway towards the southeast, parallel to Southey Creek. The project area is defined by the existing South Embankment, with a borrow ditch to the north/landward side along with an area of grassland grazed by cattle; there is saltmarsh to the south/seaward side. The South Embankment is a grassed earth embankment armoured with 'Essex blocks' (precast concrete blocks bound with bitumen/asphalt) on its seaward side. Part way along the South Embankment there is a sluice with a tidal flap valve that drains water (rainwater and seawater overtopped to the ditch) to the estuary. There are two dwellings on the Island.
- 3.1.2 The site is located within the following designated sites:- Blackwater Estuary Ramsar site, Blackwater Estuary Special Protection Area (SPA), Blackwater Estuary SSSI, and Blackwater Estuary Special Area of Conservation. These sites all fall within the wider designation of the Blackwater, Crouch Roach and Colne Estuaries Marine Conservation Zone (MCZ).
- 3.1.3 The proposal is for the removal of concrete blocks facing the embankment, infilling of the borrow ditch and lowering of the embankment to allow saltmarsh habitat creation behind (approximately 0.15ha). The proposal also includes the construction of a closing bank to prevent flooding of the adjacent field to the east and repairs to a section of embankment to the west.
- 3.1.4 The proposal consists of the following elements:
- Stripping topsoil from South Embankment and within the borrow ditch.
 - Existing trees/scrub and fencing (barbed wire fence) to be removed. Top soil to be re-used and fencing will be re-instated
 - Removing existing concrete blocks and disposal off-site
 - Lowering crest level of 150m of the South Embankment by around 1m to allow periodic tidal inundation – sections of the Embankment will be retained at either end to protect low lying land to the east and prevent inundation at the landward end of the causeway at the western end (a 'low point' of the existing Embankment immediately adjacent to the Causeway would also be raised)
 - Infilling existing borrow ditch reusing material from the crest lowering to a depth of around 1m
 - Reusing soils to create an undulating land profile in-keeping with natural ground
 - Construct 18m of new Closing Bank towards south-eastern end of site to tie-in to natural high ground – crest level +4.00 to +4.66, crest width 1.5m and 1:4 sides
- 3.1.5 To prevent the need to import or export material from the site, an additional length of Embankment (20m) to the east for potential lowering and additional areas for infilling have been included within the application site but would only be included within the proposed works on site if needed.

- 3.1.6 The aim of the works is to create new higher-level saltmarsh (approximately 750sq.m.) and transitional saltmarsh/terrestrial habitat (approximately 950sq.m.) to enable natural adaption to long term sea level rise. It is understood that the South Embankment is currently contributing to fronting salt marsh loss due to coastal squeeze. The area of the application site is stated as being 1.01ha
- 3.1.7 Access to the site would be via Mundon Road, South Chase Farm and across the tidal causeway. The applicant envisages that site workers/visitors will park at the existing informal parking area on the landward side of the causeway – a maximum of five at a time. Plant and machinery would arrive by road on a low-loader or by water and then be driven across the causeway to the island. Excavators are to be used for the proposed earthworks.
- 3.1.8 The application is accompanied by a Design and Access Statement including Planning Statement (14 June 2018) and the following documents (a brief summary of their contents is provided):

Habitats Regulations Assessment Screening Report June 2018

Concludes that the works will not have a likely significant effect, either alone or in combination, with other plans and projects on the qualifying features or conservation status of the Blackwater Estuary (Mid Essex Phase 4) SPA and Ramsar site, or the Essex Estuaries SAC.

Contamination Risk Assessment 12 June 2018

The only likely issue is with the bitumen which binds the gaps between the existing Essex block and contains low grade asbestos but this would be removed by specialist contractors.

Construction Environmental Management Plan 28 June 2018

This document is to be reviewed as work progresses and includes 1) timing of work 2) measures to prevent disturbance, pollution or impacts on habitats and 3) details of mitigation measures.

Water Framework Directive Compliance Assessment 12 June 2018

- The WFD applies to all water bodies that have the potential to be affected by a scheme.
- The nearest water bodies are the Blackwater transitional water body and Essex gravels groundwater body.
- The bitumen which binds the gaps between the existing Essex block contains low grade asbestos but would be removed by specialist contractors.
- The compliance assessment includes three stages (screening, scoping and impact assessment) and concludes that there is no potential to adversely affect the water bodies subject to mitigation measures to be included within the Construction Environmental Management Plan.

Tree Identification Survey 25 June 2018

No trees are to be removed only a discontinuous line of a small number of Hawthorn and Blackthorn scrub to the rear of the existing Embankment.

Landscape and Visual Impact Assessment June 2018:-

The site is within the Northey Island Drained Estuarine Marsh Local Character Area and open views across the Estuary, including Northey Island, are possible all along the coastline although vegetation obscures views in some locations. Overall, the proposal would have a neutral impact on the landscape as the construction period would be temporary (3 months) and the proposal would not fundamentally alter any characteristic of the landscape – the elements which involve raising ground levels will tie into higher ground and would be no higher than existing embankments.

Extended Phase 1 Ecological Assessment October 2015 and Extended Phase 1 Habitat Survey 25 June 2018 (updates the 2015 Assessment):-

Unlikely there would be significant effects on legally protected habitats or species including water voles, common birds and common reptiles subject to mitigation measures being in place such as removal of existing vegetation outside the bird nesting season.

Flood Risk Assessment 12 June 2018:-

The project involves a planned increase in flood risk but the rising land to the rear of the Embankment will limit inundation further landward (north). The proposal is in-keeping with defences elsewhere around Northey Island, the flood risk to adjacent land is not predicted to increase, the application site represents a very small part of the Estuary, tidal flood risk elsewhere in the Estuary would not be affected and the land is likely to be inundated in the future in any event as the Environment Agency is not going to maintain the Embankment which is already in a poor condition – the proposal will manage and control flood risk.

Archaeological Survey Programme

A pre-works magnetometer survey is to be carried out to identify the potential for buried objects within the footprint of the earthworks. In addition, a programme of archaeological monitoring and recording will take place during any works involving ground disturbance in the form of an archaeological watching brief and/or by means of implementing a protocol for reporting archaeological finds.

- 3.1.9 The Crown Estate has confirmed (May 2018) that it has no ownership interests that could affect, or be affected by, the proposed works and it is understood that an application for a Marine Licence for the proposed works was made in June 2018 to the Marine Management Organisation.

3.2 Conclusion

- 3.2.1 It is considered that the proposal is acceptable having assessed the principle of the development, the impact on the character and appearance of the area, the impact on the amenity of the occupiers of local residences, highway issues, contamination, nature conservation, flood risk/drainage and archaeology.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2018 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
- 102-111 Promoting sustainable transport
- 117-118 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
- 184-192 Conserving and enhancing the historic environment

4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:

- Policy S1 - Sustainable Development
- Policy S8 - Settlement Boundaries and the Countryside
- Policy D1 - Design Quality and Built Environment
- Policy D2 - Climate Change & Environmental Impact of New Development
- Policy D3 - Conservation and Heritage Assets
- Policy D5 - Flood Risk and Coastal Management
- Policy N1 - Green Infrastructure Network
- Policy N2 - Natural Environment, Geodiversity and Biodiversity
- Policy T1 - Sustainable Transport
- Policy T2 - Accessibility

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

- 5.1 It is considered that the main issues which would require consideration as part of the determination of this planning application are the principle of the development, the impact on the character and appearance of the area, any impact on the amenity of local residents, highway issues, contamination, nature conservation and flood risk/drainage. Archaeology would also be a relevant material consideration.

It has already been determined (reference SCR/MAL/18/00322) that the development does not require an Environmental Impact Assessment. The Marine Management Organisation has also determined that an EIA is not required under the Marine Works (Environmental Impact Assessment) Regulations 2007.

5.2 Principle of Development

- 5.2.1 Policy S1 refers to the NPPF's presumption in favour of sustainable development and makes specific reference to the local economy, housing growth, effective use of land, prioritising development on previously developed land, design, the environment, sustainable communities, the effects of climate change, avoiding unjustified development in flood risk areas, the historic environment, local infrastructure and services, the character and appearance of development, and minimising the need to travel.
- 5.2.2 Subject to the assessment of the proposal against all relevant material considerations, as set out below, it is not considered that the proposal, due to its nature, scale and extent, is unacceptable in principle.

5.3 Design and Impact on the Character of the Area

- 5.3.1 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.
- 5.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF.

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.

- 5.3.3 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).

- 5.3.4 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.
- 5.3.5 The proposal would have an impact on the character and appearance of the estuarine environment which is sensitive to change. The application submitted has been accompanied by a Landscape Visualisation Impact Assessment (LVIA). The Maldon District Landscape Character Assessment identifies Northey Island as being a distinct landscape character area - Northey Island Drained Estuarine Marsh. The sea walls, ditches and dykes are identified as 'key characteristics' of this character area and the area as being highly sensitive to change. The Landscape Strategy Objectives include conservation of features that contribute to local distinctiveness which obviously includes the ditches and dykes as key characteristics. Managed realignment should aim to maintain as much of the characteristic landscape features as possible.
- 5.3.6 Officers agree with the conclusions of the LVIA submitted i.e. that the proposal would have a neutral impact on the landscape as the construction works would be temporary, the proposal is of limited geographical extent in the context of the Estuary and the proposal would not fundamentally alter any characteristic of the landscape – the elements which involve raising ground levels will tie into higher ground and would be no higher than existing embankments.
- 5.3.7 The loss of existing vegetation would have a negative impact on the character and appearance of the area but, due to its nature and extent, this impact would not be significant enough to justify a refusal of planning permission.

5.4 Impact on Residential Amenity

- 5.4.1 Policy D1 requires that all development must protect the amenity of surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.4.2 It is understood that there are two dwellings on the Island but that neither of which are located in close proximity to the part of the Island which would be subject to the proposed works. Therefore, subject to the imposition of conditions to cover the construction period to minimise noise, pollution and disturbance, it is not anticipated that the proposal would have a materially adverse impact on the amenity of the occupiers of these dwellings. Furthermore, based on the Flood Risk Assessment submitted, these dwellings will be at no greater risk of flooding as a result of the proposed works.

5.5 Access, Parking and Highway Safety

- 5.5.1 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.

- 5.5.2 The proposal would only give rise to highway safety and parking issues during the construction works. Machinery and equipment required to carry-out the works would need to be delivered to the site but there would be no import/export of material to/from the site. Parking for workers' vehicles would be provided within an existing informal parking area at the landward end of the causeway and the applicant has advised that there would be no more than five vehicles parked at any one time. Essex County Council Highways have raised no objection to the proposed works.
- 5.5.3 Based on the above, no objection is raised to the proposed on the basis of access, parking or highway safety.

5.6 Flood Risk and Drainage

- 5.6.1 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.
- 5.6.2 Based on the Environment Agency website, with respect to Flood Risk, at least part of the site lies within tidal Flood Zone 3 (high risk). Part of the site also appears to be at high risk from surface water flooding and at risk of flooding from reservoirs. The development would be classified as 'water compatible' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. The application has been accompanied by a Flood Risk Assessment.
- 5.6.3 The Environment Agency has raised no objection to the proposals as the area of saltmarsh habitat is small and any issues are likely to be short term in nature. The Agency has advised that there could be slightly more siltation initially as a result of the proposed change with the removal of the sea wall. However, this effect is unlikely to be significant due to the size of the application site in relation to the larger tidal prism and currents of the wider Blackwater estuary. The Agency states that the *'proposal presents an opportunity to create saltmarsh which offsets short term increases in sediment mobilisation. Saltmarsh and intertidal habitats are lost over time due to sea level rise. This particularly happens in front of seawalls when erosive forces of currents rebound off these hard walls and scour out saltmarsh. In addition, the steepness of the walls themselves means there is no allowance for any natural rolling forward of the saltmarsh and intertidal habitats on to higher ground (often known as coastal squeeze). Whilst there is a small short term risk of more mobile sediment in the first couple of years, the proposed development is an opportunity to create saltmarsh and intertidal habitat which will allow more natural processes to resume, thus reducing saltmarsh and mudflat erosion in the longer term. The estuary processes will soon return to an equilibrium. In the longer term, without realignment sites creating opportunities such as these, more sediment is likely to be mobilised as saltmarsh is eroded into loose, mobile mud. This removal of a short length of seawall gives a small opportunity to create more stable, higher saltmarsh where sediment can be allowed to build up sustainably and stabilize rather than be lost to the tide.'*

- 5.6.4 There is a 'hold the line' policy for flood defences for the part of the Blackwater Estuary within which Northey Island is located and Northey Island has not been identified as an area for managed retreat as part of the Essex and Suffolk Shoreline Management Plan (SMP2). The proposal would be in conflict with this 'hold the line' policy.
- 5.6.5 In response to this issue, the applicant argues that the proposed works are compliant with the intent of the SMP2. They advise that the proposed new Closing Bank will provide flood and erosion defence to the fields to the east (thereby protecting existing commercial interests (tenanted farm land) and properties) and that the need to vary from the SMP2 policy in this case is twofold:-
- (1) Given the Environment Agency's formal advice that it will no longer maintain the embankment, there is a need to manage the inevitable embankment failure and subsequent tidal inundation in a pro-active and controlled manner.
 - (2) Given the net loss of inter-tidal habitat from the Blackwater Estuary, there is a need to create new areas of these habitats that will be sustained into the future.
- 5.6.6 Furthermore, the SMP2 is a non-statutory document intended to inform land use planning decisions in areas potentially at risk from sea flooding and coastal erosion and which identifies a generic shoreline management policy of 'Hold the Line' of existing defence for Northey Island as a whole. It is also noted that the Environment Agency has not raised any objections to the proposal.
- 5.6.7 The proposal would be contrary to the SMP2 policy for the management unit, but the proposal has been supported by evidence of the need to vary from it and that there would be no adverse impact on the estuary, environment, ecology and the flood risk to others. The SMP2 is a non-statutory, aspirational document, but is used to inform future management options for the coast as well as planning matters. On this basis, given the small scale of the works in relation to the Estuary as a whole and that the proposed works would only affect the flood risk associated with the applicant's own land, it is not recommended that planning permission is refused in this case due to conflict with the 'hold the line' policy for this part of the Blackwater Estuary.
- 5.6.8 The Emergency Planner recommends that a condition is imposed requiring a flood warning and evacuation plan which is recommended below for the construction period.

5.7 Nature Conservation

- 5.7.1 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.
- 5.7.2 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.
- 5.7.3 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).

- 5.7.4 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.
- 5.7.5 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.
- 5.7.6 The site adjoins the Blackwater Estuary and is within nationally and internationally designated sites for nature conservation. The application is accompanied by an Ecological Assessment which concludes that it is unlikely there would be significant effects on legally protected habitats or species including water voles, common birds and common reptiles subject to mitigation measures being in place such as the removal of existing vegetation outside the bird nesting season. The application is also accompanied by a Habitats Regulation Assessment which concludes that the works will not have a likely significant effect, either alone or in combination, with other plans and projects on the qualifying features or conservation status of the Blackwater Estuary (Mid Essex Phase 4) SPA and Ramsar site, or the Essex Estuaries SAC.
- 5.7.7 Natural England has no objection to the proposal and are generally supportive of the scheme to create new intertidal and saltmarsh habitat. However, they draw attention to the implications of a recent ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of People Over Wind and Sweetman vs Coillte Teoranta (ref: C 323/17). The case relates to the treatment of mitigation measures at the screening stage of a HRA when deciding whether an appropriate assessment of a plan/project is required. The Court's Ruling goes against established practice in the UK that mitigation measures can, to a certain degree, be taken into account at the screening stage.
- 5.7.8 Natural England have advised that, provided the appropriate Habitats Regulations Assessment is undertaken by the Local Planning Authority, as Competent Authority in this case, and the development is undertaken in strict accordance with the details submitted, it is not likely to damage the interest features for which the site has been notified. However, this is on the basis of the mitigation measures as outlined, in particular the restriction of works to outside of the period October-March. Natural England also seek clarification as to whether the works are as a result of necessary and direct management of the site and the definitive justification as to why the proposal is needed.
- 5.7.9 Officers have carried-out an independent HRA which reaches the conclusion that Based on the above, it is considered that the proposal would not have an adverse impact on nature conservation.

5.8 Other Matters

Contamination

- 5.8.1 One of the requirements of Policy D2 of the LDP is that, where appropriate, development will include measures to remediate land affected by contamination.
- 5.8.2 NPPF paragraph 170 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 178).
- 5.8.3 The Contamination Report which accompanies the application concludes that the only likely contamination issue is with the bitumen which binds the gaps between the existing Essex blocks which contain low grade asbestos but this would be removed by specialist contractors. The Environmental Health Officer has raised no objections to the proposal.
- 5.8.4 On the basis of the above, it is considered that the proposed works should not result in any adverse contamination issues.

Archaeology

- 5.8.5 Policy D3 requires that, where development might affect geological deposits, archaeology or standing archaeology, an assessment from an appropriate specialist source should be carried out.
- 5.8.6 Essex County Council Archaeology have advised that the proposed development site is located on the southern edge of Northey Island and that the Environmental Screening Report submitted with the application has identified the site as having potential for archaeological remains, relating both to the history of the marsh and Northey Island and to the Battle of Maldon and the adjacent Registered Battlefield. The submitted report recommends archaeological monitoring and recording of the groundworks and the setting-up of a protocol of reporting any further features or finds that may be uncovered. ECC Archaeology are in favour of this approach and recommend that, as archaeological features are both fragile and irreplaceable, a full archaeological condition for archaeological monitoring and recording is attached to the planning consent. This is in line with advice given the NPPF.
- 5.8.7 Based on this advice, subject to the imposition of a condition requiring a full archaeological investigation, it is considered that the proposal is acceptable from an archaeology perspective.

Essex and Suffolk Water

- 5.8.8 Councillor S J Savage has suggested that there is a need to secure a financial S106 contribution as part of the current proposal towards the cost of dredging which Essex and Suffolk Water pay for every year due to their Langford works. He suggests that the current proposal would add to the silt held in suspension and needing to be dredged as the Island is *'fast disappearing on the other side'*. However, Essex and Suffolk Water have not commented on the proposal and, as already referred to above, the Environment Agency has advised that the *'proposal presents an opportunity to*

create saltmarsh which offsets short term increases in sediment mobilisation. ...Whilst there is a small short term risk of more mobile sediment in the first couple of years, the proposed development is an opportunity to create saltmarsh and intertidal habitat which will allow more natural processes to resume, thus reducing saltmarsh and mudflat erosion in the longer term. The estuary processes will soon return to an equilibrium. In the longer term, without realignment sites creating opportunities such as these, more sediment is likely to be mobilised as saltmarsh is eroded into loose, mobile mud. This removal of a short length of seawall gives a small opportunity to create more stable, higher saltmarsh where sediment can be allowed to build up sustainably and stabilize rather than be lost to the tide. ' The issue of the need for dredging is a private matter between the National Trust and Essex and Suffolk Water.

- 5.8.9 Based on the above, it is considered that a financial contribution towards the cost of dredging by Essex and Suffolk Water is neither necessary nor reasonable.

6. **ANY RELEVANT SITE HISTORY**

- **SCR/MAL/18/00322** - Request for a Screening Opinion to determine the requirement for an Environmental Impact Assessment (EIA) for Retention of 30m of embankment at Northey Island causeway, with local raising of crest level at a low point. Construction of a new closing bank to tie in the high ground. Lowering crest of 'South embankment' to allow periodic tidal inundation onto small area of backing land to create salt marsh and transitional habitat. Infill borrow ditch behind 'South embankment' – EIA not required 27/04/2018

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 **Representations received from Parish / Town Councils**

Name of Parish / Town Council	Comment	Officer Response
Maldon Town Council	Objects as would result in further loss of the island	Noted but, as the Environment Agency will no longer be maintaining the South Embankment, it is predicted that the Embankment will not continue to protect the Island from inundation in any event

7.2 **Statutory Consultees and Other Organisations**

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Highways	No objection	Noted

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County SUDS Team	No objection provided that a permeable surface is used for the car park	Noted – the car park is an existing informal area which is not proposed to be physically altered as part of the proposal
Essex County Archaeology	Recommends a full archaeological condition for archaeological monitoring and recording is attached to the planning consent.	Noted – refer to section 5.9 of report
Natural England	To follow	Refer to section 5.8 of report
Environment Agency	No objections to the proposals as the area of saltmarsh habitat is small and any issues are likely to be short term in nature.	Noted – refer to section 5.7 of report
Anglian Water Services	No response	
Essex and Suffolk Water	No response	
Public Footpath Officer	No response	
RSPB	No response	
Essex Wildlife Trust	No response	

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection but would be helpful if notice could be given of when the works are to take place as this department takes shellfish samples at various locations on a monthly basis as part of the monitoring for bed classification purposes.	Noted – refer to section 5.9 of report. An informative could be added to any planning permission granted relating to giving notice of the works commencing
Emergency Planner	Development within Flood Zone 3 so recommends a condition requiring a flood warning and evacuation plan	Noted – refer to section 5.7 of report

7.4 Representations received from Interested Parties

- 7.4.1 **One** letter was received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Will impact on their farming activities at South House Farm and Northey Island and no proper consultation has occurred	Noted but these are matters to be resolved privately by the objector with the National Trust. The application has been publicized by the local planning authority as required.

8. PRE-COMMENCEMENT CONDITIONS

- 8.1 Pre-commencement conditions (relating to flood risk, archaeology and construction management) are recommended and the applicant/agent was written to on 7 January 2019 to advise of the intention to use these conditions. If no response or no objection is received by 21 January 2019, the Local Planning Authority is able to impose the suggested conditions.
- 8.2 It is considered that the pre-commencement condition relating to flood risk is necessary on the grounds that, as the site lies within an area of high flooding probability, a Flood Warning and Evacuation Plan for the construction period, is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.
- 8.3 It is considered that the pre-commencement conditions relating to archaeology are necessary on the grounds that, as the site lies within an area of archaeological potential, a full archaeological condition for archaeological monitoring and recording, is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.
- 8.4 It is considered that the pre-commencement condition relating to a construction management plan is necessary on the grounds that, as the site lies within an area of flood risk and significant nature conservation interest, a construction environmental management plan is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

9. PROPOSED CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON To comply with Section 91(1) The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Location plan; Block plan; PB7778-1001 rev.P3; PB7778-1002 rev.P1; PB7778-1005 rev.P1; PB7778-1011rev.P1; PB7778-1010revP1 and the mitigation measures in the supporting documents: Contamination Risk Assessment 12 June 2018, Water Framework Directive Compliance Assessment 12 June 2018, Extended Phase 1 Ecological Assessment October 2015 and Extended Phase 1 Habitat Survey 25 June 2018.
REASON To ensure that the development is carried out in accordance with the details as approved.

- 3 No works shall take place until a Flood Warning and Evacuation Plan has been fully implemented in accordance with details which shall have been submitted to and gained the prior written approval of the local planning authority.
REASON As the site is located within Flood Zone 3, in the interests of minimising flood risk, in accord with Policies S1 and D5 of the Maldon District Approved Local Development Plan (MDALDP) and the NPPF.
- 4 No development including any site clearance or groundworks of any kind shall take place within the site until an archaeological assessment by an accredited archaeological consultant to establish the archaeological significance of the site has been submitted to and approved in writing by the local planning authority. Such archaeological assessment will inform the implementation of a programme of archaeological work.
REASON As the site lies within an area of known archaeological potential, in accordance with Policy D3 of the MDALDP and NPPF.
- 5 No development of any kind shall take place within the site until the implementation of a programme of archaeological recording from an accredited archaeologist has been secured in accordance with a written scheme of investigation which has been submitted to and gained the prior written approval of the local planning authority. The development shall be carried out in a manner that accommodates the approved programme of archaeological work.
REASON As the site lies within an area of known archaeological potential, in accordance with Policy D3 of the MDALDP and the NPPF.
- 6 Other than temporary fencing during the construction period, no new fencing or other means of enclosure shall be erected within the site unless details of the location, height, materials and design of the fencing has been submitted to and gained the prior written consent of the local planning authority. The development shall be completed in accordance with the approved details.
REASON In the interest of the character and appearance of the area in accordance with policies D1, S1 and S8 of the approved Local Development Plan and guidance contained within the NPPF.
- 7 No floodlighting or other external form of illumination of the site shall be undertaken, during construction or operation, without the express consent of the local planning authority.
REASON In order to minimise light spillage in the interests of the character and appearance of the rural area within which the site is located and the adjoining wildlife habitats, in accordance with the NPPF and Policies D1, N1 and N2 of the MDALDP.
- 8 No construction works shall be carried out during the months of October to March (inclusive) unless details of the works, along with any necessary measures to mitigate the impact of the works on the internationally and nationally designated sites (SPA, Ramsar and SSSI), have been submitted to and gained the prior approval in writing of the local planning authority. The work shall be completed in accordance with the approved details.
REASON In order to ensure that the development does not result in significant effects on, in accordance with the NPPF and Policies N1 and N2 of the MDALDP.
- 9 No development including any site clearance or groundworks of any kind shall take place until an up-to-date version of the Construction Environmental Management Plan 28 June 2018 has been submitted to and approved in writing

by the local planning authority. The development shall be carried-out in accordance with the approved Plan.

REASON To prevent disturbance pollution and impacts on habitats in accordance with Policies S1, S8, D1, D5, N1 and N2 of the MDALDP and the NPPF.

INFORMATIVES

1. The Council's Environmental Health Team have advised that it would be helpful if notice could be given of when the works are to take place as that department takes shellfish samples at various locations on a monthly basis as part of the monitoring for bed classification purposes.

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