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

20 May 2019

Dear Councillor

You are summoned to attend the meeting of the;

CENTRAL AREA PLANNING COMMITTEE

on **WEDNESDAY 29 MAY 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 M S Heard

VICE-CHAIRMAN

Councillor S P Nunn

COUNCILLORS

Miss A M Beale
M R Edwards
B E Harker
K M H Lagan
C Mayes
C Morris
N G F Shaughnessy
Mrs J C Stilts
C Swain

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 29 MAY 2019

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

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 12)

To confirm the Minutes of the meeting of the Committee held on 20 March 2019 (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/19/00080 - Former Mill, Station Road, Maldon**~~ (Pages 13 - 40)

PLEASE NOTE this item was included on the agenda in error

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

6. **FUL/MAL/19/00092 - Adventure Golf Course, The Promenade Park, Park Drive, Maldon** (Pages 41 - 52)

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

7. **FUL/MAL/19/00201 - Adventure Golf Course, The Promenade Park, Park Drive, Maldon** (Pages 53 - 66)

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

8. **MAL/19/00228 - Riverscourt, Beeleigh Road, Maldon** (Pages 67 - 84)

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

9. **HOUSE/MAL/19/00354 - 2 Queens Avenue, Maldon, Essex** (Pages 85 - 96)

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

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

Reports for noting:

In accordance with the Council decision (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 – 9.
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
- 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 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) - 2018
- Planning Practice Guidance (PPG)
- Planning policy for Traveller sites - 2015
- Relevant government circulars
- Relevant Ministerial Statements (as referred to in the report)
- Essex and South Suffolk Shoreline Management Plan – October 2010

ii) Essex County Council

- Essex Design Guide 1997 (Note: superseded by Maldon District Design Guide 2018)
- Essex and Southend on Sea Waste Local Plan 2017
- Essex Minerals Local Plan 2014

iii) Maldon District Council

- Five Year Housing Land Supply Statement 2017 / 18
- Maldon District Design Guide – 2017
- Maldon and Heybridge Central Area Masterplan - 2017
- 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 (adapted as Supplementary Planning Document (SPD) 2018)
- Vehicle Parking Standards SPD - 2018
- Renewable and Low Carbon Technologies SPD – 2018
- Maldon District Specialist Housing SPD – 2018
- Affordable Housing and Viability SPD – 2018
- 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 SPD - 2010
- Heybridge Basin Village Design Statement – 2007
- Wickham Bishops Village Design Statement – 2011
- Woodham Walter Village Design Statement – 2011
- Althorne Village Design Statement
- Woodham Walter Village Design Statement
- Various Conservation Area Appraisals

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
20 MARCH 2019**

PRESENT

Chairman	Councillor B E Harker
Vice-Chairman	Councillor Miss M R Lewis
Councillors	Miss A M Beale, I E Dobson, Mrs B D Harker, M S Heard, M R Pearlman, S J Savage, Mrs N G F Shaughnessy and Rev. A E J Shrimpton
Ex-Officio Non- Voting Member	Councillor(s) Mrs P A Channer, CC

965. CHAIRMAN'S NOTICES

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

966. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor A T Cain.

967. MINUTES OF THE LAST MEETING

RESOLVED

- (i) that the Minutes of the meeting of the Committee held on 20 February 2019 be received.

Minute No. 882 – FUL/MAL/18/01473 – Unit 4, The Promenade Park, Park Drive, Maldon

Members queried the level of detail including content for this Minute and requested that the tape from the meeting was reviewed in order for this Minute to be amended.

Subsequent to the meeting, following review of the recording at the request of the Committee, the amendment to the Minute was to be amended as follows:

“The Committee received the Officer’s presentation.

A discussion ensued where Members felt that it was unfortunate that the unit has been allowed to be used for a use that was unlawful. It was also considered that there were ample eateries within The Promenade Park.

The Committee noted the Members' Update which referenced a letter of objection to this application.

The Chairman put the Officer's 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:"

Minute No. 883 – ADV/MAL/18/01473 – The Promenade Park, Maldon

Subsequent to the meeting, following review of the recording, as requested by the Committee, the amendment to the Minute was to be amended as follows:

"The Committee received the Officer's presentation.

Members acknowledged that the park had changed over the last fifteen years and queried whether the sign was in keeping with the surrounding area. There was further concern as to whether the advertisements displayed could be controlled. The Development Control Team Leader, Planning, advised that the sign is lawful and does not require planning permission for advertising council events and operations, however advertising consent was necessary for non-council operations.

Councillor S J Savage proposed that the Advertisement Consent be refused for the reasons of harmful impact on the character and appearance of a heritage asset. This was duly seconded.

The Chairman put the Officer's recommendation of approval to the Committee, and upon a vote being taken this was rejected.

The Chairman then put the motion to reject the application contrary to the Officer's recommendation to the Committee, and upon a vote being taken this was duly carried... "

The Chairman drew the Committees attention to the resolution of the Minute advising that within the Members' Update was the corrected reason for refusal as follows:

"RESOLVED that Advertising Consent be **REFUSED** for the following reason:

- 1 The means of advertising, by virtue of its positioning and appearance, is harmful to the character and appearance of the Promenade Park heritage asset contrary to policies D3 and D6 of the Maldon District Local Development Plan and the National Planning Policy Framework.*

RESOLVED

- (ii) that subject to the above amendment the Minutes of the meeting of the Committee held on 20 February 2019 be confirmed.

968. DISCLOSURE OF INTEREST

It was noted that all Members of the Committee had a non-pecuniary interest in Agenda Item 6, LDP/MAL/19/00083 – 24 Dorset Road, Maldon, Essex, CM9 6JU as the application was that of an Officer of Maldon District Council.

Councillor Mrs P A Channer, CC, declared a non-pecuniary interest as a member of Essex County Council, a consultee on planning application matters with respect generally to highways, matters of access and education primarily.

Councillor N G F Shaughnessy declared a non-pecuniary interest in Agenda Item 5, HOUSE/MAL/19/00020 – 50 Victoria Road, Maldon as she had relations resident at the neighbouring property, 48 Victoria Road, which was mentioned in the Officers' report.

Councillor S J Savage declared a non-pecuniary interest in Agenda Item 7, TPO 11/18 – 14 Fambridge Road, Maldon as he was acquainted with residents at 1 Mount Pleasant whose property was being damaged by the respective tree.

969. HOUSE/MAL/19/00020 - 50 VICTORIA ROAD, MALDON, ESSEX, CM9 5HF

Application Number	HOUSE/MAL/19/00020
Location	50 Victoria Road, Maldon
Proposal	Loft conversion with rear dormer, raising part of the party wall, proposed side window, internal alterations, refurbishment of ground floor front windows, and replacement of all other windows. Alterations to the fenestration apertures to the rear elevation.
Applicant	Mr Timothy Lloyd
Agent	Mr Robert Turner – Robert Turner Associates
Target Decision Date	22.03.2019
Case Officer	Louise Staplehurst
Parish	MALDON NORTH
Reason for Referral to the Committee / Council	Member Call In by: Councillor Rev A E J Shrimpton Reason: Public interest

The Officer presented their report on the application, after which the Applicant, Mr Timothy Lloyd, addressed the Committee.

A brief discussion ensued in which the Ward Members advised the Committee that the Town Council approved of the application. It was also acknowledged that the Applicants had attempted to conform to the Officer's recommendations following the previous rejection of the application.

Councillor M R Pearlman moved to approve the application in accordance with the Officer's recommendation, which was duly seconded, and after a vote being taken the motion was carried.

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: 583/03 A, 583/04 A, 583/01 Rev C1, 583/02 Rev C3.
- 3 The materials used in the development hereby approved shall be as set out within the application form/plans hereby approved.
- 4 Prior to the installation of the front windows, large scale drawings on the front windows illustrating elevation at 1:20 and the section profile of glazing bars, heads and rails at 1:2, shall be submitted to and approved in writing by the Local Planning Authority.

970. LDP/MAL/19/00083 - 24 DORSET ROAD MALDON ESSEX CM9 6JU

Application Number	LDP/MAL/19/00083
Location	24 Dorset Road, Maldon, Essex CM9 6JU
Proposal	Claim for lawful development certificate for a proposed single storey rear extension and infilling of window to south elevation.
Applicant	Mr & Mrs R Holmes
Agent	Mr A Taylor
Target Decision Date	22.03.2019
Case Officer	Annie Keen
Parish	MALDON WEST
Reason for Referral to the Committee / Council	Member of Staff

The Officer presented their report to the Committee.

In response to Members' questions the Development Management Team Leader, Planning, clarified that 5.1.4 of the report made reference to A.1 (a) of the Town and Country Planning (General Permitted Development) Order 2015 and that this was not applicable as the extension was not on a building where a change of use had previously taken place through the utilisation of permitted development rights.

The Committee also clarified with the Development Management Team Leader, Planning, for transparency, that had the application not been submitted by an Officer employed by Maldon District Council there would be no requirement for the application to go to Committee.

The Chairman put the Officer's recommendation to grant the Certificate of Lawfulness and upon a vote being this was approved.

RESOLVED that the Certificate of Lawfulness be **GRANTED**.

971. TPO 11/18 - 14 FAMBRIDGE ROAD, MALDON

Tree Preservation Order	TPO 11/18
Location	14 Fambridge Road, Maldon
Proposal	Confirmation of TPO 11/18
Owner	Simon Baker
Confirmation by	15.04.2019
Case Officer	Louise Staplehurst
Parish	MALDON NORTH
Reason for Referral to the Committee / Council	Decision on confirmation of a Tree Preservation Order as per the Council's scheme of delegation

The Officer presented their report to the Committee, during which it was confirmed that were the Tree Preservation Order (TPO) be confirmed this would still permit works to be carried out when required.

Councillor Reverend A E J Shrimpton opened the debate stating that ash trees are prone to dropping branches, self-seeding, and due to the location of this tree it was considered dangerous. He subsequently proposed that the order not be confirmed, contrary to the Officer's recommendations, for the aforementioned reasons.

Councillor Mrs N G F Shaughnessy advised the committee that as they were prone to disease ash trees were rarely seen and that the TPO would not prevent necessary work to mitigate any future problems. She proposed that the application be approved in accordance with the Officer's recommendation, and this was duly seconded.

Councillor S J Savage proposed that a TPO was granted for 6 months to allow the Officers to provide more information on the potential damage the tree was causing to neighbouring dwellings. The Development Management Team Leader, Planning Service, advised that temporary TPOs are served with a requirement to be confirmed within 6 months and therefore, procedurally, this was not an option. Due to the proposal being irrelevant, Councillor S J Savage then seconded Councillor Reverend A E J Shrimpton's earlier proposal.

A short discussion then ensued querying whether the tree would have been self-seeding, and that it was sited within a conservation area. Members considered that a Tree Evaluation Method for Preservation Orders (TEMPO) assessment had taken place and determined that the tree was worthy of a TPO. In response to questions, the Development Management Team Leader, Planning Service confirmed that were the tree to become problematic, the serving of a TPO would not prevent an application being made to propose the removal of the tree and a replacement to be made. Additionally it was confirmed that the TPO could be challenged were the TPO to be confirmed.

The Chairman put Councillor Reverend A E J Shrimpton's proposal to reject the TPO, contrary to the Officer's recommendation, to the Committee and upon a vote being taken this was rejected.

The Chairman then put Councillor Mrs N G F Shaughnessy's proposal to approve the TPO in accordance with the Officer's recommendation to the Committee, and upon a vote being taken this was duly carried.

RESOLVED that the application for a Tree Preservation Order be **CONFIRMED**.

There being no further items of business the Chairman closed the meeting at 7.59 pm.

B E HARKER
CHAIRMAN



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

to
CENTRAL AREA PLANNING COMMITTEE
29 MAY 2019

Application Number	FUL/MAL/19/00080
Location	Former Mill, Station Road, Maldon, Essex
Proposal	Demolish existing buildings, erect 10 dwellings and 5 commercial units, layout parking and landscaping
Applicant	Mr Allan Wiseman
Agent	Mr Phillip McIntosh - Melville Dunbar Associates
Target Decision Date	07.06.2019
Case Officer	Kathryn Mathews
Parish	MALDON NORTH
Reason for Referral to the Committee / Council	Major Application

1. RECOMMENDATION

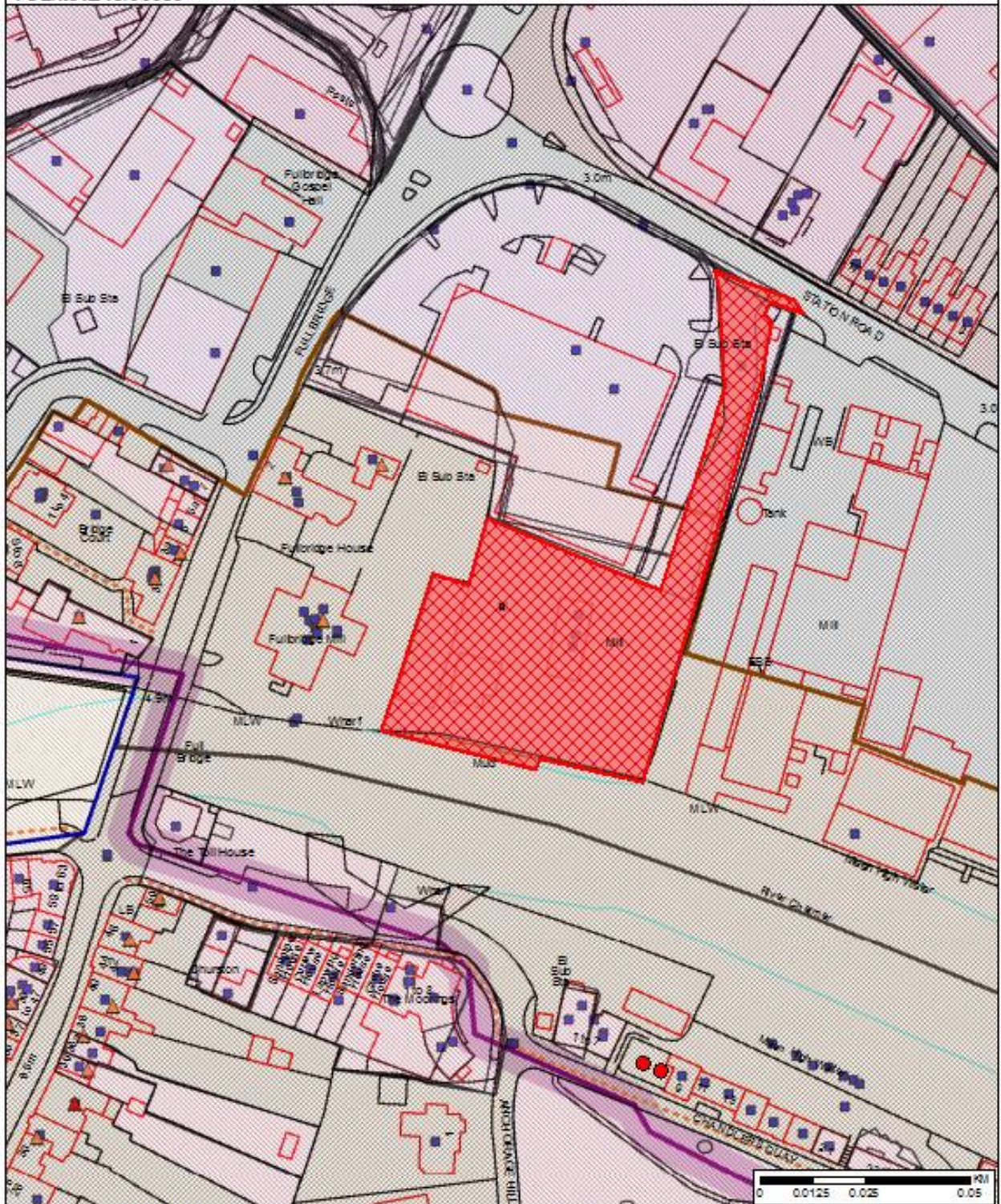
REFUSE for the reasons as detailed in Section 8 of this report.


2. SITE MAP

Please see overleaf.

INCLUDED ON THE AGENDA IN ERROR

Former Mill Station Road Maldon
FUL/MAL/19/00080



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Central Area Committee
	Date:	18/03/2019
	MSA Number:	100018588
www.maldon.gov.uk		

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The main part of the application site is bounded by Lidl on its northern boundary, Fullbridge Mill (a Grade II listed building converted to offices with a car park) and Fullbridge House (also Grade II listed along with a bakehouse/ outhouse) to the west and Carrs Flour Mill to the east. The southern boundary abuts the River Chelmer at the North Quay. Existing access to the site (vehicular and pedestrian) is via an accessway from Station Road to the north shared with Lidl. On the northern side of Station Road is a mix of commercial, industrial and residential uses.
- 3.1.2 The site is located within the Causeway Regeneration Area and within the area that is the subject of Maldon and Heybridge Central Area Masterplan Supplementary Planning Document (SPD). The Causeway Regeneration Area is allocated as employment land in the Local Development Plan (LDP) as part of Policy E1 Employment (E1(l) The Causeway, Maldon and Heybridge) and is identified to be used for Class B1, B2 and B8 uses.
- 3.1.3 The site lies within the Maldon Conservation Area.
- 3.1.4 The site is approximately 0.36ha and accommodates a disused tower mill, associated storage building and waterside granary. It is understood that the site was used historically as a granary but, more recently, has been used for maritime activities such as boat building and repairs and is currently vacant.
- 3.1.5 On 8 May 2019, a response to the objections to the proposal raised by the Conservation Officer/Historic England and the Environmental Health Officer was received which included a revised proposal for the Granary reducing the number of flats proposed in this building from 2no. one-bedroom flats to 1no. two-bedroom flat. The report below has assessed the revised proposal.
- 3.1.6 The site would be re-developed to provide a residential development of 10 apartments, 5 commercial units (c.570sq.m. of employment floorspace), 40 parking spaces (including 11 garages) and cycle parking. The proposal is for the existing buildings, except for the granary, to be removed and three new buildings constructed. The waterside granary (c.1830s) is proposed to be refurbished and converted into a mix of employment (ground floor) and residential use (1no. two bedroom apartment at first floor level). Vehicular and pedestrian access to the site would continue to be from the north, via an existing access onto Station Road. Pedestrian access would be via a roadside footpath along the access road from Station Road. The submission also refers to a potential pedestrian access via Fullbridge along the northern side of the River Chelmer, but this would require land that is outside the applicant's control and, therefore, cannot be guaranteed and should be given limited weight. As part of the noise mitigation proposed, 3m high masonry walls are recommended to be built along the eastern boundary of the site at both ends of the new building proposed adjacent to the eastern boundary, up to the corners of the site.
- 3.1.7 The proposed buildings adjacent to the northern and eastern boundaries would accommodate employment floorspace at first floor level and garages (parking) at ground floor level. The third new building, towards the south-western corner of the

site, would be 5/6 storeys and accommodate 9 apartments with balconies on the southern elevation. 9 parking spaces would be provided at ground floor level within this apartment block. The materials proposed for the external surfaces of the new buildings would include a mixture of red multi clay stock bricks, timber boarding and profiled metal cladding for the walls, blue/black slate and profiled metal cladding for the roofs, timber/aluminum windows and doors, aluminum gutters and downpipes and brick boundary treatments. The vehicle access and hard standing areas would be finished with blockwork/paviors.

- 3.1.8 It is noted that the plans imply that balconies would be provided on the northern elevation of the building but the elevations demonstrate that the only balcony would be at first floor only. Plots 5 and 6 are the only flats above first floor that show doors accessing the balcony, this is assumed to be a drafting error. This matter could be addressed and clarified through the use of a condition.
- 3.1.9 As part of the application it is stated that the proposal would result in a net loss of 15sq.m. of non-residential floorspace but no floor plans of the existing buildings to be removed have been submitted.
- 3.1.10 The residential units would be a mix of 2 (8no.) and 3 (2no.) bedroom apartments. Flexibility is requested with respect to the employment floorspace but that this is likely to be light industrial/offices (Class B1). No explanation is provided regarding what 'flexibility' is being sought.
- 3.1.11 The application is accompanied by a number of supporting documents:
- Planning Statement
 - Design and Access Statement
 - Heritage Statement
 - Phase 1 – Desk Study and Preliminary Risk Assessment
 - Ecological Assessment
 - Highways Access Design Statement
 - Environmental Noise Assessment
 - Bat Roost Assessment
 - Flood Risk Assessment
 - BNP Paribas Real Estate Affordable Housing and Economic Viability Assessment December 2018 with following appendices: BNP Paribas Real Estate Development Appraisal December 2018, Daniel Connal Partnership Approximate Estimate of Construction Costs October 2018; Nicholas Percival Report Upon Sales Prices October 2018.
 - Sustainable Urban Drainage Assessment – Richard Jackson Engineering Consultants - March 2019

3.2 Conclusion

- 3.2.1 The development proposed would not be acceptable in principle, would have an adverse impact on the local economy, would cause harm to the character and

appearance of the area (which is within a Conservation Area), harm the setting of the neighbouring listed buildings. Whilst the development would not cause harm to local residents, the quality of life for the occupiers of the proposed residential units would not be satisfactory. The development would also not be acceptable from a flood risk and nature conservation perspectives. No objections are raised with respect to access and highway safety, but the provision of parking spaces and cycle storage would not be sufficient.

- 3.2.2 As a result, the proposal would not be sustainable development and would not result in economic, social and environmental benefits as claimed by the applicant.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2019 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 59-66 Delivering a sufficient supply of homes
- 80-82 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
- 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
- 184-202 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
- D5 Flood Risk
- E1 Employment
- H1 Affordable Housing

- H2 Housing Mix
- H4 Effective Use of Land
- N1 Green Infrastructure Network
- N2 Natural Environment, Geodiversity and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Vehicle Parking Standards (SPD)
- 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 the development, affordable housing provision, the impact of the development on the character and appearance of the area (including the Conservation Area and the setting of neighbouring listed buildings), any impact on the occupiers of neighbouring residential properties, the quality of life for the occupiers of the proposed flats and highway safety/access/parking. Other material considerations in this case are the impact of the development with respect to drainage, flood risk and nature conservation.

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, and minimising need to travel.

5.2.2 Employment Land Designation

- 5.2.3 The Causeway Regeneration Area is allocated employment land in the LDP (Policy E1) under site reference E1(l) - The Causeway, Maldon and Heybridge. The 'appropriate use' for this site is B1, B2 and B8. Policy E1 states that 'employment generating developments and investment in the District to support the long term growth vision outlined in the Economic Prosperity Strategy (EPS)' are encouraged. Policy E1 'Existing Employment Use' states employment sites: '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.'

- 5.2.4 The North Quay at Fullbridge is a priority area within the Causeway Regeneration Area to *'ensure new developments and regeneration proposals deliver new jobs through employment generating mixed use development.'* Strategic Policy S5 states the development and regeneration strategy for the Central Area comprises a number of aspects including *'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.'*
- 5.2.5 The proposal is a residential-led scheme of 10 residential units and 5 commercial units. The application states that 25 full time jobs would be provided at the site. Policy E1 states under 'Mixed Use Proposals' that *'Mixed-use development on existing employment land and premises will only be considered appropriate where it includes a substantive Class B employment element that will support economic growth within the District'* and *'Mixed-use redevelopment will not be considered acceptable in employment areas where it will detrimentally impact upon the quality of the site for employment uses.'* The Maldon and Heybridge Central Area Masterplan also allows for some mixed-use development and enhanced river access is encouraged.
- 5.2.6 As part of the NPPF (paragraph 182), local planning authorities are advised that planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.
- 5.2.7 It is stated that the development would make provision for 25 jobs and only result in the net loss of 15sq.m. of non-residential floorspace. However, the employment floorspace proposed would not be a 'substantive Class B employment element' of this predominantly residential scheme, contrary to Policy E1 referred to above. It has also not been possible to check the level of employment floorspace which would be lost as a result of the development proposed in the absence of floorplans for all of the existing buildings.
- 5.2.8 A further key consideration in this case is the compatibility of the residential uses proposed with the existing employment uses within the Causeway Regeneration Area, especially where a fully operational working flour mill adjoins the application site. The MDDG SPD was adopted by the Council in December 2017 and its supporting Technical Documents ('Planning and Noise' and 'Assessing Air Quality and Emissions Impacts from Development') need to be considered along with the 'design guidance' as a whole. The Environmental Health Officer has advised that the proposed residential development would have a potentially adverse impact upon pre-existing businesses in the vicinity of the site.

5.2.9 Principle of Residential Element of Development

5.2.10 Policy S2 identifies the Council's housing supply to 2029. On 19 February 2019 the Government published the results of the first Housing Delivery Test, which stated that Maldon District had passed the HDT (101%) and as a result does not need either an Action Plan or 20% buffer. Consequently, the buffer in the 2017/18 Five Year Housing Land Supply Statement (5YHLS) has been amended to 5%. This change results in the Council being able to demonstrate 6.34 years' worth of housing supply against its identified housing target. As there is a sufficient supply of housing land in the District and the Council's housing provision policies are not out-of-date, NPPF paragraph 11d is not engaged in this case.

5.2.11 The Council encourages, in policy H2, the provision of a greater proportion of smaller units to meet the identified needs and demands. The Council's updated Strategic Housing Market Assessment (SHMA), published in June 2014, identifies the same need requirements for 60% of new housing to be for one or two-bedroom units and 40% for three bedroom plus units. The proposed residential development would accord with this mix which weighs minimally in favour of the proposal. However, as the Council can currently demonstrate a 5-year supply of housing land, this matter can only be afforded very limited weight particularly when considering the small number of dwellings proposed.

5.2.12 To accord with Policy H1 of the LDP, at least 40% of the residential units proposed would need to be provided as affordable dwellings on this site. No affordable units are proposed as part of the current application on the basis of viability and financial information has been submitted to support this claim. It is considered that it has not been demonstrated to the satisfaction of the local planning authority that the development would not be financially viable if provision of affordable housing were to be made. The Housing Officer supports this view. The proposal would, therefore, not make the necessary contribution towards meeting the District's affordable housing needs, contrary to the NPPF and Policy H1. Even if it had been demonstrated that the provision of affordable housing would result in the scheme being unviable, there is no reason for a relaxation of the affordable housing requirement to be considered in this case as the limited benefits of the development would not outweigh the failure of the development to make any contribution towards meeting the District's affordable housing needs.

5.2.13 Overall Principle of Development

5.2.14 Whilst the proposal includes elements of employment floorspace which would accord with the site's allocation for employment purposes, the proposed residential element of the proposal, particularly of the scale proposed, does not accord with the allocation. The Masterplan SPD does identify the site for potential mixed-use development but the current proposal would be predominantly residential and it has not been demonstrated that the residential development proposed would not limit the current operation of the adjoining flour mill to the potential detriment to the local economy. Furthermore, it has not been demonstrated that the development would only be viable if no affordable housing was provided.

5.2.15 It is recommended below that planning permission is refused on the basis of the concerns raised above.

5.3 Design and Impact on the Character of the Area and Impact on Setting of Listed Buildings

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 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area.

5.3.6 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. Section 66(1) of the Planning

(Listed Buildings and Conservation Areas) Act 1990 requires that the Council must have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Similarly, policy D3 of the approved Maldon District Local Development Plan (MDLDP) 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.

5.3.7 The Conservation Officer has identified that the following heritage assets would be affected by the proposal:

- the Maldon Conservation Area as the main buildings on the site – a 1930s asbestos-clad mill and an early-19th-century timber-framed former granary - are judged to make a positive contribution to the character of the area.
- The timber-framed former granary on the site is a locally listed building and is, therefore, a ‘non-designated heritage asset’ for the purposes of paragraph 197 of the NPPF.
- three Grade II listed buildings immediately to the west of the application site (Fullbridge Mill, Fullbridge House and a bakehouse to the rear of Fullbridge House).

5.3.8 The Conservation Officer has assessed the significance of these heritage assets and advised that the proposed development would have an impact on the current view of the north of Fullbridge House and the Maldon Conservation Area which is an important part of the experience of entering the historic town. The significance of the Grade II listed Fullbridge House and its bakehouse, and Fullbridge Mill partly arises from the setting provided by their surroundings, the latter building also being prominent, fronting Fullbridge and the river. The remains of a roller mill within the application site, whilst not particularly old – or even of good quality construction – is a distinctive feature of this area, reflecting the long history of continuous industrial activity in this part of the town and makes a positive contribution to the special character of this part of the conservation area. However, the Conservation Officer advises that it possesses little significance in its own right and the fact that the building is redundant and in poor condition diminishes its heritage value. Moreover, adaptation and reuse of the structure is clearly not practical.

5.3.9 With respect to the granary, the Conservation Officer advises that this building has experienced several alterations which have eroded its architectural interest including several new openings on the north and west elevations, particularly at ground-floor level, and the clay roof tiles have been replaced by a modern profiled metal roof covering. There have also been internal changes including the removal of most of the first-floor structure and the installation of a late-20th-century steel support system and the lower half of the walls has been faced internally with breezeblocks. However, the building does retain its essential form and still has the recognisable character of a waterside granary. This building is on Maldon District Council’s list of local heritage assets, and it clearly has local architectural and historic interest as part of the 19th-century industrial townscape of Fullbridge. It is the oldest surviving structure on the north side of the river; a timber-framed remnant of the period before brick became the predominant building material for industrial structures.

5.3.10 To the east of the application site stands Carr's Flour Mill. Although the buildings are not listed, the Conservation Officer identifies that the industrial architecture is highly characteristic of the area and in this sense reinforces the special character of this part of the Conservation Area.

5.3.11 In conclusion, the Conservation Officer advises that the buildings within the vicinity of the application site reveal some strong, unifying architectural themes which contribute to the special character and appearance of this part of the Conservation Area. He goes on to advise that the early-19th-century waterfront buildings tend to be vernacular in character with weatherboarded walls and clay tiled roofs. By contrast, the Victorian industrial buildings on the waterfront are characterised by large expanses of yellow stock brickwork interrupted by regularly-spaced and equally-sized windows, centrally-located loft doors and lucarnes associated with lifting equipment, prominent gables facing the river, simple classically-themed articulation to the external walls, and slate roofs. In the 20th century the architecture of the industrial buildings became more utilitarian, finished with cheaper materials such as a corrugated iron and asbestos, presenting monotonous unrelieved facades containing few openings. These more modern buildings have their own functionalist aesthetic, but on the whole are less attractive than their Victorian predecessors.

5.3.12 With respect to the impact of the development on the significance of the heritage assets identified, the Conservation Officer provides the following specialist advice:

'I have serious reservations about the scale of units 1-9. While I recognise that the height reflects that of the 1930s silo which would be replaced, the silo is a tower-shaped structure on a comparatively small footprint. The footprint and the bulk of units 1-9 would be considerably greater, and would result in a more imposing presence on the waterfront. ... Moreover, in my view, units 1-9 would fail to reinforce the unique special character of this part of Maldon. The choice of materials, fenestration and balconies result in a building which has an 'anywhere' look about it. The modern materials to be used on the tallest part of the scheme are likely to appear flat and characterless, and will appear quite alien in relation to the textured brickwork of Fullbridge Mill and Fullbridge House. The riverside elevations of units 1-9 are crammed with French doors and balconies and, as a result, appear poorly composed in contrast to nearby historic buildings. ...

The other proposed buildings seem unobjectionable from a conservation perspective. They are modestly scaled and broadly traditional character. I raise no objection to these parts of the scheme, subject to the use of appropriate materials which could be managed through condition.'

5.3.13 Historic England also objects to the development proposed, raising similar concerns.

5.3.14 Whilst it is acknowledged that the visual mass of the main building would be broken up through the stepped nature and roof line, the excessive scale, crude materials, and poor composition of units 1-9 would harm the character and appearance of the area. As part of the noise mitigation, 3m high masonry walls are recommended to be built along the eastern boundary of the site at both ends of the new building proposed adjacent to the eastern boundary, up to the corners of the site. Whilst these walls would be greater in height than standard 2m high boundary treatments, the sections of

wall would be relatively short and attached to new buildings and so, in the context of the site, would not be visually incongruous.

- 5.3.15 Based on the specialist advice of the Conservation Officer, it is also considered that the development would not preserve or enhance the character or appearance of the Conservation Area, and would not preserve the setting of the three neighbouring listed buildings.
- 5.3.16 As a result, the development would be contrary to Policies D1, D3 and H4 of the Maldon District Approved Local Development Plan, the NPPF and the Maldon District Design Guide SPD. Whilst the harm to the heritage assets would fall below the high threshold of 'substantial harm', the harm caused would still be considerable and unjustified, and would not be outweighed by any public benefits, including the provision of additional residential units and employment floorspace. It is recommended below that planning permission is refused for these reasons.

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 nearest residential properties to the application site (excluding the access) would be properties on the northern side of Station Road to the north-east located around 85m away at their closest point and residential properties located on the southern side of the River Chelmer around 80m to the south.
- 5.4.3 As a result of these distances, and the nature and scale of the development proposed, it is not considered that the development would have an adverse impact on the amenity of the occupiers of these existing residential properties by reason of privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, 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 to 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 The transport statement submitted concludes that the development will generate 18 two-way traffic movements in the AM and PM peaks which will be different times to the peaks associated with the neighbouring Lidl store, and that the number of vehicle movements generated per day would reduce from around 140 to just over 100 per day.

- 5.5.4 The parking provision is proposed as 1 space per apartment, 3 spaces per employment unit, 2 disabled bays for residents/visitors/staff and 13 flexible spaces (visitors, staff or residents).
- 5.5.5 The Highways Officer has advised that the application includes suitable plans to take access from the Station Road junction that currently serves the Lidl foodstore. The Highway Authority is also satisfied that the expected number of development trips can be accommodated on the local highway network without detriment to highway safety and efficiency. However, the Highways Officer recommends that conditions are imposed on any planning permission granted requiring a Construction Management Plan to be submitted for approval, cycle parking to be provided in accordance with adopted standards and Residential Travel Information Packs to be provided to each dwelling. On the basis of this advice, no objection to the proposal is raised with respect to means of access to the site.
- 5.5.6 With respect to parking provision, the adopted standards would require the provision on site of a minimum of 2 spaces per 2-3 bed as well as visitor parking at a rate of 1 per 4 dwellings or 1 per 2 dwellings where car parking is allocated. A 5% provision for parking for people with disabilities would also be required. Cycle parking would be required at a rate of 2 per dwelling (2+ bedrooms) and 1 per 8 units for visitors.
- 5.5.7 Therefore, to comply with the adopted standard, a total of 20 parking spaces would be required to serve the proposed flats plus at least 3 visitor parking spaces (6 if the parking spaces are to be allocated) including 2 spaces for people with disabilities. The proposed development would provide a total of 10 residential parking spaces along with 13 flexible spaces. The parking spaces proposed do not appear to be allocated but all of the flexible spaces would need to be available for residents to use for the level of on-site parking provision for the residential units proposed to comply with the adopted parking standard.
- 5.5.8 For Class B1 uses, the car parking standard is 1 space per 20sq.m. for offices, and 1 space per 50sq.m. for research and development/light industry. A 5% provision for parking for people with disabilities would also be required. Cycle parking for Class B1 uses is required at a rate of 1 per 100sq.m. for staff and 1 per 200sq.m. for visitors.
- 5.5.9 The proposed offices range from 100sq.m (2no.), 122sq.m. (1no.) and 125sq.m. (2no.) which would require between a minimum of four spaces for the 100sq.m. units and six spaces for all the other units. Therefore, for the 5 offices proposed, a total of 24 spaces is required but only 15 dedicated parking spaces are proposed.
- 5.5.10 A total of 13no. cycle storage spaces are proposed for the whole development but a total of 22 spaces would be required to comply with the adopted standard for the residential element and a further 6 for the Class B1 element; a significant under-provision.
- 5.5.11 The provision of off-street parking proposed would not be sufficient to comply with the adopted standards as the provision would be significantly less than the minimum 47 car parking and 28 cycle parking spaces required. It is acknowledged that the site is located within an urban area where access to services and facilities by means other than the private car would be available. However, even taking this into account, it is

considered that the development would not provide sufficient off-street parking, failing to accommodate the demand which, in turn, will lead to cars parking off-site in adjoining streets causing conditions of obstruction, congestion and danger to residents and other road users. It is recommended that planning permission is refused based on the insufficient off-street parking and cycle parking spaces proposed.

- 5.5.12 There is reference in the application to land along the southern boundary of the site being safeguarded for a future riverside walk. The Maldon and Heybridge Central Area Masterplan SPD encourages and supports improvements to access and links for pedestrians but, whilst the current proposal would not preclude the creation of a riverside walk in the future, that currently proposed would be piecemeal and not connected. Therefore, it is considered that limited weight can be given to this element of the submission.

5.6 Quality of Life for the Occupiers of the Proposed Apartments

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25 m² for flats.
- 5.6.2 With respect to outdoor amenity space, nine of the ten flats proposed would have private balconies (at least around 18sq.m. for each flat – this includes balconies to the south elevation and two first floor balconies to the north elevation) and reference is made by the applicant to the parks in the centre of Maldon within 800m walking distance of the site.
- 5.6.3 In terms of internal floorspace, residential Plots 1, 2, 3, 4, 5, 6, 8 would be two-bedroom flats with a minimum of 136sq.m. of floorspace. Plots 7 and 9 would have three bedrooms and each be provided with a minimum of 193sq.m. of floorspace. Plot 10 would be two-bedroom flat and would have 144sq.m. of floorspace. A bin store is proposed attached to the rear elevation of apartment block 1-9.
- 5.6.4 Whilst it is considered that Plots 1-9 would be provided with an adequate amount of private, outdoor amenity space and internal floorspace, the outdoor amenity space would not be of an adequate quality due to the impact of external noise (see below). Furthermore, the occupiers of Plot 10 would not have access to any private external amenity space and the small, communal area proposed in the north-western corner of the site would not be a satisfactory alternative as it would be located on the other side of the block accommodating units 1-9.
- 5.6.5 With respect to the impact of noise on the future residential occupiers of the site, an Environmental Noise Assessment has been submitted with the application which concludes that noise (from the adjacent flour mill and traffic from Fullbridge) will have a low impact on future occupiers and a scheme of glazing and ventilation has been submitted in relation to internal noise levels. It is also proposed to use mechanical ventilation and enhance the building fabric with acoustic plasterboard to the ceilings of the top floor bedrooms of the two new residential blocks to 'mitigate impulsive external noise'. Noise within the balconies would exceed WHO recommendations by up to 2-3dB but the applicant considers this will not result in

adverse living conditions for future occupiers given the urban context of the site. The Assessment notes that two commercial blocks on the north and east boundaries will have a significant shielding effect to activities on industrial sites adjoining the development. Windows facing the Carrs site have been minimized and outside balconies face the river frontage. 3m high masonry walls are recommended to be built along the eastern boundary of the site at both ends of the new building proposed adjacent to the eastern boundary, up to the corners of the site. The report concludes that, provided that the recommendations of the report are incorporated into the development design, the site is suitable for the mixed-use development proposed in terms of environmental noise, to be secured through imposition of conditions. With respect to outside amenity space, the report states that traffic and commercial noise would be audible in outside spaces on all parts of the development but there would be a 'quiet' area to the north-west of the main new block where noise levels would be below WHO recommended maximums.

5.6.6 The Environmental Health Officer recommends that planning permission is refused on the ground of the potential impact upon the amenity of the occupiers of the proposed residential units as a result of noise from existing businesses in the vicinity of the site with particular reference to the adjacent mill which operates on a 24-7 basis and is not subject to any planning conditions/restrictions such as days and hours of work or noise controls. The main points raised by the Environmental Health Officer in their consultation response are as follows:-

- The Loven Acoustics report dated 7th January 2019 (ref: LA/1549/02aR/ML) affirms that there could be margin for error on the assessment, that there will be some impact to residents (even with mitigation measures proposed) and considers the BS8233:2014/WHO thresholds.
- The data in table 2 summarises logarithmic averages to facilitate the BS8233/WHO assessment. However, it is not considered reasonable to do this for L_{Amax} values as these are independent "spikes" in noise level for which assessment should really be considering the worst case impact each time.
- It is reasonable to expect people to open their windows both by day and at night and, as set out in the Council's Supplementary Noise Guidance, "closed windows will not normally be accepted as a noise control measure". With open windows, the new residents may be exposed to noise levels which could be disturbing to sleep.
- There would be a lack of decent amenity space for the development that would be at or below the WHO thresholds, albeit only by around 2-3dB. Mitigation is suggested by the acoustician in the form of the grassed area to the north-west of the development.
- The acoustician is correct that the Mill site's operation is a twenty-four hour one. Because of the age of the site its use pre-dates the planning process and is not therefore subject to any planning conditions/restrictions such as days and hours of work or noise controls. The survey has confirmed the audibility of reversing beepers and other activities from the operations
- By introducing new noise-sensitive receptors adjacent to the Mill, and to the rear of Lidl, there is real potential for those residents to make complaints to this Department of nuisance – complaints that we may not be able to formally deal with.

- With reference to the Council's Supplementary Noise Guidance, the development would not ensure that new residential developments or other noise sensitive receptors are not introduced in areas where existing business or leisure facilities that emit noise are restricted or likely to have complaints made against them as a result of the new development and would not ensure that new residential properties are not exposed to levels of noise that will impact on the future occupier's quality of life or health.

5.6.7 Based on the above assessment, it is considered that it has not been demonstrated that the proposed development would provide an adequate quality of life for the occupiers of the flats proposed due to the lack of outdoor amenity space serving Plot 10, and as the residential occupiers of the site would be adversely affected by noise and disturbance from existing businesses within the vicinity of the site, in particular the flour mill which adjoins the site's eastern boundary. It is recommended below that planning permission is refused on this basis.

5.7 Flood Risk

5.7.1 The site where the development is proposed lies within Flood Zone 3a defined by NPPG as having a high probability of flooding. The development is classified as a 'more vulnerable' development as defined in Table 2: Flood Risk Vulnerability Classification of the NPPG. Therefore, to comply with national policy the proposal is required to pass the Sequential and Exception tests and be supported by a site specific Flood Risk Assessment.

5.7.2 The National Planning Policy Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. To assess that, a Sequential Test should be applied.

"The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding."

5.7.3 Policy D5 of the LDP states that the Council's approach is to direct strategic growth towards lower flood risk areas, such as Flood Zone 1 as identified by the Environment Agency. Where development is not located in Flood Zone 1 and in order to minimise the risk of flooding, it should be demonstrated that the Sequential and Exception Tests, where necessary, have been satisfactorily undertaken in accordance with national planning policy.

5.7.4 Following the application of the Sequential Test, if not possible for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied. In accordance with the NPPF in order for the Exception Test to be passed the following should be demonstrated:

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and

- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

5.7.5 Sequential and Exceptions Tests

In terms of the Sequential Test, the Council can demonstrate a 5-year housing land supply. Therefore, there are sites available in the District as a whole where land falls outside the highest risk Flood Zone and where permission could be obtained for residential development. The applicant argues that, as the site has been identified as being appropriate for mixed use as part of the Masterplan, it is not necessary to carry-out a Sequential Test, and non-habitable accommodation has been placed at ground floor level. The site is suggested as a potential site for mixed use development in the Maldon and Heybridge Central Area Masterplan but the site is allocated for solely employment uses within the LDP and the criteria for appropriate mixed uses within this area in Policy E1 have not been met (refer to section 5.2 above). In this respect, the applicant has failed to meet the requirements of the Sequential Test, contrary to Policy S1 and D5 of the Maldon District Approved Local Development Plan.

- 5.7.6 As a result of the failure of the proposal to satisfy the Sequential Test, the proposed development would not be acceptable from a flood risk perspective and is recommended for refusal on this basis.

5.7.7 Exceptions Test

- 5.7.8 As a result, the local planning authority does not need to go on to determine whether the proposal meets the Exceptions Test.

- 5.7.9 However, the applicant considers that the development meets the Exceptions Test as a result of the regeneration benefits of the proposal, as the risk of flooding (tidal and fluvial) during frequent events is limited and the fact that the finished first floor levels would be above the 1 in 1000-year tidal flood level so providing safe refuge. They also state that the ground floors of the buildings would be designed to allow flood water to enter buildings and flood resilience techniques would be incorporated into the building to reduce the consequences of flooding. A flood warning and evacuation strategy is contained within the FRA.

- 5.7.10 The Environment Agency draws attention to the following key points from the submitted FRA:

Actual Risk – the modelling data used has been superseded by the ENS Coastal Modelling 2018 which the Agency has used in their response; the site is currently protected by flood defences with an effective crest level of 4.71m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level of 4.50m AOD. Therefore the site is not at risk of flooding in the present-day 0.5% (1 in 200) annual probability flood event. The defences will continue to offer protection over the lifetime of the development, provided that the hold the line SMP policy is followed and the defences are raised in line with climate change, which is dependent on future funding.

At the end of the development lifetime with climate change applied to the design 0.5% annual probability flood event, if the SMP policy is not followed then through

overtopping of the current defences the resulting on-site flood level would be 5.48m AOD. The resulting actual risk depth of flooding on the site using the minimum site level of 3.17m AOD would be 2.31m deep, and in the building using the proposed ground finished floor levels of 3.40m AOD would be 2.08m deep.

Residual Risk

Section 5.2 of the FRA explores the residual risk of a breach using the Maldon Strategic Flood Risk Assessment (SFRA). The site could experience breach flood depths of up to 3m during the 0.5% (1 in 200) annual probability including climate change breach flood event and up to 3m during the 0.1% (1 in 1000) annual probability including climate change breach flood event (up to the year 2107). Therefore, assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change.

Finished ground floor levels have been proposed at 3.40m AOD for commercial units. This is below the 0.5% (1 in 200) annual probability breach flood level including climate change of 5.63m AOD and therefore at risk of flooding by 2.23m depth in this event.

Finished ground floor levels have been proposed at 3.55m AOD for mixed development with commercial development on the ground floor. This is below the 0.5% (1 in 200) annual probability breach flood level including climate change of 5.63m AOD and therefore at risk of flooding by 2.08m depth in this event.

Finished ground floor levels have been proposed at 3.625m AOD for commercial units. This is below the 0.5% (1 in 200) annual probability breach flood level including climate change of 5.63m AOD and therefore at risk of flooding by 2.005m depth in this event.

Finished ground floor levels have been proposed at 3.85m AOD for residential dwellings with non-habitable ground floors. This is below the 0.5% (1 in 200) annual probability undefended on-site flood level including climate change of 5.63m AOD and therefore at risk of flooding by 1.78 m depth in this event.

Flood resilience/resistance measures have been proposed.

Finished first floor levels have been proposed at 6.05m AOD for all commercial units and dwellings. Therefore there is refuge above the 0.1% (1 in 1000) annual probability undefended on-site flood level including climate change of 5.85m AOD.

A Flood Evacuation Plan has been proposed and is necessary to ensure the safety of the development in the absence of safe access with internal flooding in the event of a breach flood.

This application site is at risk from reservoir flooding. Reservoir flooding is extremely unlikely to happen providing the reservoir is appropriately managed and maintained.

- 5.7.11 Taking the above into account, even if the development passed the Sequential Test and was going to be safe for its lifetime, the Exceptions Test would not be satisfied as

the development would not provide wider sustainability benefits for the community, as discussed elsewhere in this report, that would outweigh flood risk.

- 5.7.12 As part of their response, the Environment Agency also highlights the proposed development's close proximity to the tidal defence. The defence includes piling, which will have anchors expected to protrude perpendicular to the seawall and into the proposed development area. The exact locations of the anchors however are unknown, and the landowner will need to undertake their own investigations to ensure that these are not damaged or affected by the proposed works. A Flood Risk Activity Permit is also likely to be required. These issues could be the subject of an informative on any planning permission granted.

5.7.13 Other Drainage Matters

- 5.7.14 In terms of drainage, Anglian Water Services has advised that there is capacity in the waste water treatment system but that the surface water strategy/FRA is unacceptable. They recommend that a condition is imposed requiring a surface water strategy.
- 5.7.15 Essex County Council SuDS team have raised no objections, subject to the imposition of conditions requiring details of a surface water drainage scheme based on sustainable drainage principles, a scheme to minimize the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution, a surface water maintenance plan, and clearing of surface water pipes within the site.
- 5.7.16 On the basis of the above advice and as details of foul drainage could be required by condition if planning permission were to be granted for the development proposed, no objections are raised with respect to surface water and foul drainage.

5.8 Nature Conservation

- 5.8.1 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.
- 5.8.2 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).
- 5.8.3 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.
- 5.8.4 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.

- 5.8.5 The Ecological Assessment and Bat Survey submitted concludes that the site has no ecological value (provided the tower removal takes places between September and February) and that, until the Essex Coast RAMS is adopted, the proposed development will not harm existing European designated sites.
- 5.8.6 In terms of off-site impacts, Natural England have advised that this development falls within the 'Zone of Influence' (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council (MDC), working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. Natural England advise that Maldon District Council must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.
- 5.8.7 Natural England has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'zones of influence' of these sites cover the whole of the Maldon District.
- 5.8.8 Natural England anticipate that, in the context of the local planning authority's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these zones of influence constitute a likely significant effect on the sensitive interest features of these designated site through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), Houses in Multiple Occupation (HMOs), student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.
- 5.8.9 Prior to the RAMS being adopted, Natural England advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) – Natural England has provided a HRA record template for use where recreational disturbance is the only HRA issue.
- 5.8.10 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England does not provide bespoke advice. However, Natural England's general advice is that a Habitats Regulations Assessment (HRA) should be undertaken and a 'proportionate financial contribution should be secured' from the developer for it to be concluded that the

development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site's resilience to recreational pressure and in line with the aspirations of emerging RAMS and has currently been set at £122.30 per dwelling.

- 5.8.11 To accord with Natural England's requirements, a Essex Coast RAMS HRA Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance, as follows:

HRA Stage 1: Screening Assessment – Test 1 - the significance test

Is the development within the zone of influence (ZoI) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the specified development types? Yes

HRA Stage 2: Appropriate Assessment- Test 2 – the integrity test

Is the proposal for 100 houses + (or equivalent)? No

Is the proposal within or directly adjacent to one of the above European designated sites? No.

Summary of Appropriate Assessment - as a competent authority, the Local Planning Authority concludes that the project will, without mitigation, have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account Natural England's advice, it is considered that mitigation, in the form of a financial contribution of £1223 is necessary, in this case, which has not been secured through a completed S106 Agreement. Therefore, it is recommended below that planning permission is refused for this reason.

- 5.8.12 Based on the above, it is considered that the development proposed, without mitigation having been secured, would cause harm to nature conservation.

5.9 Other Material Considerations

- 5.9.1 One of the requirements of Policy D2 of the LDP is that, where appropriate, development will include measures to remediate land affected by contamination.

- 5.9.2 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).

- 5.9.3 The Phase 1 Contamination Report submitted concludes that there are a number of potential contamination risks and recommends that ground investigations are undertaken to determine the extent of any potential contamination within the

groundwater and soil strata, and that there is a geotechnical investigation of the site to enable a suitable foundation solution to be designed. The applicant's agent suggests that these requirements could be adequately dealt with through the imposition of conditions.

- 5.9.4 The Environmental Health Officer agrees and recommends that conditions relating to contamination are imposed on any planning permission granted. The Environment Agency has also advised that the proposal would not be acceptable in terms of contaminated land issues unless conditions are imposed requiring further information to be submitted for approval before any development commences, the submission of a verification report and future monitoring being carried-out. The Agency also recommends that a drainage system for the infiltration of surface water to the ground and piling (or any other foundation designs using penetrative methods) are prohibited. These conditions are recommended to avoid water pollution and ensure that the development does not pose a risk to human health.
- 5.9.5 It is considered that the imposition of conditions as recommended by the Environmental Health Officer and Environment Agency on any planning permission granted would be adequately address the issue of potential contamination at the site.
- 5.9.6 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.
- 5.9.7 Based on the advice of Essex County Council, Archaeology, the application site is located in an area of known archaeological potential but the matter of archaeology could be adequately addressed through the imposition of a condition requiring historic building recording of the mill, granary building and any associated structures, to be followed by archaeological trial trenching and full excavation if archaeological features are identified.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/14/00590** - Planning application for the demolition of existing buildings and the construction of residential development (19 apartments within two blocks) together with vehicular/pedestrian access from Station Road, car-parking, landscaping, reservation of land to accommodate a riverside walk and associated engineering works on land adjacent to the River Chelmer access - Withdrawn

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 refusal – not in keeping with the LDF as proposes residential use which may impact adversely on local existing businesses; the design does not reflect the industrial heritage of the site and the bulk and scale of the main building is inappropriate in this area.	Noted – refer to sections 5.2 and 5.3 of report

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council SuDS Team	No objection subject to conditions requiring details of a surface water drainage scheme based on sustainable drainage principles, a scheme to minimize the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution, a surface water maintenance plan, and clearing of surface water pipes within the site.	Noted – refer to section 5.7.13 of report.
Essex County Council Archaeology	The site is located within an area of known archaeological potential – the imposition of a full archaeological condition is recommended which will comprise historic building recording of the mill, granary building and any associated structures, to be followed by archaeological trial trenching and full excavation if archaeological features are identified.	Noted – refer to section 5.9 of report
Environment Agency	No objection with respect to flood risk. No objection with respect to land contamination subject to imposition of conditions. Informatives recommended.	Noted – refer to sections 5.7 and 5.9 of report

Natural England	Without mitigation, new residential development in this area of this scale is likely to have a significant effect on the sensitive interest features of the coastal European Designated Sites through recreational pressures when considered 'in combination' with other plans and projects.	Noted – refer to section 5.8 of report
Historic England	Objects	Noted – refer to section 5.3 of report
Essex Police Designing Out Crime	Would welcome opportunity to assist the developer achieving a Secured by Design award for both commercial and residential.	Noted – this could be covered by an Informative attached to any planning permission granted
Essex County Highways	The application includes suitable plans to take access from the Station Road junction that currently serves the Lidl foodstore and the expected number of development trips can be accommodated on the local highway network without detriment to highway safety and efficiency, subject to conditions requiring a Construction Management Plan to be submitted for approval, cycle parking to be provided in accordance with adopted standards and Residential Travel Information Packs to be provided to each dwelling.	Noted – refer to section 5.5 of report.
Anglian Water Services	Recommends an informative regarding their assets affected. Waste water treatment has available capacity. The surface water strategy/FRA is unacceptable and so the imposition of a condition requiring a surface water strategy is recommended	Noted – refer to section 5.7.13 of report. The recommended condition could be imposed on any planning permission granted.
Essex Bat Group	No response received	
Maldon Harbour Improvement Commissioners	No response received	

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health Officer	Recommends refusal on the grounds of potential adverse impact upon the amenity of the new residents of the proposed residential units from existing uses in the area, as well as on the grounds of potential adverse impact upon pre-existing businesses in the vicinity. Conditions regarding contaminated land are recommended.	Refer to sections 5.2, 5.6 and 5.9 of report
Conservation Officer	Objects	Refer to section 5.3 of report
Housing Officer	It has not been demonstrated that the development would only be viable if no affordable housing was provided.	Noted – refer to section 5.2 of report
Planning Policy	Site part of allocated employment site, within a priority area within the Causeway Regeneration Area with respect to employment, adjacent to a full operational flour mill, within Flood Zone 3, within a Conservation Area and adjacent to listed buildings and there currently is a sufficient supply of housing land in the District.	Noted – refer to sections 5.2, 5.3 and 5.6 of report

7.4 Representations received from Interested Parties

7.4.1 53 letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Industrial area not suitable location for residential use	Noted – see section 5.2 of report
Inadequate parking provision for residents	Noted – see section 5.5 of report
Building too high	Noted – see section 5.3 of report
Would have potential adverse impact on future operation of adjacent flour mill	Noted – see section 5.2 of report
Would add to existing traffic congestion and access shared with Lidl deliveries unsafe	Noted – see section 5.5 of report

Objection Comment	Officer Response
Lack of affordable housing proposed	Noted – see section 5.2 of report
No need for additional housing	Noted – see section 5.2 of report
In flood risk area	Noted – see section 5.7 of report
Would be harm to history, heritage and character of this area	Noted – see section 5.3 of report
Would harm Conservation Area and neighbouring listed buildings	Noted – see section 5.3 of report
Has not been demonstrated that site could not be developed for wholly employment uses	Noted – see section 5.2 of report
Viability report submitted demonstrates that there is a negative value for development purposes	Noted
Comments that the noise report contains a number of significant errors and assumptions which could affect the validity of the noise levels that are being assessed	Noted – the Environmental Health Officer has reviewed these comments but has not changed their consultation response - see sections 5.2 and 5.6 of report

- 7.4.2 **Two** letters were received **in support** of the application and the reasons for support are summarised as set out in the table below:

Supporting Comment	Officer Response
Pleased to see site intended for re-development and would generally support development but affordable housing policy should be upheld	Noted – see section 5.2 of report regarding affordable housing provision
Main block acceptable in this situation	Noted – see section 5.3 of report
Parking not sufficient but recognize attempts to mitigate with some flexible provision	Noted – see section 5.5 of report
Granary would be retained	Noted
Reflects site's heritage	Noted – see section 5.3 of report
Only buildings with no heritage significance would be lost	Noted – see section 5.3 of report
Balances preservation of heritage and developing Maldon as a desirable place to live and work	Noted – see section 5.3 of report

8. **PROPOSED REASONS FOR REFUSAL**

- The proposed development would make no provision for affordable housing and it has not been demonstrated to the satisfaction of the local planning authority that the development would not be financially viable if provision of affordable housing were to be made. The proposal would, therefore, not make the necessary contribution towards meeting the District's affordable housing needs contrary to the NPPF and Policy H1 of the Maldon District Approved Local Development Plan.

- 2 The proposed development, as a result of the excessive scale, crude materials, and poor composition of units 1-9, would cause harm to the character and appearance of the area, which is a Conservation Area, and the setting of neighbouring listed buildings. Although the harm would fall below the high threshold of 'substantial harm', it would not be outweighed by any public benefits, including the provision of residential units and employment floorspace. The development would, therefore, be contrary to Policies D1, D3 and H4 of the Maldon District Approved Local Development Plan and the NPPF.
- 3 The proposed development would not provide an adequate quality of life for the occupiers of the proposed flats as a result of noise and disturbance from existing businesses in the vicinity of the site. The occupiers of plot 10 would also not have access to any private external amenity space. The development would, therefore, be contrary to Policy D1 of the Maldon District Approved Local Development Plan and the NPPF.
- 4 The proposed development would have a detrimental impact on the local economy as a result of the loss of allocated employment land to residential uses and the potential limitation of the operation of existing businesses within the vicinity of the site, particularly the adjacent flour mill, as a result of the residential, noise sensitive development proposed. The proposal would, therefore, be contrary to Policy E1 of the Maldon District Approved Local Development Plan and the NPPF.
- 5 The application site is located in Flood Zone 3a which has high probability of flooding. The proposal is for new dwellings which have a high vulnerability to flooding. The proposal fails the Sequential Test as the Council can demonstrate a five-year housing land supply and as the site is allocated for employment purposes in the Maldon District Approved Local Development Plan. Therefore, the flood risk associated with the proposed development is unacceptable, contrary to the NPPF, the National Planning Practice Guide and Policies S1, S5 and D5 of the Maldon District Approved Local Development Plan.
- 6 The development would not provide sufficient cycle parking spaces and off-street parking spaces, failing to accommodate the demand which, in turn, will lead to cars parking off-site in adjoining streets causing conditions of obstruction, congestion and danger to residents and other road users, contrary to Policies T2 and D1 of the Maldon District Approved Local Development Plan.
- 7 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy has not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, N1 and N2 of the Maldon District Local Development Plan and the NPPF.

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

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

Application Number	FUL/MAL/19/00092
Location	Land West of Marine Parade, Promenade Park, Park Drive, Maldon
Proposal	Proposed gemstone mining attraction.
Applicant	Mr Martin Devine - South West Adventure Golf Ltd
Agent	N/A
Target Decision Date	31.05.2019
Case Officer	Louise Staplehurst
Parish	MALDON EAST
Reason for Referral to the Committee / Council	Council Owned Land Member Call in – Councillor S Savage – public interest, out of keeping with the original planning application and not being referred to Customer Services Committee first.

1. RECOMMENDATION

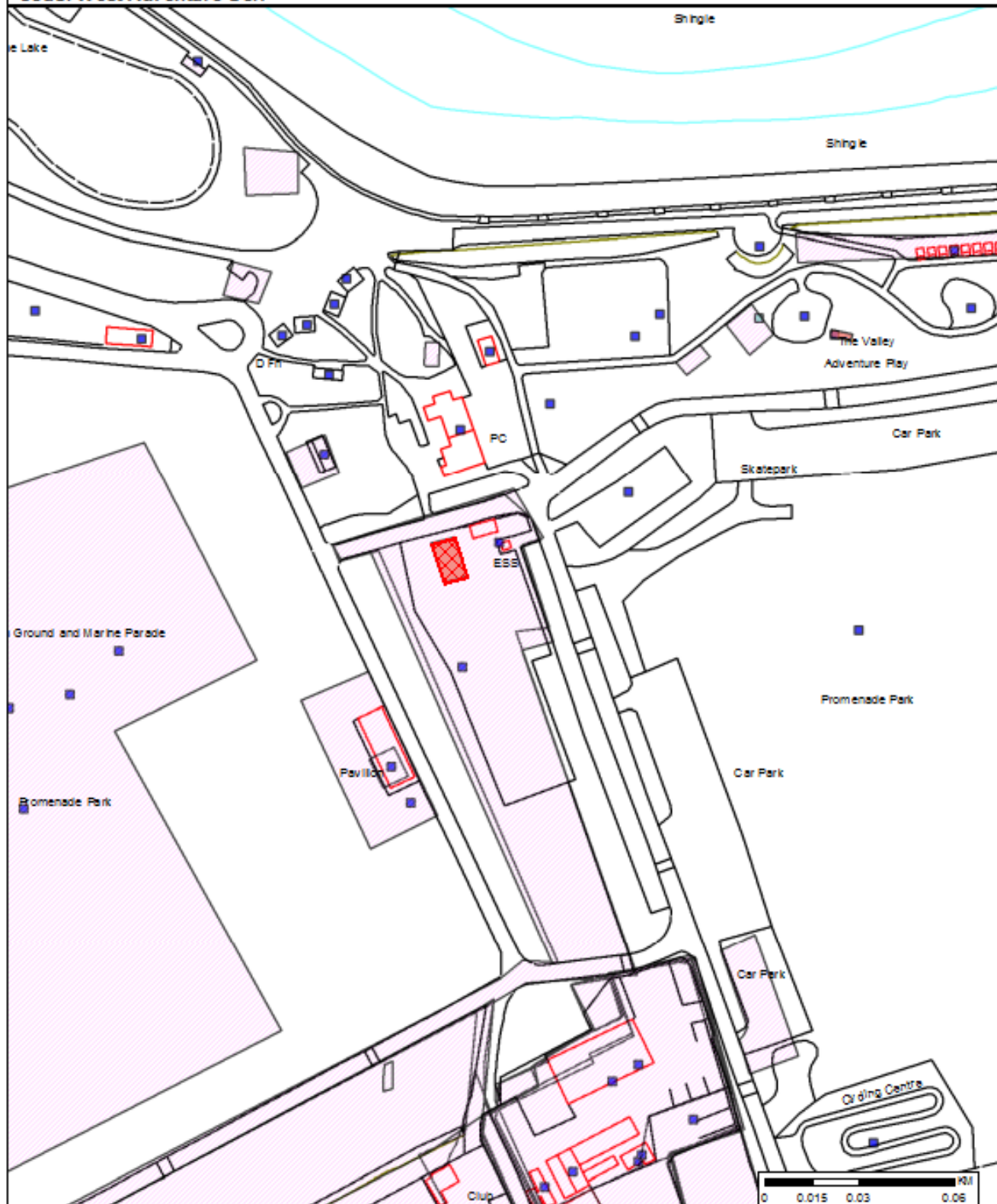
APPROVE subject to the conditions (as detailed in Section 8 of this report).

2. SITE MAP

Please see overleaf.

19/00092/FUL

South West Adventure Golf



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Scale: 1:1,673

Organisation: Maldon District Council

Department: Department

Comments: Central Planning Committee

Date: 07/05/2019

MSA Number: 100018588

Agenda Item no. 6

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site lies within Promenade Park to the east of Park Drive, within the parish boundary of Maldon. Promenade Park lies within the leisure quarter as identified in the Maldon and Heybridge Central Area Masterplan (CAMP) and shown on the map (page 38) within the clarification section of policy S5 of the Maldon District Local Development Plan (LDP). Although Promenade Park is not a formally Registered Park and Garden, as identified by Historic England, it has been identified within the LDP as a local Historic Park and Garden and is therefore considered to be a non-designated local heritage asset.
- 3.1.2 The application site measures 0.5 hectares and is located to the east of the recreation ground and west of Marine Parade beyond which is the main parking area for Promenade Park. Planning permission was granted in 2014, under application FUL/MAL/14/00819, for the construction of an 18 hole adventure golf course with an additional 19th 'free game' hole. The approved works included pirate themed paraphernalia and a cafeteria, although it is noted the cafeteria has not been built.
- 3.1.3 Planning permission is sought for a gemstone mining attraction, located within the existing adventure golf site.
- 3.1.4 The mining attraction will be located to the north of the site. It will be oval shaped and have a wooden finish. It will measure 4.6 metres high overall to the top of the water tower and will gradually step down in a circular direction to form the collection trays. It will measure 5.6 metres wide in total and 12.2 metres deep overall.
- 3.1.5 There will be 2 pumps, with a continuous duty rated motor and will have a cast iron, anti-clog impeller.
- 3.1.6 The proposed opening hours are 9:30 until 19:00 every day.

3.2 Conclusion

- 3.2.1 The proposal involves the siting of a gemstone mining attraction within the existing adventure golf site. The proposed attraction is not considered to detrimentally impact on the character and appearance of the site or surrounding area, the amenity of neighbouring occupiers or parking provision and highway safety. There is also no objection to the proposal in relation to flood risk. The proposal is therefore in accordance with policies D1, D3 and E2 of the Maldon District Local Development Plan.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2019 including paragraphs:

- 11 Presumption in favour of sustainable development
- 38 Decision-making

- 47-50 Determining applications
- 124-132 Achieving well-design places
- 170-183 Conserving and enhancing the natural environment
- 184-202 Conserving and enhancing the historic environment

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

- D1 Design Quality and Built Environment
- D3 Conservation and Heritage Assets
- E1 Employment
- E2 Retail Provision
- E3 Community Services and Facilities
- E5 Tourism
- N3 Open Space, Sport and Leisure
- T1 Sustainable Transport
- T2 Accessibility
- S1 Sustainable Development
- S5 Maldon and Heybridge Central Area
- S8 Settlement Boundaries and the Countryside
- H4 Effective Use of Land

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The proposed gemstone mining attraction would be operated within the grounds of the existing adventure golf site, as approved under FUL/MAL/14/00819 and therefore it is considered to be a subsidiary use in relation to the existing site. The proposal does not relate to an independent operation existing outside of the current site. The proposal is considered to be supporting and diversifying the existing lawful operation at the site and therefore the principle of development can be found acceptable in this respect.
- 5.1.2 The application site lies within the Leisure Quarter of the CAMp. The CAMp includes six objectives and eighteen projects. The application site is part of the area affected by project sixteen and the proposal sits comfortably with the project of managing the

Promenade Park. Project sixteen is expected to contribute to four objectives of the CAMp. The application is contributing towards objective CA3 which seeks to promote the Maldon Central Area as a focus for culture and visitor attractions.

- 5.1.3 Policy E5 of the LDP states that the Council encourages the provision of tourist facilities and attractions that would provide facilities for residents and attracts visitors to the District. The site is located within Maldon Promenade Park which provides a number of tourist based facilities. It is therefore considered that the development proposal of a gemstone mining attraction would be in line with the existing leisure and recreation facilities within the park. Therefore, the principle of development is considered to be acceptable subject to other material considerations which will be discussed below.

5.2 Design and Impact on the Character of the Area

- 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 should be sought to create a high quality built environment for all types of development.

- 5.2.2 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 local design standards, style guides in plans or supplementary planning documents”.

- 5.2.3 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:-

- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
- b) Height, size, scale, form, massing and proportion;
- c) Landscape setting, townscape setting and skylines;
- d) Layout, orientation, and density;
- e) Historic environment particularly in relation to designated and non-designated heritage assets;
- f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
- g) Energy and resource efficiency.

- 5.2.4 There is similar support for high quality design and the appropriate layout, scale and detailing of development found within the MDDG (2017).
- 5.2.5 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.2.6 Policy D3 is also applicable to as Promenade Park is part of a locally designated Historic Park and Gardens. This policy stipulates that development proposals that affect a heritage asset (whether designated or non-designated) and/or its setting will be required, amongst other aspects, to preserve or enhance its special character, appearance, setting, including its streetscape and landscape value and any features and fabric of architectural or historic interest.
- 5.2.7 Policy N3 of the LDP states that the Council is committed to protecting and maintaining existing formal and informal open spaces, sports pitches, children's play areas, leisure and recreation facilities, while ensuring all new development contributes towards any identified local needs. The Council's policy is to enable, support and empower communities to be safe, active and healthy, as a corporate priority as well as part of the sustainable community's objectives.
- 5.2.8 The proposal seeks permission for a gemstone mining attraction. It will be located within the existing adventure golf site. Although the attraction would have a height of 4.6 metres, most of it would be located at a lower level and therefore it is not considered to be unduly prominent. The materials will consist of wood and therefore the materials are not considered to harmfully impact on the visual amenity of the surrounding area. It would be considered to appear in keeping with the playful character and lawful use of the site, and therefore it would not appear visually intrusive or out of keeping with the area when viewed at a distance and in conjunction with the permitted intended use and other activities within the site. In this instance, it is considered that the proposal would be an appropriate use within the site and is not considered to harm the character and appearance of the surrounding area to an extent that would justify the refusal of the application.
- 5.2.9 It is noted that the original application which granted permission for the adventure golf site, FUL/MAL/14/00819 also granted permission for a café to the north of the site, in a similar location to the proposed catering unit. This approved café was larger, measuring 20 metres wide, 10 metres deep and 3 metres high, with an additional 20 metre wide, 3.5 metre deep decked area. The café proposed under that permission was not built. However, as the permission was implemented within the 3 year time limit, it is noted that the café could still be built, as the development has begun. After undertaking a site visit, it is noted that the area reserved for the café development currently consists of bark and a hardstanding, with some picnic benches in place. Given the fallback position of the previously approved café, and the fact that the proposed mining attraction would have less of a visual impact than the previously

approved café, the proposal is not considered to cause harm to the visual amenity of the site or surrounding area to an extent that would justify the refusal of the application.

- 5.2.10 The proposed gemstone mining attraction is therefore considered to accord with this aspect of policies S1, S8, D1, D3 and E5 of the LDP.

5.3 Impact on Residential Amenity

- 5.3.1 Policy D1 of the LDP seeks to protect the amenity of surrounding areas, taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.3.2 There are public toilets over 10 metres to the north of the site. There are kiosks, used for the sale of food, a minimum distance of 20 metres north of the site. The immediate surrounding area is grassland, with playing fields to the west of the site and a car park to the east.
- 5.3.3 The gemstone mining attraction is located a considerable distance away from the closest residential properties which are located over 230 metres to the west of the site.
- 5.3.4 It is consequently considered that the proposed development would not result in an unneighbourly form of development, in accordance with this aspect of policy D1 of the LDP.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 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 Vehicle Parking Standards SPD 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 It is noted that the site is located within Maldon Promenade Park, with the promenade car park located east of the site. The existing car park is considered to provide sufficient parking to manage any increase in demand in parking provision as a result of the proposed mining attraction.
- 5.4.4 The siting of a gemstone mining attraction is not considered to have an adverse impact on the existing parking spaces within Promenade Park or obstruct the free flow of pedestrians using the site. Furthermore, due to its siting, no parking spaces would be lost.
- 5.4.5 Therefore, the proposed gemstone mining attraction is considered to be in accordance with this aspect of policy T2 of the LDP.

5.5 Flood Risk

- 5.5.1 The application site lies within Flood Zone 3, defined by the 'Planning Practice: Flood Risk and Coastal Change' as having a high probability of flooding. The NPPG identifies that the Sequential Test aims to guide new development to areas with the lowest probability of flooding, particularly Flood Zone 1. Local Planning Authorities are required to take into account the vulnerabilities of land uses and consider reasonably available sites where possible in Flood Zone 2. It is only when there is no reasonably available land within Flood Zone 1 or 2 that site can be considered in Flood Zone 3.
- 5.5.2 The proposal is to use the land to site a gemstone mining attraction. This is a recreational activity and falls under 'Water Compatible Development', as defined in the NPPG. To comply with the NPPG, the application would need to pass the Sequential Test, but not the Exception Test, as the proposal is deemed appropriate development.
- 5.5.3 A Flood Risk Assessment was submitted as part of the application. The assessment states that, although the proposal is located within a flood risk area, no significant problems are anticipated as the proposal does not include residential facilities and any risks to day visitors can be managed to avoid significant risk from flooding. It is noted that the assessment includes details of the source of the flooding, the flood evacuation plan and flood alert notices. It also states that the proposal will be located within the area previously earmarked for a café building, to be used in conjunction with the adventure golf Site. Furthermore, it is noted that only the eastern half of the site lies within a flood zone and the area where the proposed gemstone mining attraction would be located is not within a flood zone. In this instance, it is considered that the Sequential Test has been passed as there is no other land available within Promenade Park for the proposal, especially as the attraction is to be operated in conjunction with the lawful use of the site as an adventure golf course and therefore it should be located within the grounds of that use.
- 5.5.4 The Environment Agency has been consulted but no response has been received at the time of writing this report. The Council's Emergency Planner has been consulted and has advised that the information submitted in the flood risk assessment is acceptable and that if the detail within this assessment regarding evacuation is included in a separate warning and evacuation plan available to visitors/residents, this would be suitable. However, it is considered that due to the development being ancillary to the

existing lawful use of the site, it is not considered necessary or reasonable to require this information by way of a condition.

- 5.5.5 Therefore, the proposal is considered to be acceptable in terms of flood risk, in accordance with policy D5 of the LDP.

5.6 Other Matters

- 5.6.1 It is noted that the application has been called in by former Councillor Savage due to it being out of keeping with the original planning application and it not being referred to the Customer Services Committee first.
- 5.6.2 It is noted that the proposal is in contrast to the cafeteria granted permission under application 14/00819/FUL. However, the proposed gemstone mining attraction is considered to be in line with the permitted intended use of the site and would be beneficial in terms of tourism and economic development and would also contribute towards the objectives regarding the promotion of the Maldon Central Area as a focus for culture and visitor attractions, within the CAMp. Therefore, there is no objection to the proposal in relation to it being out of keeping with application FUL/MAL/14/00819.
- 5.6.3 The Council's Customer Service Committee and its functions are not a material consideration in regard to this planning application.
- 5.6.4 Under the original application for the adventure golf site, FUL/MAL/14/00819, the application form stated the opening hours would be 9:30-22:30. The proposed opening hours for the gemstone mining attraction are 9:30-19:00. These proposed hours are considered to be acceptable and sufficiently in line with the opening hours of the site in which the gemstone mining attraction would be located and therefore there is no objection to these opening hours.

6. ANY RELEVANT SITE HISTORY

- 6.1 The relevant planning history for the site is set out below.
- **FUL/MAL/14/00819** - 18 hole adventure golf course with additional 19th free game hole. To include pirate themed props and structures with cafeteria and clad storage containers. – Approved
 - **DET/MAL/15/05029** - Compliance of conditions notification for application FUL/MAL/14/00819 (18 hole adventure golf course with additional 19th free game hole. To include pirate themed props and structures with cafeteria and clad storage containers) Conditions 3,4,5,7,8,9,10,11,12,13 – Cleared
 - **FUL/MAL/16/00629** - Temporary planning permission for two catering units – Approved
 - **DET/MAL/16/05115** - Compliance with conditions notification of approved application FUL/MAL/14/00819 (18 hole adventure golf course with additional 19th free game hole. To include pirate themed props and structures with cafeteria and clad storage containers). Condition 9 - Foundation details – Cleared
 - **FUL/MAL/19/00201** - Proposed catering unit. – Pending consideration

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	Comments noted.

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objections – if approved, include an informative regarding health and safety	Comments noted.
Economic Development	Recommend approval as it will contribute to the economic income of the Maldon District and create additional jobs.	Comments noted.
Conservation Officer	No objection – The buildings reflect the playful character of the existing golf course. The site is close to the boundary with the conservation area but the proposal will not harm the conservation area. Promenade Park is a historic landscape which should be regarded as a non-designated heritage asset. The proposed structure would not harm the significance of the park.	Comments noted.
Emergency Planner	If the detail within the flood risk assessment around evacuation is included into a separate warning and evacuation plan and available to visitors/residents, this would be suitable for the site in the event of a flood incident as long as it is used as intended without	Comments noted. See Section 5.5.4

Name of Internal Consultee	Comment	Officer Response
	any other prevailing conditions.	

7.3 No representations have been received from Interested Parties

8. **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) of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in complete accordance with the following documents: Location Plan, Front & Rear Elevations, Side Elevations, Block Site Plan
REASON To ensure that the development is carried out in accordance with the details as approved, in accordance with National Planning Policy Framework and policy D1 of the Maldon District Local Development Plan.
- 3 The materials used in the development hereby approved shall be as set out within the supporting document submitted with the application, on 28.01.2019.
REASON To ensure the appropriate use of the site in accordance with policy D1 of the Maldon District Local Development Plan.
- 4 No means of external illumination of the development hereby approved shall be installed unless otherwise agreed in writing by the Local Planning Authority.
REASON To protect the amenity of the surrounding area, in accordance with policy D1 of the Maldon District Local Development Plan.

Informative:

- 1 Please note that any signage proposed at the site will require advert consent.
- 2 The applicant is advised to consult Environmental Services on any requirements we may have regarding Food Safety and Health and Safety matters at the premises. New food business will need to register with Environmental Services 28 days before it commences operation and comply with EC Regulation 852/2004.

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

to
CENTRAL AREA PLANNING COMMITTEE
29 May 2019

Application Number	FUL/MAL/19/00201
Location	Land West of Marine Parade, Promenade Park, Park Drive, Maldon
Proposal	Mobile catering unit within adventure golf site - permission for 10 years.
Applicant	Mr Martin Devine - South West Adventure Golf Ltd
Agent	N/A
Target Decision Date	31/05/2019
Case Officer	Louise Staplehurst
Parish	MALDON EAST
Reason for Referral to the Committee / Council	Council Owned Land Member Call in – Councillor S Savage – public interest, out of keeping with the original planning application and not being referred to Customer Services Committee first.

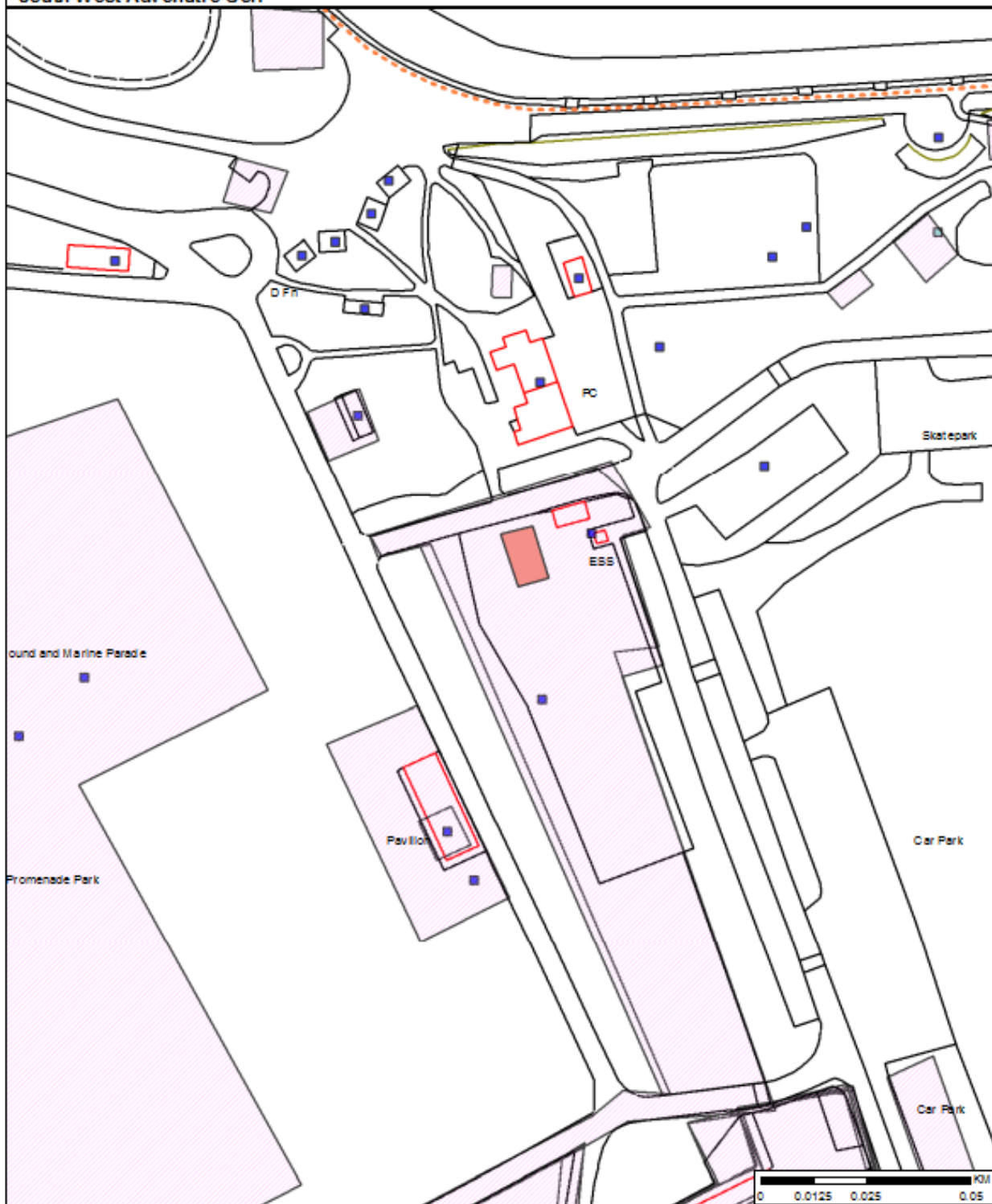
1. RECOMMENDATION


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

2. SITE MAP

Please see overleaf.

19/00201/FUL
South West Adventure Golf



 <p>Copyright For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 1 000 18 588 20 14</p> <p>www.maldon.gov.uk</p>	Scale: 1:1,250
	Organisation: Maldon District Council
	Department: Department
	Comments: Central Planning Committee
	Date: 30/04/2019
MSA Number: 100018588	

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site lies within Promenade Park to the east of Park Drive, within the parish boundary of Maldon. Promenade Park lies within the leisure quarter as identified in the Maldon and Heybridge Central Area Masterplan (CAMP) and shown on the map (page 38) within the clarification section of policy S5 of the Maldon District Local Development Plan (LDP). Although Promenade Park is not a formally Registered Park and Garden, as identified by Historic England, it has been identified within the LDP as a local Historic Park and Garden and is therefore considered to be a non-designated local heritage asset.
- 3.1.2 The application site measures 0.5 hectares and is located to the east of the recreation ground and west of Marine Parade beyond which is the main parking area for Promenade Park. Planning permission was granted in 2014, under application 14/00819/FUL, for the construction of an 18 hole adventure golf course with an additional 19th 'free game' hole. The approved works included pirate themed paraphernalia and a cafeteria, although it is noted the cafeteria has not been built.
- 3.1.3 Planning permission is sought for a mobile catering unit within the existing adventure golf site, for 10 years. This unit will be located within the area earmarked for the cafeteria within the 2014 application. The Design and Access Statement submitted with the application states that the previously approved cafeteria is not currently economically sustainable and it is now the intention to only provide mobile catering during busy seasonal periods.
- 3.1.4 The catering unit will measure 5.5 metres wide, 2.6 metres deep, 2.8 metres high to the eaves and 3.6 metres high overall.
- 3.1.5 The proposed hours of opening are 09:00 to 21:00 every day and there will be two full time equivalent members of staff. The application form has stated that recycling and waste bins will be provided, located behind the catering unit but accessible to the waste company. The application form states there will be no foul sewage or trade effluent as part of the proposal.
- 3.1.6 It is noted that there was a previous application at this site for the stationing of two mobile catering units. This granted a temporary permission for the two units for two years, under application FUL/MAL/16/00629. This permission expired in July 2018.

3.2 Conclusion

- 3.2.1 The proposal involves the siting of a mobile catering unit within the existing adventure golf site within Promenade Park. For a temporary period, the proposed mobile catering unit is not considered to detrimentally impact on the character and appearance of the surrounding area, although the structure is not considered to be an appropriate permanent solution. It also would not detract from the amenity of neighbouring occupiers or parking provision and highway safety. There is also no objection to the proposal in relation to flood risk. The proposal is therefore in accordance with policies D1, D3, E2 and H4 of the Maldon District Local Development Plan (LDP).

- 3.2.2 It is considered that under these exceptional circumstances that the proposed catering unit will encourage business and tourism to Promenade Park, in relation to the existing lawful use of the site and will contribute to the objectives within the CAMp. Therefore, it is considered that a temporary permission of 3 years is considered suitable in order to give the applicant sufficient time to submit an application for a permanent economically viable cafeteria option, other than the original cafeteria approved under application FUL/MAL/14/00819. For the reasons set out within the report, it is considered that it is not appropriate to grant a permanent permission and that a ten year temporary permission is excessive.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2019 including paragraphs:

- 11 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 124-132 Achieving well-design places
- 170-183 Conserving and enhancing the natural environment
- 184-202 Conserving and enhancing the historic environment

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

- D1 Design Quality and Built Environment
- D3 Conservation and Heritage Assets
- E1 Employment
- E2 Retail Provision
- E5 Tourism
- N3 Open Space, Sport and Leisure
- T1 Sustainable Transport
- T2 Accessibility
- S1 Sustainable Development
- S5 Maldon and Heybridge Central Area
- S8 Settlement Boundaries and the Countryside
- H4 Effective Use of Land

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 Policy E2 aims to support the provision of retail, office, tourism, cultural and community uses. Although the site is not located within a town centre area, or a primary or secondary area, there are surrounding kiosks being used for similar uses, such as cafes and takeaways. It is not considered that the development is at a scale that would require a retail impact assessment.
- 5.1.2 The application site lies within the Leisure Quarter of the CAMp. The CAMp includes six objectives and eighteen projects. The application site is part of the area affected by project sixteen and the proposal sits comfortably with the project of managing the Promenade Park. Project sixteen is expected to contribute to four objectives of the CAMp. The application is contributing towards objective CA3 which seeks to promote the Maldon Central Area as a focus for culture and visitor attractions.
- 5.1.3 Policy E5 of the LDP states that the Council encourages the provision of tourist facilities and attractions that would provide facilities for residents and attracts visitors to the District. The site is located within Maldon Promenade Park which provides a number of tourist based facilities. It is therefore considered that the development proposal of a catering unit would support the existing leisure and recreation facilities within the park. Therefore the principle of development is considered to be acceptable subject to other material considerations which will be discussed below.
- 5.1.4 It is noted that there was a previous application at this site for the stationing of two mobile catering units. This granted a temporary permission for the two units for two years, under application FUL/MAL/16/00629. This permission expired in July 2018. The Planning Practice Guidance on the use of planning conditions states that it will rarely be justifiable to grant a second temporary permission. However it also states that circumstances where a temporary permission may be appropriate include where it is considered that the planning circumstances may change at the end of that period. The 2016 temporary permission for two catering units stated that a temporary permission was required so its impact on the character of the area could be assessed; the report also considered that the two year period would give enough time for the cafeteria approved under the 2014 original permission to be built. The Design and Access Statement submitted under the current application suggests that the originally approved cafeteria is no longer economically sustainable and therefore it is now proposed to only have mobile catering units available during busy seasons.
- 5.1.5 It is considered that under these exceptional circumstances that the proposed catering unit will encourage business and tourism to Promenade Park, in relation to the existing lawful use of the site and will contribute to the objectives within the CAMp. Therefore, notwithstanding the advice within the Planning Practice Guidance, it is considered that a temporary permission of 3 years is considered suitable in order to give the applicant sufficient time to submit an application for a permanent economically viable cafeteria option, other than the original cafeteria. For the reasons set out below, it is considered that it is not appropriate to grant a permanent permission and that a ten year temporary permission is excessive.

5.2 Design and Impact on the Character of the Area

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 should be sought to create a high quality built environment for all types of development.

5.2.2 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 local design standards, style guides in plans or supplementary planning documents”.

5.2.3 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:-

- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
- b) Height, size, scale, form, massing and proportion;
- c) Landscape setting, townscape setting and skylines;
- d) Layout, orientation, and density;
- e) Historic environment particularly in relation to designated and non-designated heritage assets;
- f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
- g) Energy and resource efficiency.

5.2.4 There is similar support for high quality design and the appropriate layout, scale and detailing of development found within the MDDG (2017).

5.2.5 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.

- 5.2.6 Policy D3 is also applicable to as Promenade Park is a locally designated Historic Park and Garden. This policy stipulates that development proposals that affect a heritage asset (whether designated or non-designated) and/or its setting will be required, amongst other aspects, to preserve or enhance its special character, appearance, setting, including its streetscape and landscape value and any features and fabric of architectural or historic interest.
- 5.2.7 Policy N3 of the LDP states that the Council is committed to protecting and maintaining existing formal and informal open spaces, sports pitches, children's play areas, leisure and recreation facilities, while ensuring all new development contributes towards any identified local needs. The Council's policy is to enable, support and empower communities to be safe, active and healthy, as a corporate priority as well as part of the sustainable community's objectives.
- 5.2.8 The proposal seeks permission for a mobile catering unit for 10 years. It will be located within the existing adventure golf site. Although it is not considered to be an unduly large addition, it would be of a temporary style and is considered to be of a low design quality which would be a visually intrusive addition within Promenade Park. Due to this, it is considered that the proposed catering unit would have an unacceptable visual impact on the character and appearance of the surrounding area. Although the applicant has requested temporary permission for the catering unit for a period of 10 years, this is considered to be an excessive time period and, although this would not be permanent, it would still have a harmful impact on the visual amenity of the surrounding area and therefore allowing the unit to be in place for 10 years would not be considered acceptable.
- 5.2.9 It is noted that the original application which granted permission for the adventure golf site, FUL/MAL/14/00819 also granted permission for a café to the north of the site, in a similar location to the proposed catering unit. The previously approved cafeteria under application FUL/MAL/14/00819 was permanent and of a more suitable design, which was more in keeping with the character of the adventure golf site and the wider surrounding area, in comparison to the catering unit proposed under the current application. However, the previously approved cafeteria has not been built. Although, as the 2014 permission was implemented within the 3 year time limit, the cafeteria could still be built, the Design and Access Statement submitted with this current application states that the previous cafeteria approved under application FUL/MAL/14/00819 is not considered to be economically sustainable and therefore it is now proposed to only have mobile catering units available during busy seasons.
- 5.2.10 Despite the concerns in relation to the design of the proposed catering unit and its impact on the surrounding area, in this instance, it is also considered that the proposed catering unit would provide benefits in terms of economic development and tourism in relation to the lawful existing use of the adventure golf site. Furthermore, its benefits would also contribute towards the objectives within the CAMp. Therefore, although the proposed catering unit would not be considered acceptable on a permanent basis or for 10 years, due to its impact on the surrounding area, it is considered that a temporary permission of 3 years can be found acceptable, as it would not be considered to cause permanent detrimental harm to the character and appearance of the area.

- 5.2.11 Overall, the proposed catering unit would be considered to be visually unacceptable if it were to be located within the site on a permanent basis. However, given that it would provide benefits in terms of economic development and tourism, on balance, it is considered that a temporary planning permission of three years can be found acceptable as it would not be considered to cause permanent detrimental harm to the character and appearance of the surrounding area and therefore the proposal is considered to accord with this aspect of policies S1, S8, D1, D3, H4 and E5 of the LDP.

5.3 Impact on Residential Amenity

- 5.3.1 Policy D1 of the LDP seeks to protect the amenity of surrounding areas, taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.3.2 There are public toilets over 10 metres to the north of the site. There are other kiosks, used for the sale of food, a minimum distance of 20 metres north of the site. The immediate surrounding area is grassland, with playing fields to the west of the site and a car park to the east.
- 5.3.3 The mobile catering unit is located a considerable distance away from the closest residential properties which are located over 230 metres to the west of the site.
- 5.3.4 It is consequently considered that the proposed catering unit would not result in an unneighbourly form of development, in accordance with this aspect of policies D1 and H4 of the LDP.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 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 Vehicle Parking Standards SPD 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 It is noted that the site is located within Maldon Promenade Park, with the promenade car park located east of the site. This existing car park is considered to provide sufficient parking to manage any increase in demand in parking provision as a result of the proposed catering unit. Furthermore, no concerns were raised in 2014 regarding a larger purpose built facility and it is noted that this could still be implemented.
- 5.4.4 The siting of a mobile catering unit is not considered to have an adverse impact on the existing parking spaces within Promenade Park or obstruct the free flow of pedestrians using the site. Furthermore, due to its siting, no parking spaces would be lost.
- 5.4.5 Therefore the proposed catering unit is considered to be in accordance with this aspect of policies D1 and T2 of the LDP.

5.5 Flood Risk

- 5.5.1 The application site lies within Flood Zone 3, defined by the ‘Planning Practice: Flood Risk and Coastal Change’ as having a high probability of flooding. The NPPG identifies that the Sequential Test aims to guide new development to areas with the lowest probability of flooding, particularly Flood Zone 1. Local Planning Authorities are required to take into account the vulnerabilities of land uses and consider reasonably available sites where possible in Flood Zone 2. It is only when there is no reasonably available land within Flood Zone 1 or 2 that site can be considered in Flood Zone 3.
- 5.5.2 The proposal is to use the land to site a mobile catering unit. This is a recreational activity and falls under ‘Water Compatible Development’, as defined in the NPPG. To comply with the NPPG, the application would need to pass the Sequential Test, but not the Exception Test, as the proposal is deemed appropriate development.
- 5.5.3 A Flood Risk Assessment was submitted as part of the application. The assessment states that, although the proposal is located within a flood risk area, no significant problems are anticipated as the proposal does not include residential facilities and any risks to day visitors can be managed to avoid significant risk from flooding. It is noted that the assessment includes details of the source of the flooding, the flood evacuation plan and flood alert notices. It also states that the proposal will be located within the area previously earmarked for a café building, to be used in conjunction with the existing adventure golf site. Furthermore, it is noted that only the eastern half of the site lies within a flood zone and the area where the proposed catering unit would be located is not within a flood zone. In this instance, it is considered that the Sequential Test has been passed as there is no other land available within Promenade Park for the proposal, especially as it is in relation to the lawful use of the site as a golf course and therefore should be located within the grounds of that use.
- 5.5.4 The Environment Agency has been consulted but no response has been received at the time of writing this report. The Council’s Emergency Planner has been consulted and has advised that the information submitted in the flood risk assessment is acceptable and that if the detail within this assessment regarding evacuation is included in a

separate warning and evacuation plan available to visitors/residents, this would be suitable. However it is considered that due to the development being ancillary to the existing lawful use of the site, it is not considered necessary or reasonable to require this information by way of a condition.

- 5.5.5 Therefore the proposal is considered to be acceptable in terms of flood risk, in accordance with policy D5 of the LDP.

5.6 Other Matters

- 5.6.1 The Council has considered granting temporary consent for the food and drinking kiosk for a period of three years. Although the application requests permission for ten years, this is considered to be excessive. It is considered that the proposed catering unit would be unacceptable in terms of its visual appearance, if it were to be granted permission on a permanent basis. Therefore, the reason to impose this condition is to give the Council the opportunity to reassess the impact of the proposal after a set period of time and to ensure that the development would not impact on the character and appearance of the locally designated park or surrounding area in accordance with policies D1 and D3 of the LDP. It is also considered that a three year temporary permission would be reasonable, in order to give the applicant time to submit an application for a permanent economically viable cafeteria option that could replace the originally approved cafeteria from application FUL/MAL/14/00819.
- 5.6.2 It is noted that the application has been called in by former Councillor Savage due to it being out of keeping with the original planning application and it not being referred to the Customer Services Committee first.
- 5.6.3 It is noted that the proposal is in contrast to the cafeteria granted permission under application FUL/MAL/14/00819. However this is why it is considered reasonable to restrict this permission to a 3 year temporary permission, to allow time for the applicant to submit an application for a more economically viable cafeteria.
- 5.6.4 The Council's Customer Service Committee and its functions are not a material consideration in regards to this planning application.
- 5.6.5 Under the original application for the adventure golf site, FUL/MAL/14/00819, the application form stated the opening hours would be 9:30-22:30. The proposed opening hours for the catering unit are 9:00-21:00. These proposed hours are considered to be acceptable and sufficiently in line with the opening hours of the site in which the unit would be located and therefore there is no objection to these opening hours.

6. ANY RELEVANT SITE HISTORY

- 6.1 The relevant planning history for the site is set out below.
- **FUL/MAL/14/00819** - 18 hole adventure golf course with additional 19th free game hole. To include pirate themed props and structures with cafeteria and clad storage containers. – Approved

- **DET/MAL/15/05029** - Compliance of conditions notification for application FUL/MAL/14/00819 (18 hole adventure golf course with additional 19th free game hole. To include pirate themed props and structures with cafeteria and clad storage containers) Conditions 3,4,5,7,8,9,10,11,12,13 – Cleared
- **FUL/MAL/16/00629** - Temporary planning permission for two catering units – Approved
- **DET/MAL/16/05115** - Compliance with conditions notification of approved application FUL/MAL/14/00819 (18 hole adventure golf course with additional 19th free game hole. To include pirate themed props and structures with cafeteria and clad storage containers). Condition 9 - Foundation details – Cleared
- **FUL/MAL/19/00092** - Proposed gemstone mining attraction. – Pending consideration

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Maldon Town Council	<p>Recommends refusal</p> <ul style="list-style-type: none"> • There are sufficient businesses providing catering within Promenade Park • The unit is remote from the golfing attraction that it is associated with 	<p>Comments noted.</p> <p>This is not a material consideration.</p> <p>The unit is located within the existing adventure golf site.</p>

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objections – if approved, include an informative regarding food hygiene and health and safety	Comments noted.
Economic Development	Recommend approval as it will contribute to the economic income of the Maldon District and create additional jobs.	Comments noted.

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	No objection – The buildings reflect the playful character of the existing golf course. The site is close to the boundary with the conservation area but the proposal will not harm the conservation area. Promenade Park is a historic landscape which should be regarded as a non-designated heritage asset. The proposed structure would not harm the significance of the park.	Comments noted.
Emergency Planner	If the detail within the flood risk assessment around evacuation is included into a separate warning and evacuation plan and available to visitors/residents, this would be suitable for the site in the event of a flood incident as long as it is used as intended without any other prevailing conditions.	Comments noted. See Section 5.5.4

7.3 No representations have been received from Interested Parties

8. PROPOSED CONDITIONS

- 1 The catering unit hereby approved shall be removed and the land restored to its condition immediately prior to the development authorised by this permission on or before 29th May 2022 in accordance with a scheme of work previously submitted to and approved in writing by the local planning authority unless before that date a formal planning application for the retention of the building has been approved by the local planning authority.
REASON It is considered that the grant of a permanent planning permission would not be appropriate due to the visual unacceptability and low design quality of the catering unit, and its impact on the character and appearance of the surrounding area. In this instance, a temporary permission would be acceptable and would also provide the applicant with more time to develop a more economically viable cafeteria than the cafeteria approved under

- application FUL/MAL/14/00819, in accordance with policies D1, H4, E1, E2 and E5 of the Maldon District Local Development Plan.
- 2 The development hereby permitted shall be carried out in complete accordance with the following documents: ATS/565/01, ATS/565/02, 18064-04 Rev B, Block Site Plan
REASON To ensure that the development is carried out in accordance with the details as approved, in accordance with National Planning Policy Framework and policy D1 of the Maldon District Local Development Plan.
- 3 The development hereby permitted shall only be open to the public between 09:00 hours and 21:00 hours on Monday to Sunday.
REASON To ensure the appropriate use of the site in accordance with policy D1 of the Maldon District Local Development Plan.

Informative:

- 1 Please note that any signage proposed at the site will require advert consent.
- 2 The applicant is advised to consult Environmental Services on any requirements we may have regarding Food Safety and Health and Safety matters at the premises. New food business will need to register with Environmental Services 28 days before it commences operation and comply with EC Regulation 852/2004.

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

Application Number	FUL/MAL/19/00228
Location	Riverscourt, Beeleigh Road, Maldon
Proposal	New build part single, part two storey 3 bedroom dwelling and new car port to existing house.
Applicant	Mrs Tina Bishop
Agent	Ms Annabel Brown - Annabel Brown Architect
Target Decision Date	5 June 2019
Case Officer	Kathryn Mathews
Parish	MALDON NORTH
Reason for Referral to the Committee / Council	Departure from Maldon District Approved Local Development Plan

1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

FUL/MAL/19/00228

Riverscourt, Beeleigh Road, Maldon



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Maldon District Council 10/0018588 2014



www.maldon.gov.uk

Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: Central Area Committee

Date: 30/04/2019

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site, except for a section of the proposed access to the site, is located outside the settlement boundary for Maldon as defined by the Maldon District Local Development Plan (MDLDP). The settlement boundary bisects the neighbouring properties, Willows and Orchard House, to the south.
- 3.1.2 The site is located within the Maldon Conservation Area and adjoins the Chelmer and Blackwater Estuary Conservation Area as well as a Local Wildlife Site (MA39 – Hilly Fields) to the north. The Blackwater Estuary, located around 500m to the east at its closest point, is subject to the following designations:- 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 application site is land within the garden of Riverscourt which is a property located to the north of Beeleigh Road on ground which slopes steeply down northwards and which is accessed off a private driveway located between Willows and 52 Beeleigh Road. The private accessway also provides means of access to Blackwater House which adjoins the site to the east. Beyond the site is open land to the north where ground levels reduce further towards the River Chelmer.
- 3.1.4 The proposed three-bedroom dwelling would be located to the east of the existing dwelling and have an L-shaped footprint measuring 17.7m in depth and a maximum of 10m in width. The maximum height of the dwelling would be 8m, which would be below the height of the existing dwelling at Riverscourt due to the differences in ground levels across the site. The dwelling would include an integral car port at its southern end. The car port and kitchen element of the proposed dwelling would be single storey in height – only the rearmost part of the dwelling would be two storeys in height. The two bedrooms at first floor level would be partly accommodated within the roof space of the dwelling. The materials to be used to construct the external surfaces of the main part of the dwelling would be soft red bricks for the walls, plain clay tiles for the roof and aluminum powder-coated composite window frames. The walls of the single storey element would be black weather boarding. There would be a raised terrace on the rear/northern elevation of the dwelling, around 1m in depth.
- 3.1.5 The proposed new car port to serve the existing dwelling would measure 9m x 6m and 5m in height and be located adjacent to the southern boundary of the site around 5m to the west of the existing vehicular access to the property. The external surfaces of the car port would be finished with black weather boarding for the walls and clay tiles for the roof.
- 3.1.6 A screen wall with gates is proposed between the new dwelling and detached car port proposed. A 1.8m close boarded fence is proposed along the eastern and northern boundaries of the site.

- 3.1.7 The application is accompanied by a Preliminary Ecological Appraisal which concludes that the only potential harm the development would cause would be to nesting birds but that this harm could be avoided through mitigation. The application is also accompanied by an Arboricultural Impact Assessment and Arboricultural Method Statement. 8 trees and 1 group are proposed for removal but three of these trees are proposed for removal due to their condition and to provide more amenity space and so their removal is not strictly required for construction purposes. Only one tree (a silver birch) required to be removed is of good quality.

3.2 Conclusion

- 3.2.1 Whilst the proposal is contrary to the LDP, it is considered that no harm arises from the development in this location and the proposal represents sustainable development. No objection is, therefore, raised to the principle of the development. It is considered that the proposal would not have an adverse impact on the character and appearance of the area or the character and appearance of the Conservation Area. It is concluded that the development would not have a material adverse impact on the amenity of the occupiers of any neighbouring residential property and would be acceptable in terms of highways safety/access/parking, nature conservation, drainage and the quality of life for the occupiers of the existing and proposed dwellings.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2019 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 59-66 Delivering a sufficient supply of homes
- 102-111 Promoting sustainable transport
- 117-121 Making effective use of land
- 124-132 Achieving well-designed places
- 148-169 Meeting the challenge of climate change, flooding and coastal change
- 170-183 Conserving and enhancing the natural environment
- 184-202 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
- H4 - Effective Use of Land
- N1 - Green Infrastructure Network
- N2 - Natural Environment, Geodiversity and Biodiversity
- 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)

5. MAIN CONSIDERATIONS

5.1 The main issues which 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 (which is within a Conservation Area), any impact on the amenity of the occupiers of neighbouring residential properties, nature conservation, the quality of life for the occupiers of the existing and proposed dwellings, highways/parking considerations and drainage.

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, and minimising need to travel.

5.2.2 Except for part of the existing accessway from Beeleigh Road, the application site is located outside the defined development boundaries of Maldon and, therefore, within part of the rural area. Whilst the principle of the detached car port proposed for the existing dwelling as a domestic outbuilding would be acceptable in principle, the proposed additional dwelling would be contrary to the Council's spatial strategy of focusing new development within settlement boundaries. The proposal would, therefore, fail to accord with Policies S1 and S8, which seek to direct development within settlement boundaries. Policy S8 does allow for development outside the development boundaries, in the rural areas where the intrinsic character and beauty of the countryside is not adversely impacted upon (discussed below) and if it is for specified purposes. Additional dwellings are not one of the exceptions identified.

The proposal would, therefore, fail to accord with Policies S1 and S8, which seek to direct development within settlement boundaries.

- 5.2.3 However, the site is not in an unsustainable location in terms of accessibility, being within walking distance of Maldon town centre and so close to services and facilities including medical services, education, employment and shops, offered within the urban area of Maldon. This would weigh in favour of the proposed dwelling. Furthermore, planning permission has been granted for similar additional dwellings to the rear of the properties which front Beeleigh Road e.g. 44 Beeleigh Road (reference FUL/MAL/17/01386). Therefore, the proposal would not conflict with the established pattern of development and cause no harm to the countryside. A similar conclusion was recently reached as part of the appeal decision relating to new dwellings proposed at Maldon Wycke, Spital Road, Maldon (references FUL/MAL/18/00186 and FUL/MAL/18/00187) as it was considered that the occupiers of those dwellings would have access to services and facilities and would not be dependent on private vehicles.
- 5.2.4 The proposal would contribute towards the District's housing supply but this would only weigh slightly in favour of the proposal as the District can demonstrate a deliverable 5-year housing land supply and the proposal is for a single dwelling only. However, the NPPF seeks to boost significantly the supply of housing, and the Council's housing requirement is not a ceiling to development.
- 5.2.5 Based on the above, as it is considered that the development would not cause material harm to the intrinsic character and beauty of the countryside (see below), no objection is raised to the principle of the development proposed as material considerations outweigh the content of the LDP in this case.

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 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. It is considered that the proposal could be described as ‘infill’ development. The criteria set out in Policy H4 relating to infill development are as follows:-

- 1) there is a significant under-use of land and development would make more effective use of it
- 2) there would be no unacceptable material impact upon the living conditions and amenity of nearby properties [see paragraphs 5.4.2- 5.4.5 below]
- 3) there will be no unacceptable loss of land which is of local social, economic, historic or environmental significance, and,
- 4) the proposal will not involve the loss of any important landscape, heritage features or ecology interests.

5.3.6 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 MDLDP 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.

5.3.7 The Conservation Officer has provided the following specialist advice:

Riverscourt is a late-20th-century house situated within the Maldon Conservation Area and adjacent to the Chelmer and Blackwater Navigation Conservation Area. It is perched upon a well vegetated site on land that slopes steeply down northwards to the river. The property makes a neutral contribution to the special character of both conservation areas.

I raise no objection to this application. The size of the plot is quite generous, and the proposed additional dwelling has been designed in such a way that would not appear cramped. The site is relatively secluded from the rest of the town with few public views into it. The most important consideration in terms of impact on the conservation areas is how the development would appear in the long views of the town from the other side of the river. Having carefully studied the proposal, I am satisfied that while the proposed house would be visible in the long views it would not be an unsympathetic development. The modest scale, traditional form and choice of materials would complement rather than detract from the character of the area.

I advise that this proposal will cause no harm to the significance of the conservation areas.

- 5.3.8 The application site is located within and adjacent to a Conservation Area as well as being within the rural area. However, the site benefits from a significant extent of existing trees and other vegetation both within and around the site. Given the size, height and position of the proposed dwelling and detached car port, the development would not be visually prominent in the street scene or the surrounding countryside. The two storey element of the proposed dwelling would be located at the northern end of the dwelling where ground levels are lower. A proposed cross section of the site has been submitted which indicates that the existing dwelling would be higher than the dwelling proposed. The proposed dwelling would be located to the rear of properties which front onto Beeleigh Road but would be positioned in between two existing dwelling houses (Riverscourt and Blackwater House) within the generous residential curtilage of Riverscourt. The detached car port proposed would be a single storey building positioned between the proposed dwelling and the properties immediately to the south which front Beeleigh Road. Therefore, it is not considered that the development would constitute harmful backland development or overdevelopment of the site as the Town Council suggests.
- 5.3.9 With respect to tree removal, based on the Impact Assessment submitted, other than one silver birch tree, all the trees to be removed are small or of low or poor quality. It is considered that the removal of the trees identified will have little impact on the visual amenity of the area as they are internal to a well-screened site and the trees removed are not clearly visible from publicly accessible points.
- 5.3.10 A topographical survey of the site has been submitted but it is recommended below that details of the finished ground and floor levels of the development are submitted for approval. A condition requiring samples or details of all materials to be used on the exterior of the house, as recommended by the Conservation Officer, would also be required in the interests of the character and appearance of the area.
- 5.3.11 Based on the above assessment, it is concluded that the development would not cause harm to the character or appearance of the Conservation Areas or the intrinsic character and beauty of the countryside. The proposal, with reference to Policy H4, would also make more effective use of the land, there would be no loss of land with social, economic, historic or environmental significance and the proposal would not involve the loss of any important landscape, heritage features or ecology interests. Therefore, the proposal does not conflict with the aims and requirements of the abovementioned policies.

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 development would have the potential to affect the occupiers of four existing, neighbouring residential properties – Riverscourt to the west, Blackwater House to the east and the existing dwellings either side of the proposed means of access to the site (52 Beeleigh Road and Willows).
- 5.4.3 With respect to Willows and 52 Beeleigh Road, the impact would result from an increased use of the accessway which runs along one side of their rear gardens. However, the increased use of the accessway resulting from a single additional dwelling would not be sufficient to cause harm to the amenity of the occupiers of these neighbouring dwellings as a result of disturbance. The proposed detached car port for the existing dwelling would be located at the end of the rear garden associated with 52 Beeleigh Road but the building would only be single storey in height, on lower ground and this neighbouring property's rear garden extends to around 28m in depth. Therefore, the proposed car port would not cause material harm to the amenity of the occupiers of 52 Beeleigh Road by reason of loss of outlook, dominance or visual impact.
- 5.4.4 The proposed dwelling would be located 3.4m from the eastern boundary of the site at its closest point with Blackwater House. The rear elevation of the two storey element of the proposed dwelling would extend around 10m beyond the rear elevation of Blackwater House. However, there would be a distance of around 11m between the existing and proposed dwellinghouses along with an intervening detached outbuilding located adjacent to the mutual boundary associated with Blackwater House. Whilst the new dwelling would be visible from the rear of Blackwater House, it is considered that the new dwelling would not cause material harm to the amenity of the occupiers of Blackwater House by reason of privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.4.5 The proposed dwelling would be located 1m from the western boundary of the proposed building plot. However, there would be a distance of 5m between the existing dwelling at Riverscourt and the dwelling proposed, the rear elevation of the two storey element of the proposed dwelling would only extend around 3m beyond the rear elevation of Riverscourt, the two storey element of the new dwelling would be located on lower ground and there would be no habitable rooms windows on the western elevation of the proposed dwelling. On this basis, it is considered that the development would not cause material harm to the occupiers of Riverscourt by reason of privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight, provided that a screen on the western end of the terrace proposed is provided.
- 5.4.6 In conclusion, it is considered that the proposal would not cause material harm to the occupiers of any existing, neighbouring dwelling subject to the imposition of a

condition requiring a privacy screen to be provided at the eastern and western ends of the rear terrace proposed.

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, 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 to 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 The proposed dwelling would share the existing private accessway from Beeleigh Road with Riverscourt and Blackwater House. Each of the existing and proposed dwellings would be provided with at least two parking spaces which would comply with the adopted parking standards.
- 5.5.4 The Highways Officer has raised no objections to the proposal subject to a condition that use of the public footpath along Beeleigh Road is maintained and not restricted at any time.
- 5.5.5 No objection is raised to the proposed means of access to the site and the parking provision to be made as a result of the nature and scale of the development proposed.

5.6 Quality of Life for the Occupiers of the Existing and Proposed Dwellings

- 5.6.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25 m² for flats.
- 5.6.2 Both the existing and proposed dwellings would be provided with in excess of 100sq.m. private amenity space which would comply with the MDDG.
- 5.6.3 As the occupiers of the existing and proposed dwellings would be provided with sufficient internal living space and private external amenity space, it is considered that their quality of life would be satisfactory.

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 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).

- 5.7.3 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.
- 5.7.4 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 need 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.
- 5.7.5 The application is accompanied by a Preliminary Ecological Appraisal which concludes that the only potential harm the development would cause would be to nesting birds, but that this harm could be avoided through mitigation.
- 5.7.6 In terms of off-site impacts, Natural England have advised that this development falls within the 'Zone of Influence' (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council (MDC), working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such affects, which will be costed and funded through developer contributions. Natural England advise that Maldon District Council must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.
- 5.7.7 Natural England has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'zones of influence' of these sites cover the whole of the Maldon District.
- 5.7.8 Natural England anticipate that, in the context of the local planning authority's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these zones of influence constitute a likely significant effect on the sensitive interest features of these designated site through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), Houses in Multiply Occupation (HMOs), student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding

holiday caravans and campsites) and gypsies, travellers and travelling show people plots.

- 5.7.9 Prior to the RAMS being adopted, Natural England advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) – Natural England has provided a HRA record template for use where recreational disturbance is the only HRA issue.
- 5.7.10 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England does not provide bespoke advice. However, Natural England’s general advice is that a Habitats Regulations Assessment (HRA) should be undertaken and a ‘proportionate financial contribution should be secured’ from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site’s resilience to recreational pressure and in line with the aspirations of emerging RAMS and has currently been set at £122.30 per dwelling.
- 5.7.11 To accord with Natural England’s requirements, a Essex Coast RAMS HRA Record has been completed to assess if the development would constitute a ‘Likely Significant Effect’ (LSE) to a European site in terms of increased recreational disturbance, as follows:

HRA Stage 1: Screening Assessment – Test 1 - the significance test

Is the development within the zone of influence (ZoI) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the specified development types? Yes

HRA Stage 2: Appropriate Assessment- Test 2 – the integrity test

Is the proposal for 100 houses + (or equivalent)? No

Is the proposal within or directly adjacent to one of the above European designated sites? No.

Summary of Appropriate Assessment – as a competent authority, the local planning authority concludes that the project will not have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account that Natural England’s interim advice is guidance only, it is not considered that mitigation, in the form of a financial contribution, is necessary, in this case.

- 5.7.12 Notwithstanding the guidance of Natural England, it is considered that the likely impact of the development of the scale proposed, in this location would not be sufficiently harmful as a result of additional residential activity to justify a refusal of planning permission.

5.8 Other Matters

- 5.8.1 Pre-Commencement Conditions

5.8.2 One pre-commencement condition is recommended (condition 9) and the applicant/agent has confirmed that there is no objection to the imposition of the recommended condition.

5.8.3 It is considered that the pre-commencement condition is necessary on the grounds that, the site is located on a steeply sloping site and details of the finished ground and floor levels have not been included within the application submitted. These details need to be established before any works associated with the development proposed are commenced. Therefore, this matter is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

6. ANY RELEVANT SITE HISTORY

- None

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 refusal as the proposed dwelling would result in the overdevelopment of the site and an awkward backland arrangement, detrimental to the riverside environment.	Noted – refer to section 5.3 of report

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highways Officer	As this section of Beeleigh Road is classified as a private road, the Highway Authority has no objection to the proposal, subject to a condition requiring that the public's rights and ease of passage over footpath number 3 in Maldon are maintained free and unobstructed at all times.	Noted – refer to section 5.5 of report

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	No objection subject to conditions requiring samples or details of all materials to be used on the exterior of the house.	Noted – refer to section 5.3 of report
Environmental Health Officer	No objection to the proposal in principle.	Noted – the conditions recommended are included within the list of conditions set out below.
Tree Consultant	No response	

7.4 Representations received from Interested Parties

- 7.4.1 **Two** letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
The right of access to this property is down a private narrow lane where access is limited with no room for ‘pull-in’ then once on Beeleigh Road the access again is very limited as road is only narrow again – extra traffic would cause congestion and poor relations would come from this lack of room to manoeuvre vehicles successfully to desired houses. Beeleigh Road struggles now with the volume of traffic that precariously makes its way down the road. Concern regarding pedestrian safety.	Noted – refer to section 5.5 of report
The position of the new dwelling is far too forward in respect of Blackwater House and River Court. The view from the back of Blackwater House will be greatly restricted.	Noted – refer to section 5.4 of report. Loss of view is not a material planning consideration.
The amount of trees, bushes, rough shrub land to be removed would be sacrilege for wildlife	Noted – refer to section 5.7 of report
Health and safety issues raised	None of the issues raised are material planning considerations

8. 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: A185578-LOC01A, A185578-PP03B, A185578-PP02B, A185578-PP01A, Arboricultural Impact Assessment and Arboricultural Method Statement, Preliminary Ecological Appraisal.
REASON To ensure that the development is carried out in accordance with the details as approved.
3. No development works above ground level shall occur until details of the surface water drainage scheme to serve the development has been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:
 - a. The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.
 - b. Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield)

In order to satisfy the soakaway condition the following details will be required:- details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled. Where the local planning authority accepts discharge to an adopted sewer network written confirmation from the statutory undertaker that the discharge will be accepted will be required.

REASON To ensure the incorporation of an appropriate drainage scheme into the development in accordance with policy D5 of the Maldon District Approved Local Development Plan.
4. No development works above ground level shall occur until details of the foul drainage scheme to serve the development has been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
REASON To ensure the incorporation of an appropriate drainage scheme into the development in accordance with policy D5 of the Maldon District Approved Local Development Plan.
5. The public's rights and ease of passage over footpath number 3 in Maldon shall be maintained free and unobstructed at all times.
REASON To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policy T2 of the Maldon District Approved Local Development Plan.
6. The dwellinghouse hereby permitted shall not be occupied until privacy screens at the western end of the external terrace proposed on the rear elevation of the dwellinghouse have been installed in accordance with details which shall have been submitted to and approved in writing by the local planning authority. The privacy screens shall be retained as approved in perpetuity thereafter.

REASON To protect the privacy of the occupiers of neighbouring residential properties in accord with Policy D1 of the Maldon District Approved Local Development Plan and the NPPF.

7. No development above slab level shall take place until details or samples of the external materials to be used on the dwelling and car port hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON In the interests of the character and appearance of the Conservation Area in accordance with Policies D1 and D3 of the Maldon District Approved Local Development Plan.

8. No development shall take place above ground level until a scheme of hard and soft landscaping, including boundary treatment, has been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details prior to the occupation of the dwelling hereby permitted.

REASON In the interests of the character and appearance of the Conservation Area in accordance with Policies D1 and D3 of the Maldon District Approved Local Development Plan.

9. No development shall take place until details of finished ground and floor levels have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details.

REASON In the interests of the character and appearance of the Conservation Area and the amenity of neighbours, in accordance with Policies D1 and D3 of the Maldon District Approved Local Development Plan.

INFORMATIVES

1. Refuse and Recycling - The applicant should consult the Waste and Street Scene Team at Maldon District Council to ensure that adequate and suitable facilities for the storage and collection of domestic waste and recyclables are agreed, and that the site road is constructed to accommodate the size and weight of the Council's collection vehicles.
2. Land Contamination - Should the existence of any contaminated ground or groundwater conditions and/or hazardous soil gases be found that were not previously identified or not considered in a scheme agreed in writing with the Local Planning Authority, the site or part thereof shall be re-assessed and a scheme to bring the site to a suitable condition shall be submitted to and agreed in writing with the Local Planning Authority. A "suitable condition" means one in that represents an acceptable risk to human health, the water environment, property and ecosystems and scheduled ancient monuments and cannot be determined as contaminated land under Part 2A of the Environmental Protection Act 1990 now or in the future. The work will be undertaken by a competent person in accordance with the Essex Contaminated Land Consortium's Land Contamination Technical Guidance For Applicants and Developers and UK best-practice guidance.
3. Construction - The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours:
 - a) No waste materials should be burnt on the site, instead being removed by
 - b) licensed waste contractors;
 - c) No dust emissions should leave the boundary of the site;

- d) Consideration should be taken to restricting the duration of noisy activities
 - e) and in locating them away from the periphery of the site;
 - f) d) Hours of works: works should only be undertaken between 0730 hours and
 - g) 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays
 - h) and not at any time on Sundays and Public Holidays.
 - i) Where it is necessary to work outside of these recommended hours the
 - j) developer and builder should consult the local residents who are likely to be
 - k) affected and contact the Environmental health Team for advice as soon as the
 - l) work is anticipated.
4. Timing of submission of details - It is recommended that the developer seeks to discharge conditions at the earliest opportunity and in many respects it would be logical to do so before development commences. This is particularly the case with conditions which begin with the wording "no development works above ground level shall occur until..." because this will help to ensure that the developer does not go to the risk of incurring costs from commencing development and then finding issues which are difficult to comply with or which may then require the correction of works that have been undertaken.

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

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

Application Number	HOUSE/MAL/19/00354
Location	2 Queens Avenue, Maldon, Essex
Proposal	Demolition of existing extension and erection of part two storey part single storey side/rear extension and new windows.
Applicant	Mr & Mrs R Kendall
Agent	Terence Wynn
Target Decision Date	07/06/2019
Case Officer	Louise Staplehurst
Parish	MALDON SOUTH
Reason for Referral to the Committee / Council	Member Call in by: Councillor Savage Reason: Request of Maldon Town Council and in the public interest

1. RECOMMENDATION

REFUSE for the reasons as detailed in Section 8 of this report.


2. SITE MAP

Please see overleaf.

19/00354/HOUSE

2 Queens Avenue



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	Organisation: Maldon District Council
	Department: Department
	Comments: Central Planning Committee
	Date: 08/05/2019
MSA Number: 100018588	

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located north west of Queens Avenue, south west of King Street and within the settlement boundary of Maldon. The site is occupied by a two storey detached dwelling. The surrounding area is residential in nature. There are four properties along the north side of Queens Avenue which are of a similar design to the dwelling on the application site, but are part of a semi-detached pair. However the other dwellings along this road are of more mixed designs, with some dwellings having a more contemporary design.
- 3.1.2 The proposal includes the construction of a part two storey part single storey side and rear extension. The single storey side extension includes a garage and the two storey rear extension will include a terrace set back within the extension at first floor level. There will also be new windows on the north east elevation; two at ground floor level and one at first floor level, located on the existing dwelling.
- 3.1.3 An existing single storey side/rear extension will be removed to facilitate the development.
- 3.1.4 The single storey side element, which has a gable roof, will measure 4.1 metres wide, 6.1 metres deep, 2.3 metres high to the eaves and 4.3 metres high overall. This part of the extension will provide a garage, and also a utility room, toilet and lobby. There will be a first floor element above this side extension, which has a hip roof. It will measure 2.9 metres wide, 4.6 metres deep, 5.2 metres high to the eaves and 6.8 metres high overall.
- 3.1.5 The two storey element will project 6.1 metres to the rear of the dwelling and will expand 3.4 metres in width before stepping in 1.1 metres and expanding a further 2.4 metres in width. There will then be a further single storey projection to the side of the rear extension, measuring 1.3 metres in width and 4 metres deep to join to the rear of the garage extension, with an eaves height of 2.3 metres and an overall height of 3.2 metres. The furthest two storey rear projection will have a hip roof. The stepped in element of the two storey rear extension will also have a hip roof. However this will project 0.4 metres higher than the ridge of the host dwelling. The single storey side projection of the rear extension will have a hip roof.
- 3.1.6 In terms of materials, the walls will be made of brick, the roof will be made of plain tiles, the windows will use white UPVC and the garage door will be wooden, with UPVC and aluminium doors to the side and rear. These materials will match the materials used on the existing dwelling.

3.2 Conclusion

- 3.2.1 The proposed development is not considered to result in a harmful impact in relation to the provision of private amenity space. However, the proposed extensions are considered to result in an incongruous and contrived form of development which would dominate the host dwelling, to the detriment of the character and appearance of the existing site and the surrounding area. The proposal would also result in an unneighbourly form of development, particularly in relation to the neighbour to the

south west, No.4 Queens Avenue. Furthermore, the proposal would result in an unacceptable level of on-site parking, to the detriment of pedestrian and highway safety. The proposal is therefore considered to be contrary to policies D1, H4 and T2 of the Maldon District Local Development Plan (MDLDP) and the guidance contained within the National Planning Policy Framework (NPPF).

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2019 including paragraphs:

- 11 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 124-132 Achieving well-designed places

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

- S1 Sustainable Development
- D1 Design Quality and Built Environment
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The principle of altering and extending the dwelling to provide facilities in association with residential accommodation is considered acceptable, in compliance with policy D1 of the LDP.

5.2 Design and Impact on the Character of the Area

- 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.

- 5.2.2 It should be noted that good design is fundamental in creating better places to live 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 local design standards, style guides in plans or supplementary planning documents”.

- 5.2.3 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:-

- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
- b) Height, size, scale, form, massing and proportion;
- c) Landscape setting, townscape setting and skylines;
- d) Layout, orientation, and density;
- e) Historic environment particularly in relation to designated and non-designated heritage assets;
- f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
- g) Energy and resource efficiency.

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

- 5.2.5 The site is located to the north eastern end of Queens Avenue and abuts the rear gardens of the properties along King Street to the north east. Therefore the north eastern elevation of the dwelling is open to views from King Street and Queens Avenue. This elevation and part of the rear would also be visible from between No.38-46 King Street. It is also noted that there is a footpath leading to allotment gardens to the rear of the site and therefore the rear of the dwelling would be visible from the public realm. The side extension would be partially shielded from wider views by the neighbouring dwelling. However it would still be visible from the south west of Queen Street. Due to the proposed developments being visible from both the north and south of the site, the proposed development is considered to have a significant impact on the visual amenity of the surrounding area.

- 5.2.6 The proposed development would result in a significantly larger dwelling, with an overall width of 8.2 metres. Overall, the resultant dwelling would span almost the entire width of the application site. However it is not uncommon for dwellings along Queens Avenue to expand nearly the whole width of the plot, as seen at No.3, No.13 No.20 and No.28 Queens Avenue. However, the side extension would measure 4.1 metres wide, over half the width of the original dwelling and is considered to be out

of proportion with the bulk of the host dwelling. Although the side extension would be set back 7.6 metres from the principal elevation, the cumulative impact of the total width and the overall height of the two storey element, including views of the rear two storey extension which projects 0.4 metres higher than the ridge of the host dwelling, would result in an awkward addition to the side of the dwelling, which would not be subservient in relation to the host dwelling. Therefore the proposed development would dominate the existing dwelling and would cause detrimental harm to the character and appearance of the site and the surrounding area. There would be views of the south west side elevation from Queens Avenue, meaning the four different roof styles of the two single storey projections and two two-storey projections are likely to be visible from the streetscene. This is considered to result in a contrived appearance which would be harmful to the visual amenity of the streetscene.

- 5.2.7 The proposed two storey rear extension is considered to be an unacceptably large addition as it will project 6.1 metres to the rear of the dwelling, resulting in an elongated design. The height of the furthest projecting rear element will be set 0.3 metres lower than the ridge height of the host dwelling, but the roof height of the main two storey extension will project 0.4 metres higher than the overall roof height of the host dwelling. Therefore the proposed rear extension is considered to dominate the rear elevation of the dwelling. In addition, there would be three two storey roof lines visible to the rear, as well as two different single storey roof lines and therefore this is considered to result in a contrived and incongruous form of development. Overall, the proposed development is considered to detrimentally harm the character and appearance of the dwelling and the surrounding area, in particular as the rear of the dwelling would be visible from the path and allotments to the rear of the site. Due to the depth and height, it is considered to be out of proportion with the host dwelling and would harm the character and appearance of the locality. It is also considered to appear bulky and dominant when viewed against the existing dwelling, to the detriment of the character and appearance of the dwelling.
- 5.2.8 There is proposed to be a terrace set within the first floor level of the two storey rear extension. This will be visible from views to the rear of the site. However it is not considered to be an unduly prominent feature and is not considered to harm the visual amenity of the site or the surrounding area to an extent that would justify the refusal of the application.
- 5.2.9 There is no objection to the additional high level windows to the side as they would be in keeping with the dwelling to an acceptable degree, including using matching UPVC materials. All other materials will match the existing dwelling and therefore there is no objection to these either.
- 5.2.10 It is considered that the proposed new windows are acceptable additions. However the proposed part two storey part single storey extensions are considered to result in a dominant and incongruous development which would cause detrimental harm to the character and appearance of the existing dwelling and the surrounding area. The proposal is therefore contrary to policies D1 and H4 of the LDP.

5.3 Impact on Residential Amenity

- 5.3.1 Policy D1 of the LDP seeks to protect the amenity of surrounding areas, taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.3.2 There are 6 neighbouring dwellings to the east of application site, No.36-46 King Street. There will be three high level windows on the north east elevation facing these neighbours, installed in the wall of the existing dwelling. The two ground floor windows are not considered to cause a loss of privacy due to their location at ground floor level. The first floor window will be located 1.7 metres above the floor level. Therefore this is not considered to cause an unacceptable loss of privacy to these neighbours to an extent that would justify a condition requiring obscure glazing.
- 5.3.3 The proposed extension will be located 0.7 metres from the east boundary of the application site and therefore would be located a minimum distance of 14.7 metres from the nearest neighbouring dwelling to the east. The proposed extension will run along the boundary with No.42 and No.40 King Street and will be located 14.7 metres and 16.2 metres from these dwellings respectively. Although the extension will be two storeys and will expand across the whole rear garden of No.42 and part of the rear garden of No.40, due to the separation distance between the extension and the neighbouring dwellings, it is not considered to result in a loss of light to these neighbouring dwellings or their amenity areas to an extent that would justify the refusal of the application.
- 5.3.4 It is noted that the proposed two storey rear extension may result in the loss of some views that the 6 neighbouring dwellings to the east currently benefit from, in particular No.40 and No.42 King Street. However a loss of a view is not considered to be a material planning consideration and therefore this would not justify the refusal of the application.
- 5.3.5 The neighbouring dwelling to the west, No.4 Queen Street, is located 1.2 metres from the shared boundary with the application site. The single storey side extension would abut the boundary with this neighbour, for a depth of 6.1 metres, before stepping in 1.1 metres and projecting for a further 4.2 metres. The two storey side extension would be located 1.2 metres from the shared boundary with this neighbour for a depth of 4.6 metres before stepping in 1.3 metres and projecting a further 3.9 metres. Overall, there would be a total 10 metre projection of built form close to the shared boundary with this neighbour and the rear element would project out 5.5 metres further than the rear elevation of this neighbour. Although, due to the separation distance, the proposed development is unlikely to cause a direct loss of light to the windows and internal rooms of the neighbouring dwelling, the overall 10 metre expanse of built form along the south west side of the application site is considered to result in an overbearing form of development which would create a sense of enclosure to the immediate rear private amenity space of this neighbour and along the shared boundary. Therefore this is considered to result in a detrimental impact to the residential amenity of this neighbour to an extent that would justify the refusal of the application.
- 5.3.6 There is proposed to be one first floor window on the side elevation facing the neighbouring dwelling of No.4 Queens Avenue, which will serve a bathroom. It is

noted that this could result in a loss of privacy at it looks out directly onto the neighbouring private amenity space and dwelling. However, as it serves a bathroom, if this application were to be approved, it is considered reasonable to include a condition requiring this window to be obscure glazed.

- 5.3.7 The proposed extension will be located 13.7 metres from the rear boundary. There are allotments to the rear of the site and therefore the proposal is not considered to harm the amenity of any neighbours to the rear. Furthermore, the outlook from the additional windows is not considered to be materially different from the existing windows.
- 5.3.8 A terrace has been included within the two storey rear extension at first floor level. It is set back within the extension and therefore does not have direct views of the neighbours to either side, as these will be shielded by the walls of the extension. Therefore it is not considered to cause undue harm in relation to a loss of privacy to the neighbours to either side of the application site. The terrace will have direct views down the garden on the application site. However there are no neighbours immediately to the rear and therefore the proposed terrace is not considered to result in an unneighbourly form of development to an extent that would justify the refusal of the application.
- 5.3.9 The dwellings across the road are located 15.5 metres from the dwelling on the application site. Due to this separation distance, the proposed development is not considered to result in overshadowing or a loss of privacy. Furthermore, the outlook from the additional front windows is not considered to be materially different from the existing windows.
- 5.3.10 All other dwellings are located at a distance where the extension will not impact on their residential amenity.
- 5.3.11 It is consequently considered that the proposal will result in an overbearing form of development in relation to the neighbour to the south west, No.4 Queens Avenue, to the detriment of their residential amenity. The proposal is therefore contrary to this aspect of policy D1 of the LDP.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 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 Vehicle Parking Standards SPD 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 proposed extension will result in one additional bedroom, increasing the number of bedrooms from three to four. The adopted Vehicle Parking Standards require a three bedroom dwelling to have provision for a minimum of two parking spaces and a four bedroom dwelling to have provision for a minimum of three parking spaces, measuring 2.9 metres wide and 5.5 metres deep.
- 5.4.4 There is currently provision for one parking space, a shortfall of one parking space, taking into account the adopted Vehicle Parking Standards. The proposal will add a garage. The adopted Vehicle Parking Standards require a garage to measure 3 metres wide by 7 metres deep internally. However the proposed garage will measure under the required standard as it will measure 5.5 metres deep by 2.4 metres wide internally. Therefore there will only be one parking space of the required bay sizes on the site, a shortfall of two spaces for a four bedroom dwelling.
- 5.4.5 The application site is located along Queens Avenue. Although this is not a classified road and there is not a high level of through traffic, it is common for cars to park along either side of this road, which impacts on the free flow of traffic. Therefore, it is considered that the increased accommodation combined with a lack of parking is likely to result in more vehicles on the road and therefore the resulting shortfall of two parking spaces is considered to have a demonstrable impact on pedestrian and highway safety within the area.
- 5.4.6 The proposed extension, by reason of the addition of one bedroom, is considered to result in an unacceptable level of on-site parking, which is likely to increase on-street parking, to the detriment of pedestrian and highway safety. Therefore the proposal is considered to be contrary to this aspect of policy D1 and T2 of the LDP.

5.5 Private Amenity Space and Landscaping

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100 square metres of private amenity space for dwellings with three or more bedrooms, 50 square metres for smaller dwellings and 25 square metres for flats.
- 5.5.2 The proposed extension will result in a loss of side and rear amenity space. However the private amenity space will remain in excess of 100 square metres and therefore there is no objection in relation to the provision of private amenity space.

6. ANY RELEVANT SITE HISTORY

6.1 There is no relevant site history for this application.

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 refusal: Due to its scale, height and bulk, the proposal would lead to a cramped appearance and have a detrimental impact on the locality. The size, location and proximity to neighbours would have a detrimental impact on the amenity of neighbouring occupiers by reason of privacy and being overpowering leading to a loss of light.	Comments noted. See Section 5.2. See Section 5.3.

7.2 Representations received from Interested Parties

7.2.1 2 Letters have been received objecting to the application.

Objecting Comment	Officer Response
The extension, by reason of its height, size and proximity to site boundaries, would be detrimental to the amenities of neighbouring occupiers, impacting on light and outlook.	Comments noted. See Section 5.3.

8. REASONS FOR REFUSAL

- 1 The proposed development, by reason of its scale, bulk and design, is considered to result in an incongruous and dominant addition and would also result in a contrived roof line, which is considered to cause detrimental harm to the character and appearance of the existing dwelling and surrounding locality. The proposal is therefore contrary to policies D1 and H4 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.

- 2 The proposed extension, due to its bulk, height and depth, is considered to result in an unneighbourly form of development, particularly in relation to the neighbouring site to the south west, No.4 Queens Avenue. The proposal is therefore considered to be contrary to policies D1 and H4 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.
- 3 The proposed development is considered to result in an unacceptable level of on-site car parking provision, for a four bedroom dwelling, which is likely to result in on-street parking to the detriment of pedestrian and highway safety and the free flow of traffic, contrary to policies D1 and T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.

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