

APOLOGIES Committee Services  
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DIRECTOR OF STRATEGY,  
PERFORMANCE AND  
GOVERNANCE  
Paul Dodson

19 July 2022

Dear Councillor

You are summoned to attend the meeting of the;

**CENTRAL AREA PLANNING COMMITTEE**

on **WEDNESDAY 27 JULY 2022** at **7.30 pm**

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

Please Note: All meetings will continue to be live streamed on the [Council's YouTube channel](#) for those wishing to observe remotely. Public participants wishing to speak remotely at a meeting can continue to do so via Microsoft Teams.

To register your request to speak please submit a [Public Access form](#) (to be submitted by 12noon on the working day before the Committee meeting). All requests will be considered on a first-come, first-served basis.

A copy of the agenda is attached.

Yours faithfully



Director of Strategy, Performance and Governance  
COMMITTEE MEMBERSHIP:

CHAIRMAN	Councillor C Mayes
VICE-CHAIRMAN	Councillor N G F Shaughnessy
COUNCILLORS	Miss A M Beale M R Edwards M S Heard B B Heubner K M H Lagan S P Nunn P L Spenceley Mrs J C Stilts C Swain





**AGENDA  
CENTRAL AREA PLANNING COMMITTEE**

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**WEDNESDAY 27 JULY 2022**

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

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 10)

To confirm the Minutes of the meeting of the Committee held on 29 June 2022 (copy enclosed).

4. **Disclosure of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, other Registrable Interests and Non-Registrable Interests relating to items of business on the agenda having regard to paragraph 9 and Appendix B of the Code of Conduct for Members.

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

5. **2100540OUT - Land At Blackwater Trading Estate, The Causeway, Maldon, Essex** (Pages 11 - 50)

To consider the report of the Director of Service Delivery, (copy enclosed, Members' Update to be circulated)\*.

6. **22/00603/FUL - 102B & C, High Street, Maldon** (Pages 51 - 62)

To consider the report of the Director of Service Delivery (copy enclosed, Members' Update to be circulated)\*.

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

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**Note:**

1. The Council operates a facility for public participation. This will operate only in relation to the consideration and determination of planning applications under Agenda Item Nos. 5-6.
2. The Committee may consider representation from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to participate is afforded only to those having previously made written representation.
3. Anyone wishing to participate must register by completing [the online form](#) no later than noon on the working day before the Committee meeting.
4. For further information please see the Council's website – [www.maldon.gov.uk/committees](http://www.maldon.gov.uk/committees)

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

**NOTICES****Recording of Meeting**

Please note that the Council will be recording and publishing on the Council's website any part of this meeting held in open session.

**Fire**

In the 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 Televisions (CCTV)**

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

**Lift**

The lift is currently out of order. Please contact [committee.clerk@maldon.gov.uk](mailto:committee.clerk@maldon.gov.uk) for any queries.

## **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

## Supplementary Planning Guidance and Other Advice (continued)

### ii) Essex County Council

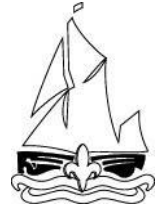
- Essex Design Guide 1997 (Note: superseded by Maldon District Design Guide 2018)
- Essex and Southend on Sea Waste Local Plan 2017
- Essex Minerals Local Plan 2014

### 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.

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**MINUTES of  
CENTRAL AREA PLANNING COMMITTEE  
29 JUNE 2022**

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**PRESENT**

Chairman	Councillor C Mayes
Vice-Chairman	Councillor N G F Shaughnessy
Councillors	Miss A M Beale, M R Edwards, M S Heard, B B Heubner, K M H Lagan, S P Nunn, P L Spenceley, Mrs J C Stilts and C Swain

**1. CHAIRMAN'S NOTICES**

The Chairman welcomed everyone present and went through some general housekeeping arrangements for the meeting.

**2. APOLOGIES FOR ABSENCE**

There were none.

**3. MINUTES OF THE LAST MEETING**

**RESOLVED** (by assent) that the Minutes of the meeting of the Committee held on 16 March 2022 be approved and confirmed.

**4. DISCLOSURE OF INTEREST**

There were none.

**5. 21/00540/OUT - LAND AT BLACKWATER TRADING ESTATE, THE CAUSEWAY, MALDON, ESSEX**

<b>Application Number</b>	<b>21/00540/OUT</b>
<b>Location</b>	Land At Blackwater Trading Estate, The Causeway, Maldon, Essex
<b>Proposal</b>	Outline planning permission with the matters of access, layout and scale for consideration for the erection of warehouse units (Class B8) with associated vehicle parking & servicing.
<b>Applicant</b>	Aquila EHS Ltd
<b>Agent</b>	Blenheim Consultancy Services Ltd
<b>Target Decision Date</b>	24.09.2021
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>MALDON NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Major application

In response to a question from the Chairman, the Specialist: Development Management explained that a Grampian condition was a condition applied for works outside of the application site considered necessary to be completed before the erection of the development and without which the development would not be considered acceptable.

A lengthy debate ensued, during which a number of comments and questions were made by Members of the Committee to which Officers provided the following information:

- Provision of electrical charging points were included within condition 14. The introduction of solar panels was raised and Members advised that the Council was unable to enforce solar at the moment because it was not included within the Local Development Plan, however the applicant could be asked to consider this.
- It was noted that following an initial objection from Environmental Health (EH) regarding 24/7 operation of the site Members were advised that the hours of operation had been reduced to 7am – 11pm and were now considered acceptable by EH.
- There was not a condition to propose introduction of an acoustic barrier and this had not been requested by EH. Therefore, Officers did not see there was a reason to impose an acoustic barrier. However should Members be mindful to impose such a barrier Officers suggested that the Committee may wish to consider deferring consideration of the application to allow them to discuss the matter with the applicant as such structures were normally subject to detailed analysis etc. was not something that could be applied by the Committee at this stage. During such a discussion the visual impact would also be raised.
- The application did not include a new attenuation basin.
- The 20m of undeveloped land within the site was to allow the Environment Agency (EA) to access the site carry out improvement works along the flood defences, should these be required in the future.
- Condition 22 sought to secure Sustainable Drainage Systems as requested by the Lead Local Flood Authority and all details of how surface water would be managed on the site would be secured through this condition.
- There were some discussions regarding public footpaths both within and adjacent to the site. Members were advised of plans for a footpath to run along Heybridge Creek, but it was noted this was outside of the application site. In response to a request for a pathway behind the causeway and linking up to the shopping centre and Bates Road Park, Officers explained this could not be conditioned. If Members were considering requesting a contribution to such a footpath outside of the site justification for it would have to be provided along with a planning obligation. The Officer then explained the three tests that had to be met in order to impose a planning obligation. However, such requests were normally secured through the Local Plan and ancillary documents. This had not been investigated by Officers as it was felt not to be triggered by the application.

Councillor K M H Lagan felt that to request attenuation within the site was very important. He proposed that the application be deferred to look at what noise barriers and options were available and how these could be conditioned. This proposal was duly seconded.

It was proposed that a site visit should be undertaken. This proposal was duly seconded.



The Chairman put the proposed deferral to the Committee and upon a vote being taken this was agreed. Members then voted on a site visit and this was duly agreed. In response to the site visit Officers clarified that this was specifically to explore potential noise issues in conjunction with the footpath and sound barriers. This was agreed.

**RESOLVED** that this application be **DEFERRED** to investigate options for noise barriers and to undertake a site visit.

**6. 22/00434/HOUSE - PLUM TREE HOUSE, MUNDON ROAD, MALDON, ESSEX, CM9 6PW**

<b>Application Number</b>	<b>22/00434/HOUSE</b>
<b>Location</b>	Plum Tree House, Mundon Road, Maldon, CM9 6PW
<b>Proposal</b>	Single-storey front, side and rear extensions. Addition of dormers to front and rear roof slope. New porch and changes to fenestration.
<b>Applicant</b>	Mr G Watling
<b>Agent</b>	Mr Ralph Massie - Planning2Build
<b>Target Decision Date</b>	26.05.2022
<b>Case Officer</b>	Jade Elles
<b>Parish</b>	<b>MALDON SOUTH</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In from Councillor Swain by reason of continued problems with property on grounds of Policy D1

It was noted that this application was in the Maldon East Ward and not South as detailed in the report.

In response to comments, the Lead Specialist Development Management explained the consideration given by Officers when making recommendations and explained how concern had been raised regarding the scale of the proposed dormers and the front extension being out of character.

In response to a question regarding the consultation response from the Tree Officer, Members were advised that if they were mindful to approve the application a condition requiring submission of a tree protection method statement would be applied.

Councillor K M H Lagan proposed that the application be approved, contrary to Officers recommendation for reasons that the proposed extension to the front, together with the front dormer windows, by reason of their design, position, height and depth would benefit the area, were not a dominant addition and did not result in demonstrable harm to the character and in line with the existing dwelling and locality, and with Policies D1 and H4 of the Maldon District Local Development Plan. This proposal was duly seconded.

Councillor Mrs J C Stilts proposed that a condition regarding the tree protection method statement be included. This was duly seconded.

The Chairman confirmed that if Members were minded to approve the application standard conditions would be imposed. She then put the proposal in the name of Councillor Lagan to approve the application to the Committee and upon a vote being taken this was agreed. The Committee then voted on the addition of a condition regarding trees and this was duly agreed

**RESOLVED** that this application be **APPROVED** for the reasons detailed above and conditions (including a condition regarding a tree protection method) to be agreed by Officers in consultation with the Chairman of the Committee.

7. **20/00865/PROW - LAND SOUTH OF WYCKE HILL AND LIMEBROOK WAY, MALDON, ESSEX**

<b>Proposal</b>	Diversion of a Public Footpath 14 (PRoW 248) Hazeleigh and Public Footpath 41 (PRoW 253) Maldon
<b>Applicant</b>	Crest Nicholson
<b>Agent</b>	Savills – Taylor Vernon
<b>Case Officer</b>	Kathryn Mathews
<b>Parish</b>	<b>MALDON WEST</b>
<b>Reason for Referral to the Committee / Council</b>	Not Delegated to Officers

In response to questions raised Officers provided further detail regarding the stages relating to a proposal to divert a Public Right of Way (PROW) and it was noted that if the Committee agreed the recommendation, this would enable the proposal to move onto the next stage in the process which would include formal consultation on the diversion proposed.

Some concern was raised that diversion of the PROW was being proposed but Officers clarified that the diverted route would be through a landscaped belt at the edge of the development, the land was within the ownership of the developer and no fencing or screening of the new path was proposed.

Councillor S Swain proposed that the Diversion Order be approved as set out in the recommendation. This was duly seconded and upon a vote being taken was agreed.

**RESOLVED** that a permanent Diversion Order of the highlighted sections of Public Footpath 14 Hazeleigh and Public Footpath 41 Maldon is **MADE** and, if no relevant objections are received, **CONFIRMED** by Maldon District Council, as ‘competent authority’ under Section 257 of the Town and Country Planning Act 1990.

There being no other items of business the Chairman closed the meeting at 9.06 pm.

C MAYES  
CHAIRMAN



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

to  
**CENTRAL AREA PLANNING COMMITTEE  
27 JULY 2022**

<b>Application Number</b>	<b>21/00540/OUT</b>
<b>Location</b>	Land At Blackwater Trading Estate, The Causeway, Maldon, Essex
<b>Proposal</b>	Outline planning permission with the matters of access, layout and scale for consideration for the erection of warehouse units (Class B8) with associated vehicle parking & servicing.
<b>Applicant</b>	Aquila EHS Ltd
<b>Agent</b>	Blenheim Consultancy Services Ltd
<b>Target Decision Date</b>	27.07.2022
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>MALDON NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Major application

**1. RECOMMENDATION**

**APPROVE** subject to the applicant entering into a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the planning obligations and subject to conditions as detailed in Section 4.

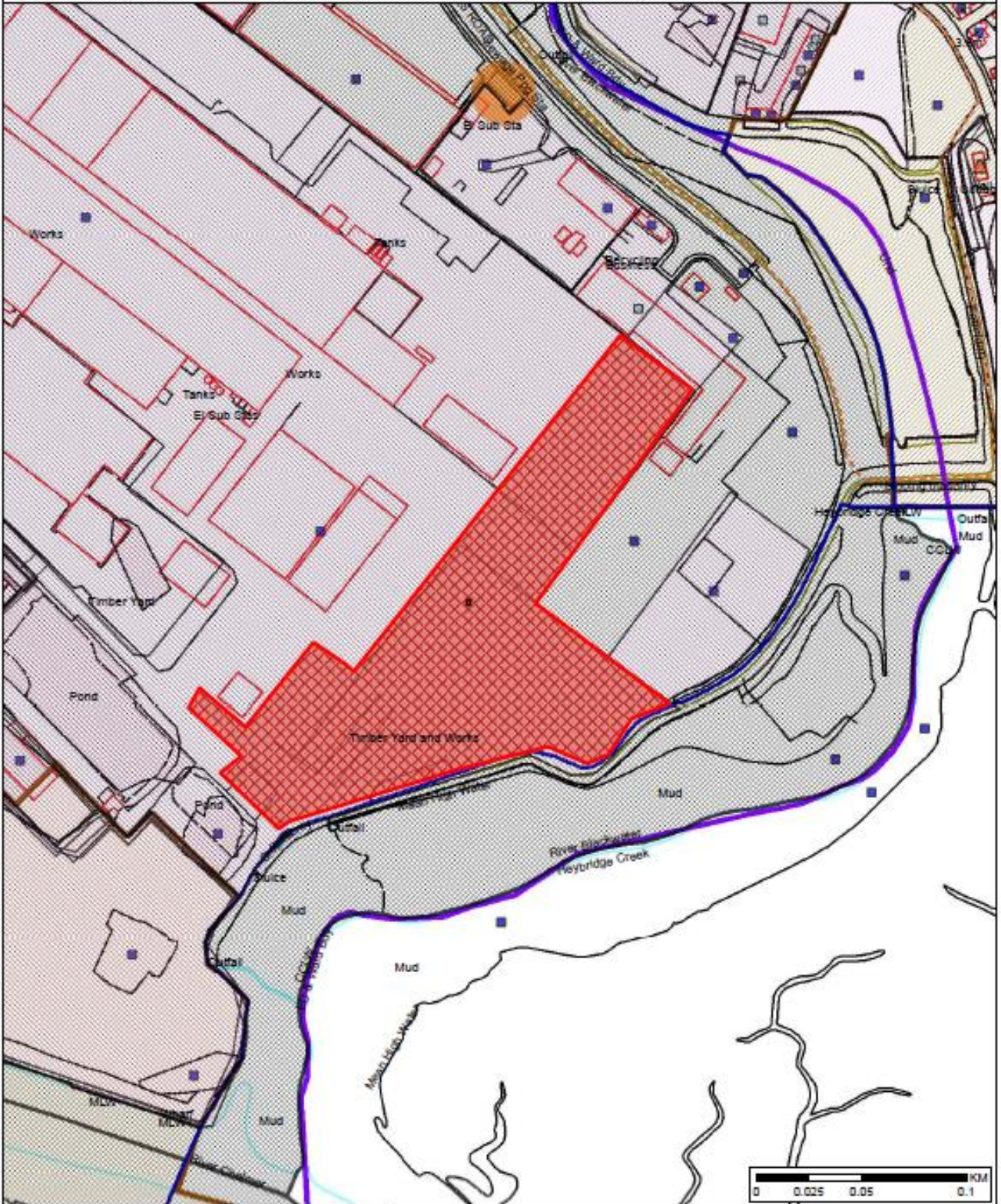
**2. BACKGROUND**

- 2.1 This planning application was originally presented to the Central Area Planning Committee on 29 June 2022. The application was deferred by the Committee for a site visit. This was to consider matters in relation to the provision of a noise attenuation barrier, impact on local residents, and to explore the possibility of an improved footpath along Heybridge Creek and connectivity with adjoining cycle / foot path networks in the area having regard to the Central Area Master Plan (CAMP).
- 2.2 The report previously presented at the Central Area Planning Committee is still applicable and is attached at **APPENDIX A**.

**3. SITE MAP**

Please see below.

**21/00540/OUT**  
**Central Area Committee**



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 Maldon District Council 100018588 2014

**MALDON DISTRICT COUNCIL**

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Scale:	1:2,500
Organisation:	Maldon District Council
Department:	Department
Comments:	Not Set
Date:	14/06/2022
MSA Number:	100018588

4. **PROPOSED CONDITIONS, INCLUDING HEADS OF TERMS OF ANY SECTION 106 AGREEMENT**

**HEADS OF TERMS OF ANY SECTION 106 AGREEMENT**

- A monitoring fee for the Travel Plan of £6,132 (plus the relevant sustainable travel indexation) shall be paid before occupation to cover the 5 year period.

**PROPOSED CONDITIONS**

- 1 Details of the appearance and landscaping (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

Application(s) for approval of the reserved matters shall be made to the Local Planning Authority no later than three years from the date of this permission.

The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved  
REASON To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).

- 2 As part of the reserved matters details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be submitted to and approved in writing by the Local Planning Authority. The screening as approved shall be constructed prior to the first use of the development to which it relates and be retained in perpetuity as such thereafter.

REASON To ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon District Local Development Plan.

- 3 The landscaping details referred to in Condition 1 shall provide full details and specifications of both hard and soft landscape works, which shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be submitted concurrently with the other reserved matters. These landscaping details shall include the layout of the hard landscaped areas with the materials and finishes to be used together with details of the means of enclosure, car parking layout, vehicle and pedestrian accesses.

The details of the soft landscape works shall include schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers / densities and details of the planting scheme’s implementation, aftercare and maintenance programme.

The hard landscape works shall be carried out as approved prior to the beneficial first use of the development hereby approved unless otherwise first agreed in writing by the Local Planning Authority.

The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the Local Planning Authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.

- REASON To ensure that details of the development are satisfactory and in the interest of the visual amenity of the area, in accordance with policy D1 of the Maldon District Development Local Plan and the guidance contained in the Maldon District Design Guide SPD.
- 4 Prior to the commencement of development details of the existing and proposed ground levels together with proposed finished floor levels shall be submitted to and be approved in writing by the Local Planning Authority. The development hereby permitted shall then be constructed in accordance with the approved ground and finished floor levels.
- REASON In order to ensure that development appropriately integrates with the setting and its proposed neighbouring buildings, in compliance with the National Planning Policy Framework and policy D1 of the approved Maldon Local Development Plan (2017) and the guidance contained in the Maldon District Design Guide SPD.
- 5 Prior to their use in the construction of the development, product details or samples of all materials to be used in the construction of the external surfaces of the development hereby permitted shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the materials and details as approved.
- REASON To ensure that the details of the development are satisfactory in accordance with policy D1 of the Maldon Local Development Plan and the guidance contained in the Maldon District Design Guide (2017).
- 6 No development hereby approved, including ground works or demolition, shall commence unless a footway/cycleway connecting the western part of the application site (west of approved Unit G) with the existing footway/cycleway along the north-eastern boundary of Aldi has been completed. The details of the footway/cycleway shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development, including ground works and demolition. The footway/cycleway shall then be retained as such in perpetuity.
- REASON To ensure that a safe and easily accessible footway/cycleway is provided in support of sustainable modes of transport in accordance with policies S5, T1 and T2 of the Local Development Plan and the guidance contained in the Maldon and Heybridge Central Area Masterplan, the North Quay Regeneration Development Brief SPD and National Planning Policy Framework.
- 7 No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
- a. the parking of vehicles of site operatives and visitors
  - b. loading and unloading of plant and materials
  - c. storage of plant and materials used in constructing the development
  - d. wheel and underbody washing facilities
- REASON To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety in accordance with policies D1 and T2 of the Local Development Plan.
- 8 The development hereby approved shall not be occupied until such time as the vehicle parking and turning area indicated on planning application drawing number 21/02/03 REV B, has been hard surfaced, sealed and marked out in parking bays. The parking spaces shall have dimensions in accordance with the current parking standards. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

- REASON To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with policies D1 and T2 of the Local Development Plan.
- 9 Cycle parking shall be provided prior to the first use of the development hereby approved in accordance with Maldon District Council's adopted standards. The approved facility, which details shall be submitted to and approved writing by the Local Planning Authority prior to the occupation of the development hereby approved, shall be secure, convenient, covered and retained in perpetuity.
- REASON To ensure that cycle parking is proposed in accordance with the Vehicle Parking Standards SPD and policies D1 and T2 of the Maldon District Local Development Plan.
- 10 The powered two wheeler/cycle parking facilities as shown on the approved plan 21/02/03 REV B are to be provided prior to the first occupation of the development and retained at all times.
- REASON To ensure appropriate powered two wheeler and bicycle parking is provided in accordance with the Vehicle Parking Standards SPD and policies D1 and T2 of the Maldon District Local Development Plan.
- 11 There shall be no discharge of surface water onto the Highway.
- REASON To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety in accordance with policy T2 of the Maldon District Local Development Plan.
- 12 The public's rights and ease of passage over public footpath No.45 (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 Local Development Plan.
- 13 Prior to first occupation of the proposed development, the Developer shall submit a workplace travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years.
- REASON In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies S5, T1 and T2 of the Maldon District Local Development Plan.
- 14 No building hereby permitted shall be used until details of the number and location of electric car charging points in accordance with the adopted Vehicle Parking Standards SPD (2018) have been submitted to and approved in writing by the local planning authority. The charging points shall be provided in accordance with the approved details prior to the commencement of the beneficial use of the parking space within which they would be located.
- REASON To comply with the adopted Vehicle Parking Standards SPD (2018) in accordance with Policies D1 and T2 of the approved Maldon District Local Development Plan.
- 15 No building hereby permitted shall be used until details of the number and location of car parking spaces for disabled people in accordance with the adopted Vehicle Parking Standards SPD (2018) have been submitted to and approved in writing by the local planning authority. The parking spaces for disabled people shall be provided in accordance with the approved details prior to the commencement of the beneficial use of the parking space within which they would be located.
- REASON To comply with the adopted Vehicle Parking Standards SPD (2018) in accordance with Policies T1 and T2 of the approved Maldon District Local Development Plan.
- 16 The hours of operation of the, B8 units hereby permitted shall between:
- Monday to Saturday 0700 hours until 2300 hours only

- REASON In the interest of the amenity of neighbouring properties in accordance with the requirements of policy D1 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework.
- 17 No external plant or machinery shall be used unless and until details of the equipment have been submitted to and approved by the local planning authority. Any measures required by the local planning authority to reduce noise from the plant or equipment shall be completed prior to the plant being brought into use and retained as such thereafter.
- REASON In the interest of the amenity of neighbouring properties and to safeguard the character of the area in accordance with the requirements of policy D1 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework.
- 18 The applicant/occupier is required to have in place a flood action plan to respond to any flood warnings issued by the Environment Agency. Details of the flood evacuation plan shall previously have been submitted to and agreed in writing by the Local Planning Authority, in consultation with the Environment Agency, prior to first occupation of the development hereby permitted.
- REASON To minimise risk from flooding in accordance with the requirements of policy D5 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework.
- 19 No means of external illumination of the site shall be installed unless otherwise agreed in writing by the local planning authority. The external illumination shall be retained as such thereafter.
- REASON To minimise light pollution upon the nearby nature conservation sites and protected species in the interests of biodiversity and ecology in accordance with policies D1, D2 and N2 of the Maldon District Local Development Plan.
- 20 The premises shall only be used for storage and distribution purposes which are defined within Class B8 of the Schedule to the Town & Country Planning Use Classes (Amendment) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) and for no other purpose.
- REASON In the interest of the amenity of neighbouring properties and to safeguard the character of the area in accordance with the requirements of policy D1 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework.
- 21 No buildings, or fixed above ground structures shall be placed within 20.5 metres of the landward toe of the defence, as detailed on drawing 21/02/03 revision B, dated Apr 21, provided within Appendix B of the Flood Risk Assessment Addendum No.2, dated January 2022, without written approval from the Environment Agency.
- REASON To retain access to the defences for the Environment Agency to carry out its functions and ensure the defences can be maintained for continued flood risk protection in accordance with the requirements of policy D5 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework.
- 22 No works except demolition shall takes place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
- Provide engineering site layout of the proposed drainage network at the site. This should include the following details: manholes cover levels, invert levels, pipes dimensions, slopes, basin top and base



levels, and invert levels both at inlet and outlets, outflow rates, as well as top water level in the attenuation basins/ponds during 100year plus 40percent CC allowance.

- Provide calculations for the conveyance and storage network for the proposed development. The network should not predict surcharge in 1yr events, and should not predict flooding in 30year events. During 100 year plus 40pc cc event if any marginal flooding is predicted then it should be directed away from the building using appropriate site grading.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

REASON To avoid the risk of water flooding and pollution in accordance with policy D2 of the Maldon District Local Development Plan.

23 No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

REASON To minimise flood risk elsewhere and avoid water pollution in accordance with the requirements of policy D2 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework.

24 Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

REASON To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk in accordance with the requirements of policy D5 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework.

25 The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

REASON To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk in accordance with the requirements of policy D5 of the Maldon District Local Development Plan and the provision and guidance as contained within the National Planning Policy Framework.

- 26 No development, including ground works or demolition, shall take place during prolonged periods of cold weather between October – March inclusive. In the event of a works suspension due to prolonged cold weather, work can resume after three days of thaw. After a continuous week of cold weather (i.e. frozen conditions for seven consecutive days), advice should be sought from the Site Ecologist or Ornithologist who shall base their guidance on the advice contained within the website of the Joint Nature Conservation Committee regarding a “Scheme to reduce disturbance to waterfowl during severe winter weather” or any other advice amending or revoking that advice.  
REASON In the interests of protecting the natural conservation designations and protected species in accordance with the guidance contained within the NPPF and Policy N2 of the approved Local Development Plan.
- 27 No development, including ground works or demolition, shall commence until a Construction Environmental Management Plan and an Operational Environmental Management Plan have been submitted to and approved in writing by the Local Planning authority.  
REASON In the interests of protecting the natural conservation designations and protected species and avoid water pollution in accordance with the guidance contained within the NPPF and Policies N2 and D2 of the approved Local Development Plan.
- 28 The development shall be implemented in accordance with the mitigation measures included in the submitted Habitat Regulations Assessment Report, submitted by the applicant on 26 May 2021 and Preliminary Ecological Appraisal, dated 11 May 2021 prepared by Southern Ecological Solutions. The development hereby approved shall operate in accordance with the approved mitigation measures in perpetuity.  
REASON In the interests of protecting the natural conservation designations and protected species in accordance with the guidance contained within the NPPF and Policy N2 of the approved Local Development Plan.
- 29 No development, including ground works or demolition, shall commence until details of enhancement measures have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and retained as such in perpetuity.  
REASON In the interests of protecting the natural conservation designations and protected species and avoid water pollution in accordance with the guidance contained within the NPPF and Policies N2 and D2 of the approved Local Development Plan.
- 30 No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title has submitted an archaeological assessment by an accredited archaeological consultant to establish the archaeological significance of the site. Such archaeological assessment shall be approved by the local planning authority and will inform the implementation of a programme of archaeological work. The development shall be carried out in a manner that accommodates such approved programme of archaeological work.  
REASON To protect the site which is of archaeological interest, in accordance with policy D3 of the approved Local Development Plan and the guidance contained the National Planning Policy Framework.
- 31 No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title has secured the implementation of a programme of archaeological work from an accredited archaeological contractor in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development

shall be carried out in a manner that accommodates the approved programme of archaeological work.

The archaeological work will comprise archaeological trial-trenching of the proposed development area, followed by full excavation if archaeological features are identified. All fieldwork should be conducted by a professional recognised archaeological contractor.

REASON To protect the site which is of archaeological interest, in accordance with policy D3 of the approved Local Development Plan and the guidance contained the National Planning Policy Framework.

## **INFORMATIVES**

- 1 The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath No. 45 (Maldon) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way. The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.
- 2 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 The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours and to this effect:
    - a) no waste materials should be burnt on the site, instead being removed by licensed waste contractors;
    - b) no dust emissions should leave the boundary of the site;
    - c) consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;
    - d) hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.

If it is known or there is the likelihood that there will be the requirement to work outside of these hours or there will be periods where there will be excessive noise that will significantly impact on sensitive receptors

Environmental Health at Maldon District Council must be notified prior to the works as soon as is reasonably practicable. The developer is advised to consult nearby sensitive noise premises and may be advised to apply for a Prior Consent under Section of the Control of Pollution Act 1974.

Care must be taken to prevent the pollution of ground and surface waters. This will include during works and the location of any hazardous materials including fuel from vehicles and equipment.

Where any soils that are known to be contaminated are being excavated or exposed a site waste plan must be prepared in order to store treat and dispose of the materials in accordance with the waste duty of care. It is recommended that advice is sought from the Environment Agency on this matter.

Where there is requirement for dewatering the site, the relevant consent must be sought from the Environment Agency.

Where there is a requirement to obstruct or alter watercourses a consent under section 23 of the Land Drainage Act must be obtained from Essex County Council.

- 4 Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk).
- 5 Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- 6 Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- 7 It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- 8 The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- 9 We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**CENTRAL AREA PLANNING COMMITTEE**  
**29 JUNE 2022**

<b>Application Number</b>	<b>21/00540/OUT</b>
<b>Location</b>	Land At Blackwater Trading Estate, The Causeway, Maldon, Essex
<b>Proposal</b>	Outline planning permission with the matters of access, layout and scale for consideration for the erection of warehouse units (Class B8) with associated vehicle parking & servicing.
<b>Applicant</b>	Aquila EHS Ltd
<b>Agent</b>	Blenheim Consultancy Services Ltd
<b>Target Decision Date</b>	24.09.2021
<b>Case Officer</b>	Anna Tastsoglou
<b>Parish</b>	<b>MALDON NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Major application

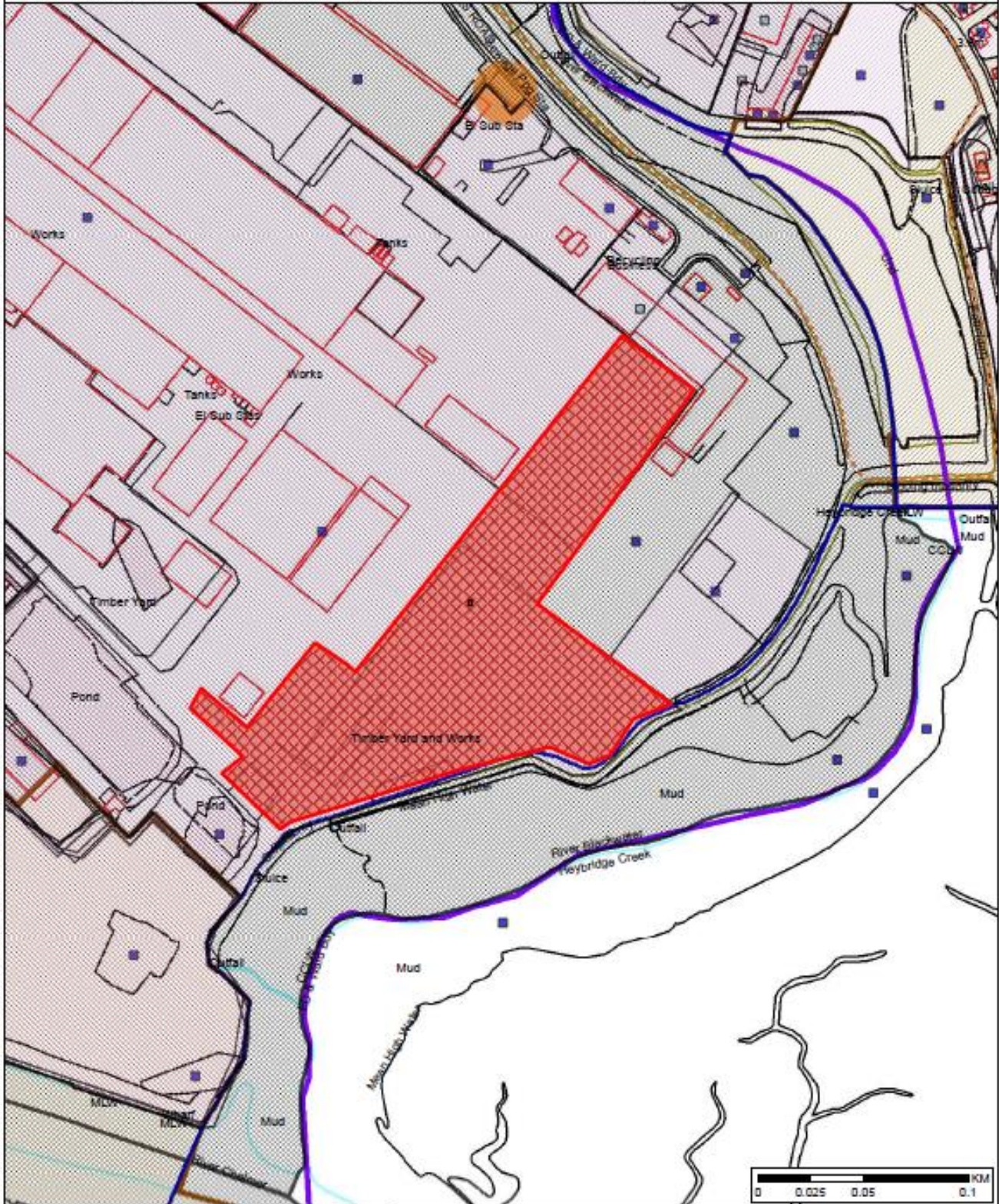
**1. RECOMMENDATION**


**APPROVE** subject to the applicant entering into a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the planning obligations and subject to conditions as detailed in Section 8.

**2. SITE MAP**

Please see below.

21/00540/OUT  
Central Area Committee



 <p><b>Copyright</b> 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 Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p> <p>www.maldon.gov.uk</p>	Scale:	1:2,500
	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Not Set
	Date:	14/06/2022
	MSA Number:	100018588

### 3. SUMMARY

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

##### Site description

- 3.1.1 The application site forms part of the Blackwater Trading Estate, located at its easternmost part south of Bates Road, a dead-end road giving access to Quayside Industrial Estate. To the northeast of the site is located the recycling centre. To the south the area is predominantly open and lies directly adjacent to the estuary. To the southwest the site abuts the attenuation basins, which serve a drainage function. To the northwest there are a number of existing buildings and open storage area of the Blackwater Trading Estate. Along the southern boundary of the site there is also a footpath running along Heybridge Creek which is connected with public footpath 45. On the other side of the bank of Heybridge Creek is a residential estate.
- 3.1.2 The site covers an area of approximately 2.1 hectares and currently comprises hardstanding, which appear to be largely used as open storage area in association with the existing estate uses. Access to the site is taken off of a private estate road linked with The Causeway. The application site is part of the Causeway employment area and the Causeway regeneration area and it is located within the Central Area Masterplan area. The site lies within a Flood Zone 3, it benefits from flood defences and is located within a critical drainage area. Adjacent to the application site the land is part of the Essex Estuaries Marine Conservation Zone (MCZ) and Special Area of Conservation (SAC) and the Blackwater Estuary Site of Special Scientific Interest (SSSI) and Special Protection Area (SPA), which is also protected under the Ramsar conservation designation for wetlands.

##### Description of proposal

- 3.1.3 Outline planning permission, with matters of appearance and landscaping reserved for future consideration, is sought for the erection of 10,474sqm floor area of B8 (storage and distribution) buildings, with associated parking and turning areas. Two temporary buildings partially occupying the northern part of the application site would be demolished.
- 3.1.4 The submitted plans show that the floor area would be split into four buildings of varying size and scale, as follows:
- Unit A adjacent to the northern boundary of the site would be of rectangular shape and would measure 43 metres wide, 25.8 metres deep and 16.8 metres high, covering an area of 1112sqm.
  - Units B to E would form one large building divided onto smaller units of 533sqm each. The building would measure 77.4 metres wide and 27.3m deep, with a maximum height of 17.4 metres and it would provide office accommodation at first floor.
  - Unit F would be a large, staggered building covering an area of 4,155sqm, measuring a maximum of 90.6 metres deep and a maximum of 55.8 metres wide, with a maximum height of 17 metres. A mezzanine for offices would be provided.
  - Unit G is a large, staggered building located on the southwestern part of the application site and measures 3,075sqm. The external dimensions of the building would be 78.5 metres in width, a maximum of 49.4 metres in depth, having a maximum height of 17.5 metres. The building would provide office accommodation at first floor.

- 3.1.5 Indicative elevation plans showing the appearance of the proposed buildings have been submitted. It appears that the buildings are proposed to be of a typical industrial storage units' style, with shallow hipped roofs, double storey height, tall loading bay doors and largely glazed entrances with logos above. It is stated that the building would be finished in steel cladding.
- 3.1.6 Access to the site would be gained from an existing vehicular network which serves the existing industrial estate off of the Causeway. The existing vehicular route circulates between the buildings and it would be utilised to provide access to the proposed units. The network would be extended to the northeast and southwest to give access to the proposed parking spaces and turning areas. Turning facilities for units A to E will be provided to the north of those buildings, whilst for building F and G two turning points will be created on the southern part of the application site.
- 3.1.7 In terms of parking provision, it is stated that 1 car parking space per 150sqm would be provided, 5% of which would be designated parking spaces for disabled people. A total of 107 parking spaces of 2.9m x 5.5m size are proposed to be provided to include spaces for visitors and ancillary office spaces. 24 cycle parking spaces are also proposed to be formed.
- 3.1.8 It is noted that the proposed development has been amended during the process of the application to allow a 20-metre gap from the existing flood defence along the southeast boundary of the site with Heybridge Creek. This has resulted in a reduction in the floor area originally proposed by 958sqm and the overall scale and design of the proposed buildings F and G.

## **3.2 Conclusion**

- 3.2.1 Having taken all material planning consideration into account, it is considered that the proposed employment land which falls within B8 use class would be compliant with the stipulations of policies E1 and S5 of the Local Development Plan (LDP), as well as with policy CA2 of the Maldon and Heybridge Central Area Masterplan (the CAMp). On this basis and subject to the imposition of an appropriately worded Grampian condition to secure the provision of an off-site footway/cycleway connection, the principle of the development is considered acceptable. The development is located within Flood Zone 3, however this a designated employment site where it has positioning of this type of employment uses has been considered acceptable. Furthermore, following revision of the layout and amount of development proposed, the objection originally raised by the Environment Agency have been overcome. The impact of the development on the highway network and safety is considered acceptable and adequate off-street parking will be provided on site. A checking and monitoring fee for the Travel Plan will be secured through a Section 106 agreement. The development, subject to the imposition of appropriate conditions restricting operations hours, is considered having an acceptable impact on residential amenity. As this is an outline application, the details of appearance of the proposed development, as well as landscaping, are reserved for future consideration. In light of the above, it is considered that the proposed development, subject to conditions and developer obligations, is considered acceptable and in accordance with the 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 2021 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
- 55-58 Planning conditions and obligations
- 81-85 Building a strong, competitive economy
- 92-103 Promoting healthy and safe communities
- 119-125 Making effective use of land
- 126-136 Achieving well-designed places
- 104-113 Promoting sustainable transport
- 152-173 Meeting the challenges of climate change, flooding and coastal change
- 174-188 Conserving and enhancing the natural environment

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

- Policy S1 – Sustainable Development
- Policy S2 – Strategic Growth
- Policy S7 – Prosperous Rural Community
- Policy S5 – The Maldon and Heybridge Central Area
- Policy D1– Design Quality and Built Environment
- Policy D2 – Climate Change and Environmental Impact of New Development
- Policy D5 – Flood Risk and Coastal Management Policy E1 – Employment
- Policy N2 – Natural Environmental and Biodiversity
- Policy T1 – Sustainable Transport
- Policy T2 – Accessibility

**4.3 Relevant Planning Guidance / Documents:**

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Vehicle Parking Standards SPD (Supplementary Planning Document)
- Maldon and Heybridge Central Area masterplan SPD
- North Quay Regeneration Development Brief SPD
- Vehicle Parking Standards (VPS) SPD

**5. MAIN CONSIDERATIONS****5.1 Principle of Development**

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations

indicate otherwise. In this case the development plan comprises of the approved LDP.

- 5.1.2 Policy S1 refers to the NPPF's presumption in favour of sustainable development and states that *"When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF and will apply, inter alia, the following key principles in policy and decision making:*
- 2) *Ensure a healthy and competitive local economy by providing sufficient space, flexibility and training opportunities for both existing and potential businesses in line with the needs and aspirations of the District;*
  - 3) *Promote the effective use of land and prioritise development on previously developed land and planned growth at the Garden Suburbs and Strategic Allocations;*
  - 4) *Support growth within the environmental limits of the District;*
  - 5) *Emphasise the importance of high quality design in all developments;*
  - 8) *Ensure new development is either located away from high flood risk areas (Environment Agency defined Flood Zones 2 and 3) or is safe and flood resilient when it is not possible to avoid such areas;*
  - 13) *Minimise the need to travel and where travel is necessary, prioritise sustainable modes of transport and improve access for all in the community"*
- 5.1.3 In conjunction with policies S1 and S2, Policy S8 of the approved LDP seeks to support sustainable developments within the defined settlement boundaries. Policy S8 of the LDP identifies Maldon as one of the main settlements of the District where development should be directed to.
- 5.1.4 The application site lies within a designated employment area as defined by policy E1 of the LDP. In particular, the site is within the designated area E1 (I), The Causeway Maldon and Heybridge. The overall size of the area is 43.6 ha and the appropriate uses are defined to be B1 (current E(g) use class), B2 and B8. The site currently comprises hardstanding area within the curtilage of the Blackwater Trading Estate and is largely used as open storage in conjunction with the existing uses of the estate. Policy E1 states that the designated employment areas will be retained and protected for Class B uses or Sui Generis uses of an employment nature unless it can be demonstrated that there is no reasonable prospect for the site to be used for these purposes. In this instance the development is a B8 use and the associated operational development as described in section 3.1 of the report and therefore, it will comply with Policy E1. This type of use is compliant with the stipulations of policies E1 and S5 of the LDP as well as with policy CA2 of the CAMp. On this basis, the principle of the development is acceptable.
- 5.1.5 Policy S5 states that the Maldon and Heybridge Central Area will continue to act as the focal point within the District for retail, commercial, industrial, community and tourism activities. Paragraph 3 of the policy states that the renewal of the Causeway Regeneration Area aims to improve supply of commercial and industrial uses in order to increase employment, including within others, modern workspaces suitable for small and medium sized enterprises and support for existing businesses that are seeking to expand. Paragraph 1 of the same policy requires any proposed development to have regard to the CAMp.
- 5.1.6 The CAMp designates three areas and identifies a number of projects within each of these areas. The application site is within the Causeway Regeneration Area. Overall the objective for the Causeway Regeneration area (Policy CA2) is to be promoted as a focus for a spectrum of employment and commercial activity, with

some mixed-use development opportunities. The site falls partially within Project 9 – Heybridge Creek improvements recognises the importance of providing good quality vehicular access to employment land and alternative and sustainable modes of transport and highlights the need to retain the existing leisure character of the footpath on the east side of the Causeway employment area.

- 5.1.7 The site is also within the North Quay Development Brief SPD area where specific infrastructure requirements for flood resilience infrastructure and walking and cycling routes are required. The site is located within a Critical Drainage Area, as it was identified by the Essex County Council Lead Local Flood Authority, as well as within Flood Zone 3, which benefits from existing Environment Agency flood defences. The Environment Agency has identified some problems in the area, including the significant silt build up at the outfall sluices to the south of the application site. The North Quay Regeneration Development Brief SPD also highlights that the EA have difficulty accessing the tidal defence wall, outfalls and sluices from the existing industrial area and has advised that improving the access would benefit the ongoing and future maintenance to the walls/embankments and outfalls. Following consultation with the Environment agency, it has been highlighted that future improvements to flood defences at this location may require additional land take to ensure that the defences can be raised and recommended that an easement of 20 metres is provided from the tow of the existing defence, which is to the southwest of the site. As noted in the 'Proposal' section the proposed development has been amended as advised by the EA in order to allow a 20-metre gap between the build form and the tow of the defences. This has overcome the concerns originally raised by the EA in relation to this element of the development. Further assessment of the impact of the development in terms of flood risk is included in the relevant section below.
- 5.1.8 With regard to the accessibility of the North Quay Regeneration area and in particular the application site, as noted above policy S5 requires development to maintain and encourage the wider use of walking and cycling across the area through an improved public realm and improved linkages and connectivity between the town centre and Causeway. This is also supported in the CAMp. Furthermore, policy T1 states that the provision of sustainable transport will be ensured by supporting measures which *inter alia* will 1) secure provision for sustainable transport in new development and 2) give priority to pedestrians, wheelchairs, cyclists and public transport over private vehicles. The North Quay Regeneration Development Brief SPD points out the need for pedestrian and cycle connectivity and although a pedestrian/cycle connection between the existing network and the site is not shown on the off-road walking and cycling opportunities plan in the North Quay Regeneration Development Brief SPD, this is due to the unknown opportunities of the redevelopment of the site at the time of drafting the brief. It is noted that the development of the Blackwater Retail Park has realised necessity of an off-road connection for pedestrians and cyclists and a pedestrian/cycle path has been secured through approval of application 14/00861/FUL along the northern boundary of Aldi. Whilst this path appears to be fenced off and made of materials that are not pedestrian or cyclist friendly, it is noted that compliance of the development with the approved plans is secured through condition 5. It is noted that the Council is aware of the breach of condition and therefore, it is in its power to take enforcement action should this be considered expedient. The application site is located around 85 metres to the southeast of this path and it is considered reasonable that pedestrian/cyclist connection between the existing pedestrian/cycle path and the application site is provided. This would allow a shorter pedestrian connection of the site with the bus stops along the Causeway and it will also link the application site with the existing cycle network, in accordance with the requirements of policy S5 and the guidance contained in the CAMp and the North Quay Regeneration Development Brief SPD.

- 5.1.9 The land where the provision of a pedestrian/cyclist link is required is owned by the Applicant and is an existing one-way access road used for vehicles to exit the site. Although the Applicant states that a pedestrian link cannot be provided along this section of the estate road, no evidence demonstrating that this would be physically impossible has been submitted to the Local Planning Authority (LPA). This section of the one-way estate road appears to be wide enough to be used for dual purposes (pedestrian/cyclist link and vehicle access) and it is also approximately 2 metres wider than the other one-way roads within the industrial estate. It is therefore considered that insufficient justification as to why this section of the estate access road cannot be used as a pedestrian/cyclist link. The LPA therefore considers that the provision of a pedestrian and cycle link connecting the site with the existing cycle and pedestrian network, which would also provide easier access to public transport is necessary to make the development acceptable in planning terms. Given that the land where the pedestrian/cycle path is required to be provided is under the Applicant's ownership, its provision can be secured through the imposition of a Grampian condition.
- 5.1.10 The proposed development would provide employment land falling within B8 use class purposes. This use class would be compliant with the stipulations of policies E1 and S5 of the LDP, as well as with policy CA2 of the CAMp. On this basis and subject to the imposition of an appropriately worded Grampian condition to secure the provision of an off-site pedestrian/ cycle connection, the principle of the development is considered acceptable. Other material planning considerations are discussed in the following sections of the report.

## **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 to high quality new development and its importance is reflected in the NPPF. The NPPF states that:
- “The creation of high quality, beautiful and sustainable 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”.*
- 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

- 5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (2017) (MDDG).
- 5.2.5 Within the North Quay Regeneration Development Brief SPD Design Principles it is stated that “*a development proposal in the North Quay must integrate successfully within its surroundings in terms of design quality and be compatible with adjacent uses.*”
- 5.2.6 Although the application is outline in nature, matters of access, layout and scale are to be assessed under the current application. Matters of appearance and landscape are reserved for future consideration.
- 5.2.7 In terms of access, the existing vehicular network of the Blackwater Trading Estate would be utilised to give access to the site, which will be extended to provide access to the parking areas, loading bays of the buildings and turning yards. Therefore, no objection is raised in terms of the vehicular access of the site. No details in terms of pedestrian or cycle access have been provided with the application. Matters in relation to the need of a safe pedestrian and cycle link are discussed in detail in the ‘Principle of development’ section. It is considered that a safe access for pedestrians and cyclists can be provided and this can be secured by condition.
- 5.2.8 The proposed layout of the site would follow the existing built pattern of the industrial estate and surrounding built form. Two smaller buildings on the north western part of the site would be demolished to allow sufficient space for access to the site and proposed buildings. The area is currently open and hardsurfaced used for open storage. The proposed buildings would have large footprints and would cover a large area of the application site; however, this is not alien to the existing density of developed area of Blackwater Trading Estate. Sufficient space for turning facilities and parking will be provided and thus, no objection is raised in relation to the density of the development.
- 5.2.9 Although the proposed buildings would be located closer to the Heybridge Creek Frontage and the informal footpath along the site’s southern boundary maintaining a level of visibility from areas across the river, it is noted that currently the site is used as open storage with a large amount of stored items being located adjacent to and along the boundary of the site, closer to the river and marshes. It should be also taken into consideration that the site is designated for B class uses (Light/heavy/storage uses of the Town and Country Planning Use Classes Order 1987 as amended), and therefore, this type of development, which involves large scale storage units is considered acceptable in this location, subject to its overall appearance, which is a matter reserved for future consideration.
- 5.2.10 In terms of the mass and scale, the buildings would represent typical rudimentary and utilitarian style storage units, with double storey height and large footprints. Although the buildings would materially increase the built form on the application site and they would be more visible from the areas within the industrial site and on the opposite sides of Heybridge Creek, it is considered that they would be of a scale that is proportionate to the existing built form within the industrial site and of compatible nature to the existing uses. Therefore, whilst it is accepted that the development would have an impact on the appearance of the area, which is currently open in this area of the Trading Estate, it is not considered that the impact would be out of keeping with the existing built form and mass of the surrounding buildings or detrimental to the character of the surrounding area, in terms of scale of the buildings.

- 5.2.11 Indicative streetscene elevations have been submitted with the application. The buildings would reflect their utilitarian character, having shallow hipped roofs, double storey height, loading bay shutter gates, glazed entrances with logos above, finished in steel cladding. With the exception of the entrance to the buildings, limited fenestration is provided to the rest of the elevations. Whilst this is not unusual considering that the buildings would be used for storage purposes, it is noted that due to their proximity to the river and footpath, a sympathetic and good quality design of the commercial buildings should be delivered. However, given that appearance and landscaping are matters reserved for future consideration, at present and for the purposes of the current outline application, no objection is raised in terms of design and appearance of the proposed development.
- 5.2.12 Overall, the development, in terms of access, layout and scale is not considered that would cause a detrimental harm to the utilitarian character and appearance of the industrial area. It is noted that high quality design and finishing materials would be a requirement to make the development acceptable in design terms. However, these are matters of appearance of the buildings and together with landscaping are to be assessed under a future reserved matters application.

### **5.3 Impact on Residential Amenity**

- 5.3.1 The basis of Policy D1 of the 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 Maldon District Design Guide (2017). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.
- 5.3.2 The proposed development would intensify the use of the site and would result in increased vehicle movements and noise generation and also potential noise from plant installations. Although the site is not located immediately adjacent to residential units, concerns had initially been raised by the Environmental Health Team in relation to additional noise from the site as a result of the proposal which had originally proposed to be operating on a 24-hours basis. The Applicant has confirmed that the proposed working hours will be reduced to 7.00am hours until 23.00 hours, Monday to Saturday, to overcome the concerns and therefore, subject to the conditioning of the hours of operation, no objection is raised in relation to the impact of the development on residential amenity in terms of unacceptable noise and disturbance.
- 5.3.3 The nearest residential properties to the application site are the residential units along Battle Rise and Downs Road over the river. These properties are located more than 200 metres away from the application site and therefore, the development would not result in unacceptable overshadowing or overlooking.
- 5.3.4 On the basis of all the above, and subject to conditions, no further objection is raised from the Environmental Health team, it is considered that the impact of the development on the neighbouring occupiers would not be detrimental to such an extent to warrant refusal of the application.

### **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.

#### Access

- 5.4.2 In terms of provision of a vehicular access, the proposed development would be accessed utilising an existing vehicular network which serves the existing industrial estate (Blackwater Trading Estate). This is an existing established vehicular network and therefore, no objection is raised in that respect. The application proposes that sufficient turning facilities will be provided within its area and therefore, the proposal would not result in an obstruction of the proposed extended vehicular access network. As a result, no objection is raised in respect of the proposed vehicle access.
- 5.4.3 Matters relevant to pedestrian and cycle access are discussed in section 5.1 of the report. Concerns have been raised around the provision of a safe and easily accessible pedestrian and cycle network; however, as noted above, these concerns can be overcome by the imposition of a Grampian condition requiring the formation of a safe pedestrian/cycle path prior to the construction of the proposed development and its retention in perpetuity. This would ensure that the proposed development would accord with the required of policies S5, T1 and T2 of the LDP and the guidance contained in the Maldon and Heybridge Central Area Masterplan and the North Quay Regeneration Development Brief SPD.

#### Parking

- 5.4.4 In terms of parking provision, it is stated that 1 car parking space per 150sqm would be provided, 5% of which would be designated parking spaces for disabled people. A total of 107 parking spaces of 2.9m x 5.5m size are proposed to be provided to include spaces for visitors and ancillary office spaces.
- 5.4.5 The Vehicle Parking Standards (VPS) SPD sets out the standards for all use classes. For B8 use class (Storage and Distribution) different parking standards are set depending on whether the development is for storage or distribution purposes and the amount of office floorspace provided within the building. Although the proposed development would result in an area of office floor space greater than 200sqm metres, this would be much less than 20% (6.2%) of the overall development (approximately 650sqm of ancillary office space) and therefore, taking into account the quantum of development proposed (10,474sqm), it is considered that it would have been unreasonable in this instance to request the provision of 1 space per 20sqm, as suggested in the VPS SPD.
- 5.4.6 Therefore, given that the above would not be reasonable to be applied as a requirement, the parking requirement for warehouse distribution is 1 car per 100sqm and this is what is considered relevant for this particular development. On that basis, the development requires the provision of 105 parking spaces. Thus, the development, which proposes the provision of 107 parking spaces will comply with the relevant requirements of the VPS SPD.
- 5.4.7 For business premises with car park sizes up to 200 bays, the VPS SPD requires the 5% of the total capacity of the car parking spaces. The applicant has confirmed that this requirement will be met and therefore, no objection is raised regarding the provision of adequate parking for disabled people.
- 5.4.8 Paragraph 156 of the VPS SPD states that “5% of all parking spaces in non-residential developments are to have a fast-charging point. Appropriate cable

*provision shall be in place for a further 5% to meet any future increase in demand.”*  
Although no information has been submitted with regard to provision of electric charging points, this can be secured by the imposition condition.

- 5.4.9 With regard to cycle parking one cycle parking space per 500sqm for staff and one per 1000sqm for visitors are required. Therefore, the cycle parking requirement for the proposed development would be 31 cycle spaces. Although the applicant states that the proposed development would incorporate 24 cycle parking spaces, it is considered that there is sufficient space within the site that secure and safe cycle parking can be provided that accords with the minimum requirements in the VPS SPD. Therefore, a condition requiring the submission of details for cycle parking that meet the minimum requirements would be imposed.

#### *Trip Generation and Impact on the Highway Network*

- 5.4.10 A Transport Assessment has been submitted with the application, including details of the existing condition of the highway network, details of the trip generation based on TRICS data and impact of the development on the highway network. Although the Transport Assessment has not been revised following the revisions to the proposed scheme, it is noted that the revisions have resulted in the reduction of the amount for the floor area proposed and therefore, the resultant impact on the trip generation and the highway network is expected to be lesser.
- 5.4.11 It is concluded that the development would generate 14 vehicular trips in the AM peak and 16 in the PM peak. An assessment of the impact of the development on the various junctions, including Fullbridge, A414, The Causeway and the site access has also been carried out, and it has been concluded that the impact would not be material on the operation of the junctions.
- 5.4.12 The Highway Authority has been consulted and advised that “*the proposed development is likely to generate a modest increase in peak hour trips as the majority of the expected trips will take place outside of the peak hours. However, the impact on the local highway network capacity is expected to be limited and in no way severe*”. Subject to conditions, the Highway Authority consider that the proposed development would not have a detrimental impact on the highway safety, capacity or efficiency of the highway network.
- 5.4.13 In light of the above, no objection is raised regarding the impact of the development of the highway network in terms of the trip generation.

#### *Sustainable Transport and Travel Plan*

- 5.4.14 The site is located within an established industrial estate. Consideration has been given to the location of site and its access via sustainable modes of transport, including public transport, cycling and walking. For the reasons explained in section 5.1 of the report, it is considered pertinent that the site is connected with the existing cycle and pedestrian network and a safe access is provided to the nearest bus stops. As such, the formation of a footway/cycle way to connect the site within the existing network is considered necessary and it will be secured by condition.
- 5.4.15 The application is supported by Travel Plan information, including Travel Plan objectives and targets, as well as Travel Plan measures and initiatives and monitoring. Some of the set objectives include the reduction of unnecessary journeys, the reduction of reliance on private vehicles and encouragement of use of alternative modes of transport. Specific targets to achieve the objectives include 1% shift to bicycle mode share on direct cycle routes within 5km, 1% shift to pedestrian



mode share on direct cycle routes within 2km and 10% shift to car share. To achieve these targets the provision of a safe footway/cycleway that links the site with the existing network utilising the shortest route is considered necessary.

- 5.4.16 The application is also supported by draft heads of terms stating that a single payment for approving, checking and monitoring the performance of the Travel Plan will be paid prior to the occupation of the development. The Highway Authority has confirmed that the monitoring fee will be £6,132 (plus the relevant sustainable travel indexation). This will be secured by a legal agreement.
- 5.4.17 In light of the above and subject to securing the provision of an appropriate footway/cycleway and a Travel Plan by conditions and a checking and monitoring fee for the Travel Plan through a Section 106 agreement, it is considered that the development would be acceptable in terms of promoting sustainable transport and required by policies S5, T1 and T2 of the LDP and the guidance contained in the NPPF.

## **5.5 Flood Risk and Sustainable Urban Drainage**

### Sequential Test

- 5.5.1 The NPPF 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.
- 5.5.2 Paragraph 162 of the NPPF states that *“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.”*
- 5.5.3 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.
- 5.5.4 The site is located within Flood Zones 3 and therefore, the development should pass the sequential test. The site is located within Flood Zone 3 similar to the rest of the established industrial estate known as Blackwater Trading Estate. This site is a designated employment site within the LDP and therefore employment development that falls within the use class proposed has already been considered acceptable in this location. For that reason, the development therefore passes the sequential test.
- 5.5.5 Paragraph 163 of the NPPF states that *“the need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3.”* The proposed development would be less vulnerable and therefore, in accordance with flood risk vulnerability classification table, it would not require application of the exception test.

Flood Risk Assessment and SUDS

- 5.5.6 As noted above the site is located within Flood Zone 3 and it is required to be supported by a specific Flood Risk Assessment. When the application was originally submitted an objection from the Environment Agency for the following reason:
- “It should be noted that future improvements to flood defences at this location may require additional land take to ensure that the defences can be raised. We recommend that a landward easement of 20 metres is provided from the toe of the existing defence, as this is likely to allow for the most cost-effective option to be taken forward to account for another 100 years of climate change predictions. The current proposal for this site would allow for a building to be constructed only 10 metres from the toe of the existing defence at one location. This means that the most cost-effective option for future defence improvements may not be viable.”*
- 5.5.7 Following receipt of the Environment Agency consultation response, revised plans have been submitted allowing a 20 metre gap between the proposed buildings and the southern boundary of site adjacent to the flood defences wall. Following receipt of the amended plans, no objection is raised from the Environment Agency. To secure that the buildings are set a minimum of 20 metres away from the flood defences wall, a condition has been requested to be imposed. The condition is imposed as suggested.
- 5.5.8 The Environment Agency has also commented on Actual Risk confirming that the site benefits from the presence of defences, which however have effective crest level below the 0.5% (1 in 200) annual probability flood level including climate change and therefore, the site is at actual risk of flooding. It is also noted that finished ground floor levels are proposed at approximately 3.75m AOD. This is below the 0.5% (1 in 200) annual probability flood level including climate change of 5.81m AOD and therefore at risk of flooding by 2.06m depth. However, first floor levels have been proposed higher than 6.55 AOD and therefore, there is refuge above 0.1% (1 in 100 years). The development also proposes flood resilience and resistance measures.
- 5.5.9 The site level is around 3.6m AOD. 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. Therefore, this proposal does not have a safe means of access in the event of flooding from all new buildings to an area wholly outside the floodplain. However, the flood risk assessment includes an Emergency Flood Plan and subject to its acceptability, no objection is raised from the Environment Agency, in terms of flood risk access safety grounds.
- 5.5.10 A number of holding objections were raised by the Lead Local Flood Authority (LLFA) during the process of the application and a final Flood Risk Assessment responding to those objections. Modelling calculations have been provided demonstrating that no surcharge during the critical 2yr event and no flooding up to the 100yr event plus a 40% allowance for climate change. Furthermore, calculations illustrating the 1 in 30 plus a 40% allowance for climate change has half drain time of 6.4 hours and therefore, is considered appropriate in accordance with the LLFA comments requiring it to be within 24 hours. Given that provision of permeable paving would not be appropriate due to use of the site by heavy goods vehicle, alternative treatment structures in a form of Downstream Defenders are proposed. Further information has also been provided in relation to details of exceedance and conveyance and it is stated that full levels strategy will be produced as part of the detailed design tender pack in accordance with the submitted principles. Detailed engineering drawings have also been provided, as requested by the LLFA.

5.5.11 Following submission of the additional information, an objection from the LLFA is no longer raised. The development is therefore considered acceptable in terms of flood risk, subject to the imposition of appropriate conditions as suggested by the LLFA and the Environment Agency.

## 5.6 Ecology

5.6.1 The site is located within a sensitive location, adjacent to the Blackwater Estuary, which is an area which is subject to a number of international and national coastal nature conservation designations including:

- Sites of Special Scientific Interest (SSSIs),
- Special Areas of Conservation (SACs),
- Special Protection Areas (SPAs) and
- Ramsar sites.

5.6.2 The site would therefore be regarded as a “sensitive site” where there is clear policy requirements that aim to conserve and protect nature conservation interests. These principles are reflected within policy N2 of the LDP which states that *“All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance.”*

5.6.3 The application is accompanied by a Preliminary Ecological Appraisal which assesses the potential ecological impacts of the proposed development. The appraisal concludes that all potential adverse impacts, including pollution, disturbance and destruction of nests from the proposed development upon specific protected species can be mitigated for with careful design. Details of the recommendations to mitigate those impacts are included in the submitted shadow HRA. It is also suggested that to address the impact on bird nests, clearance of the site should be outside the breeding bird season (March to August included) following inspection and also that a bird box scheme could be submitted to enhance net biodiversity. Through the above precautionary methods, it is considered that all significant impacts upon biodiversity, including any potential adverse impacts upon specific protected species, habitats and designated sites will likely be able to be wholly mitigated in line with relevant wildlife legislation.

5.6.4 As noted above the application is supported by a shadow Habitat Regulations Assessment. It should be noted that it is the LPA’s responsibility to produce the HRA, but consideration has been given to the submitted information and assessment in the shadow HRA report produced by the applicant and the advice received by Natural England.

5.6.5 Due to the location of the application site a range of effects at both construction and operation stage have been identified and these include the following:

- Increased noise disturbance;
- Increased human disturbance;
- Increased lighting disturbance; and
- Increased air and water pollution.

5.6.6 The impact of the development in combination with other development in the vicinity has also been considered.

- 5.6.7 The Appropriate Assessment stage includes a number of mitigation measures to address the abovementioned potential impacts arising from the development. The primary mitigation for construction disturbance is avoidance of sensitive periods in the winter period when the estuary supports significant numbers of wintering waterbirds. To mitigate human disturbance during operation, appropriate signage on the site will be installed to explain waterbird disturbance issues and to request sensitive behaviours. A sensitive construction and operation lighting strategy is recommended to be secured by condition. A Construction Environmental Management Plan should also be submitted included details of how pollutants will be managed during construction. An Operational Environmental Management Plan (OEMP) to minimise operational dust and pollutants including litter should be prepared.
- 5.6.8 As the Assessment of Effects section is therefore concluded that subject to adequate mitigation measures, as discussed above, there will be no Likely Significant Adverse Effects on the integrity of the nearby designated sites, in-isolation or in-combination with other plans or projects.
- 5.6.9 Natural England has been consulted and advises that having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, providing that all mitigation measures are appropriately secured in any planning permission given, the assessment conclusions are concurred.
- 5.6.10 In light of the above, it is considered that the development, subject to the implementation of appropriate mitigation measures, would not result in isolation or in combination in significant adverse effects to the nature conservation sites of protected species. However, apart from the provision of a bird boxes scheme, no other enhancement measures are proposed, as required by the LDP and the NPPF. For that reason it is considered appropriate that apart from the mitigation measures, the submission of enhancement measures are secured by appropriately worded conditions.

## **5.7 Other Material Considerations**

### Health Impact Assessment

- 5.7.1 The NPPF supports that planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. A Health Impact Assessment (HIA) is a useful tool to use where there are expected to be significant impacts.
- 5.7.2 According to Health Impact Assessment in Spatial Planning guidance (October 2020) the HIA has been recognised by national planning policy and guidance as an appropriate tool to identify the health impacts of spatial plans and development projects and to develop recommendations to maximise the benefits and minimise harm.
- 5.7.3 The application is supported by a HIA which concludes as the site already accommodates employment uses in this designated employment area and this commercial area can be further developed to create a good working environment in a sustainable location. No environmental issues of concern have been identified.
- 5.7.4 It is suggested that due to the location of site and the existing employment uses in the area the development would reduce the local requirement for out commuting.

This is considered being a valid point which carries weight towards the benefits arising from the scheme.

- 5.7.5 As noted above, the application is supported by a Travel Plan including details to promote sustainable transport. Apart from the suggestions within the Travel Plan, the provision of a footway/cycleway is also considered necessary for the reasons discussed in sections 5.1 and 5.4 of the report.
- 5.7.6 The HIA also highlights that no air quality issues have been identified in this part of the District. Furthermore, mitigation regarding noise impacts have been considered and mitigation can be secured by condition. It is also advised that monitoring of potential contamination issues is in place. Biodiversity protection and enhancement can be secured by condition, as well as food risk impacts.
- 5.7.7 On balance, in light of the above and subject to conditions, it is considered that the development would not result in detrimental impacts on the health of the existing communities.

**6. ANY RELEVANT SITE HISTORY**

- No relevant planning history.

**7. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Maldon Town Council	The Town Council recommends approval of this Outline Application subject to a full archaeological condition being imposed, as outlined in the Specialist Archaeological Advice by ECC Place Services and that an Archaeological Assessment is carried out.	Comments noted and condition is imposed.

**7.2 Statutory Consultees and Other Organisations**

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highway Authority	The site will gain access via the existing Blackwater Water Trading Estate arm of the priority of the A414 / Fullbridge / the Causeway priority roundabout. The proposal as submitted does not propose to alter the existing access within the local highway network.	Comments noted and conditions are imposed as advised.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>The proposed development is likely to generate a modest increase in peak hour trips as the majority of the expected trips will take place outside of the peak hours. However, the impact on the local highway network capacity is expected to be limited and in no way severe, which is the requirement to recommend refusal on highways grounds under NPPF guidance.</p> <p>The proposal as submitted is therefore not considered detrimental to highway safety, capacity or efficiency, subject to conditions.</p>	
Natural England	<p>Natural England has provided the following comments on the basis that the LPA will adopt the HRA submitted by the applicant.</p> <p>The appropriate assessment is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.</p>	Comments noted and addressed in section 5.6 of the report.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Archaeology	<p>The Essex Historic Environment Record (EHER) shows that the proposed development site is located on former saltmarsh that was enclosed in the 19th century. Seawalls relating to previous phases of enclosure cross the proposed development area. The Roman Small Town of Elms Farm is located to the north-east and it is possible that associated features such as wharves or salterns are located within the development area. Fieldwork on the adjoining Sadd's Wharf site recovered palaeo environmental evidence, including former islets buried within the salt-marsh and a timber causeway crossing the marsh.</p> <p>It is recommended that if this proposal is approved that a full archaeological condition is attached to the planning consent.</p>	Comments noted and conditions are imposed.
Lead Local Flood Authority	Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, the LLFA do not object to the granting of outline planning permission, subject to conditions.	Comments noted and conditions are imposed.
Environment Agency	Following amendments to allow a 20 metre gap between the built form and the flood defences, no objection is raised, subject to a condition securing the provision of this gap.	Comments noted and condition is imposed as requested.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Anglian Water	<p>The Anglian Water records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.</p> <p>The foul drainage from this development is in the catchment of Maldon Water Recycling Centre that will have available capacity for these flows.</p>	Comments noted.
Essex County Fire and Rescue Services	<p>Although the Fire Service access and water supplies for fire-fighting purposes do not fully comply with the Building regulations, this can be considered at Building Regulation consultation stage.</p> <p>The architect or applicant is reminded that additional water supplies for fire fighting may be necessary for this development.</p> <p>There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire &amp; Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS.</p>	Comments noted.

### 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Strategy Theme Lead – Prosperity	It appears that the development would represent improved productivity of this employment land and has the potential to support business growth and new jobs. It is within the LDP identified E1(l) The Causeway Site and	Comments noted and conditions are imposed to address the concerns raised.



Name of Internal Consultee	Comment	Officer Response
	<p>Appropriate use.</p> <p>When thinking about the visitor economy, this proposal appears to represent the loss of an opportunity to better connect the coastal walking/cycling route between the town and Heybridge and development of Heybridge Creek. Both projects identified in the CAMp, although not yet realised. There is also potential for harm to the visual amenity of the river. All matters may be resolvable with suitable consideration and modifications.</p>	
Environmental Health	<p>The initially raised concerns regarding noise from the site operating on a 24 hour basis can be overcome through the submission of a suitable condition restricting the operational hours.</p> <p>Matters in relation to flood risk and the sea defences are to be agreed with the Environment Agency.</p> <p>Therefore, no objection is raised, subject to conditions.</p>	Comments noted and conditions are imposed.

#### 7.4 Representations received from Interested Parties

7.4.1 No representations have been received.

#### 8. PROPOSED CONDITIONS INCLUDING HEADS OF TERMS OF ANY SECTION 106 AGREEMENT

##### HEADS OF TERMS OF ANY SECTION 106 AGREEMENT

- A monitoring fee for the Travel Plan of £6,132 (plus the relevant sustainable travel indexation) shall be paid before occupation to cover the five year period.

## PROPOSED CONDITIONS

- 1 Details of the appearance and landscaping (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the LPA before any development begins and the development shall be carried out as approved.

Application(s) for approval of the reserved matters shall be made to the LPA no later than three years from the date of this permission.

The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved  
REASON To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).

- 2 As part of the reserved matters details of the siting, height, design, and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be submitted to and approved in writing by the LPA. The screening as approved shall be constructed prior to the first use of the development to which it relates and be retained in perpetuity as such thereafter.

REASON To ensure that the details of the development are satisfactory in accordance with policy D1 of the MDLDP.

- 3 The landscaping details referred to in Condition 1 shall provide full details and specifications of both hard and soft landscape works, which shall be submitted to and approved in writing by the LPA. Such details shall be submitted concurrently with the other reserved matters. These landscaping details shall include the layout of the hard landscaped areas with the materials and finishes to be used together with details of the means of enclosure, car parking layout, vehicle and pedestrian accesses.

The details of the soft landscape works shall include schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers / densities and details of the planting scheme’s implementation, aftercare and maintenance programme.

The hard landscape works shall be carried out as approved prior to the beneficial first use of the development hereby approved unless otherwise first agreed in writing by the LPA.

The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the LPA. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, destroyed, dies, or becomes, in the opinion of the LPA, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the LPA gives its written consent to any variation.

REASON To ensure that details of the development are satisfactory and in the interest of the visual amenity of the area, in accordance with policy D1 of the MDLDP and the guidance contained in the MDDG SPD.

- 4 Prior to the commencement of development details of the existing and proposed ground levels together with proposed finished floor levels shall be submitted to and be approved in writing by the LPA. The development hereby permitted shall then be constructed in accordance with the approved ground and finished floor levels.

- REASON In order to ensure that development appropriately integrates with the setting and its proposed neighbouring buildings, in compliance with the NPPF and policy D1 of the approved MDLDP (2017) and the guidance contained in the MDDG SPD.
- 5 Prior to their use in the construction of the development, product details or samples of all materials to be used in the construction of the external surfaces of the development hereby permitted shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the materials and details as approved.
- REASON To ensure that the details of the development are satisfactory in accordance with policy D1 of the MDLDP and the guidance contained in the MDDG (2017).
- 6 No development hereby approved, including ground works or demolition, shall commence unless a footway/cycleway connecting the western part of the application site (west of approved Unit G) with the existing footway/cycleway along the north-eastern boundary of Aldi has been completed. The details of the footway/cycleway shall be submitted to and approved in writing by the LPA prior to the commencement of the development, including ground works and demolition. The footway/cycleway shall then be retained as such in perpetuity.
- REASON To ensure that a safe and easily accessible footway/cycleway is provided in support of sustainable modes of transport in accordance with policies S5, T1 and T2 of the LPA and the guidance contained in the Maldon and Heybridge CAMp, the North Quay Regeneration Development Brief SPD and NPPF.
- 7 No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the LPA. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
- a. the parking of vehicles of site operatives and visitors
  - b. loading and unloading of plant and materials
  - c. storage of plant and materials used in constructing the development
  - d. wheel and underbody washing facilities
- REASON To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety in accordance with policies D1 and T2 of the Local Development Plan.
- 8 The development hereby approved shall not be occupied until such time as the vehicle parking and turning area indicated on planning application drawing number 21/02/03 REV B, has been hard surfaced, sealed and marked out in parking bays. The parking spaces shall have dimensions in accordance with the current parking standards. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.
- REASON To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with policies D1 and T2 of the LDP.
- 9 Cycle parking shall be provided prior to the first use of the development hereby approved in accordance with Maldon District Council's adopted standards. The approved facility, which details shall be submitted to and approved writing by the LPA prior to the occupation of the development hereby approved, shall be secure, convenient, covered and retained in perpetuity.
- REASON To ensure that cycle parking is proposed in accordance with the VPS SPD and policies D1 and T2 of the MDLDP.

- 10 The powered two wheeler/cycle parking facilities as shown on the approved plan 21/02/03 REV B are to be provided prior to the first occupation of the development and retained at all times.  
REASON To ensure appropriate powered two wheeler and bicycle parking is provided in accordance with the VPS SPD and policies D1 and T2 of the MDLDP.
- 11 There shall be no discharge of surface water onto the Highway.  
REASON To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety in accordance with policy T2 of the MDLDP.
- 12 The public's rights and ease of passage over public footpath No.45 (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 MDLDP.
- 13 Prior to first occupation of the proposed development, the Developer shall submit a workplace travel plan to the LPA for approval in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years.  
REASON In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies S5, T1 and T2 of the MDLDP.
- 14 No building hereby permitted shall be used until details of the number and location of electric car charging points in accordance with the adopted VPS SPD (2018) have been submitted to and approved in writing by the LPA. The charging points shall be provided in accordance with the approved details prior to the commencement of the beneficial use of the parking space within which they would be located.  
REASON To comply with the adopted VPS SPD (2018) in accordance with Policies D1 and T2 of the approved MDLDP.
- 15 No building hereby permitted shall be used until details of the number and location of car parking spaces for disabled people in accordance with the adopted VPS SPD (2018) have been submitted to and approved in writing by the LPA. The parking spaces for disabled people shall be provided in accordance with the approved details prior to the commencement of the beneficial use of the parking space within which they would be located.  
REASON To comply with the adopted VPS SPD (2018) in accordance with Policies T1 and T2 of the approved MDLDP.
- 16 The hours of operation of the, B8 units hereby permitted shall between: Monday to Saturday 0700 hours until 2300 hours only  
REASON In the interest of the amenity of neighbouring properties in accordance with the requirements of policy D1 of the MDLDP and the provision and guidance as contained within the NPPF.
- 17 No external plant or machinery shall be used unless and until details of the equipment have been submitted to and approved by the LPA. Any measures required by the LPA to reduce noise from the plant or equipment shall be completed prior to the plant being brought into use and retained as such thereafter.  
REASON In the interest of the amenity of neighbouring properties and to safeguard the character of the area in accordance with the requirements of policy D1 of the MDLDP and the provision and guidance as contained within the NPPF.
- 18 The applicant/occupier is required to have in place a flood action plan to respond to any flood warnings issued by the Environment Agency. Details of the flood evacuation plan shall previously have been submitted to and agreed in writing by the LPA, in consultation with the Environment Agency, prior to first occupation of the development hereby permitted.

- REASON To minimise risk from flooding in accordance with the requirements of policy D5 of the MDLDP and the provision and guidance as contained within the NPPF.
- 19 No means of external illumination of the site shall be installed unless otherwise agreed in writing by the LPA. The external illumination shall be retained as such thereafter.
- REASON To minimise light pollution upon the nearby nature conservation sites and protected species in the interests of biodiversity and ecology in accordance with policies D1, D2 and N2 of the MDLDP.
- 20 The premises shall only be used for storage and distribution purposes which are defined within Class B8 of the Schedule to the Town & Country Planning Use Classes (Amendment) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) and for no other purpose.
- REASON In the interest of the amenity of neighbouring properties and to safeguard the character of the area in accordance with the requirements of policy D1 of the MDLDP and the provision and guidance as contained within the NPPF.
- 21 No buildings, or fixed above ground structures shall be placed within 20.5 metres of the landward toe of the defence, as detailed on drawing 21/02/03 revision B, dated Apr 21, provided within Appendix B of the Flood Risk Assessment Addendum No.2, dated January 2022, without written approval from the Environment Agency.
- REASON To retain access to the defences for the Environment Agency to carry out its functions and ensure the defences can be maintained for continued flood risk protection in accordance with the requirements of policy D5 of the MDLDP and the provision and guidance as contained within the NPPF.
- 22 No works except demolition shall takes place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the LPA. The scheme should include but not be limited to:
- Provide engineering site layout of the proposed drainage network at the site. This should include the following details: manholes cover levels, invert levels, pipes dimensions, slopes, basin top and base levels, and invert levels both at inlet and outlets, outflow rates, as well as top water level in the attenuation basins/ponds during 100 year plus 40 percent CC allowance.
  - Provide calculations for the conveyance and storage network for the proposed development. The network should not predict surcharge in 1yr events and should not predict flooding in 30year events. During 100 year plus 40pc CC event if any marginal flooding is predicted then it should be directed away from the building using appropriate site grading.
  - The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
  - Detailed engineering drawings of each component of the drainage scheme.
  - A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.

- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

REASON To avoid the risk of water flooding and pollution in accordance with policy D2 of the MDLDP.

- 23 No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the LPA. The scheme shall subsequently be implemented as approved.

REASON To minimise flood risk elsewhere and avoid water pollution in accordance with the requirements of policy D2 of the MDLDP and the provision and guidance as contained within the NPPF.

- 24 Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the LPA.

REASON To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk in accordance with the requirements of policy D5 of the MDLDP and the provision and guidance as contained within the NPPF.

- 25 The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the LPA.

REASON To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk in accordance with the requirements of policy D5 of the MDLDP and the provision and guidance as contained within the NPPF.

- 26 No development, including ground works or demolition, shall take place during prolonged periods of cold weather between October – March inclusive. In the event of a works suspension due to prolonged cold weather, work can resume after three days of thaw. After a continuous week of cold weather (i.e. frozen conditions for seven consecutive days), advice should be sought from the Site Ecologist or Ornithologist who shall base their guidance on the advice contained within the website of the Joint Nature Conservation Committee regarding a “Scheme to reduce disturbance to waterfowl during severe winter weather” or any other advice amending or revoking that advice.

REASON In the interests of protecting the natural conservation designations and protected species in accordance with the guidance contained within the NPPF and Policy N2 of the approved Local Development Plan.

- 27 No development, including ground works or demolition, shall commence until a Construction Environmental Management Plan and an Operational Environmental Management Plan have been submitted to and approved in writing by the LPA.

REASON In the interests of protecting the natural conservation designations and protected species and avoid water pollution in accordance with the guidance contained within the NPPF and Policies N2 and D2 of the approved LDP.

- 28 The development shall be implemented in accordance with the mitigation measures included in the submitted Habitat Regulations Assessment Report, submitted by the applicant on 26 May 2021 and Preliminary Ecological Appraisal, dated 11 May 2021 prepared by Southern Ecological Solutions.

The development hereby approved shall operate in accordance with the approved mitigation measures in perpetuity.

REASON In the interests of protecting the natural conservation designations and protected species in accordance with the guidance contained within the NPPF and Policy N2 of the approved LDP.

- 29 No development, including ground works or demolition, shall commence until details of enhancement measures have been submitted to and approved in writing by the LPA. The development shall be implemented in accordance with the approved details and retained as such in perpetuity.

REASON In the interests of protecting the natural conservation designations and protected species and avoid water pollution in accordance with the guidance contained within the NPPF and Policies N2 and D2 of the approved LDP.

- 30 No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title has submitted an archaeological assessment by an accredited archaeological consultant to establish the archaeological significance of the site. Such archaeological assessment shall be approved by the LPA and will inform the implementation of a programme of archaeological work. The development shall be carried out in a manner that accommodates such approved programme of archaeological work.

REASON To protect the site which is of archaeological interest, in accordance with policy D3 of the approved LPD and the guidance contained in the NPPF.

- 31 No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title has secured the implementation of a programme of archaeological work from an accredited archaeological contractor in accordance with a written scheme of investigation which has been submitted to and approved in writing by the LPA. The development shall be carried out in a manner that accommodates the approved programme of archaeological work.

The archaeological work will comprise archaeological trial-trenching of the proposed development area, followed by full excavation if archaeological features are identified. All fieldwork should be conducted by a professional recognised archaeological contractor.

REASON To protect the site which is of archaeological interest, in accordance with policy D3 of the approved LDP and the guidance contained in the NPPF.

### **INFORMATIVES**

- 1 The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath No. 45 (Maldon) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way. The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any

damage caused to the route shall be rectified by the applicant within the timescale of the closure.

- 2 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 LPA, 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 LPA. 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.

- 3 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. The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours and to this effect:

- a) no waste materials should be burnt on the site, instead being removed by licensed waste contractors;
- b) no dust emissions should leave the boundary of the site;
- c) consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;
- d) hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.

If it is known or there is the likelihood that there will be the requirement to work outside of these hours or there will be periods where there will be excessive noise that will significantly impact on sensitive receptors Environmental Health at Maldon District Council must be notified prior to the works as soon as is reasonably practicable. The developer is advised to consult nearby sensitive noise premises and may be advised to apply for a Prior Consent under Section of the Control of Pollution Act 1974.

Care must be taken to prevent the pollution of ground and surface waters. This will include during works and the location of any hazardous materials including fuel from vehicles and equipment.

Where any soils that are known to be contaminated are being excavated or exposed a site waste plan must be prepared in order to store treat and dispose of the materials in accordance with the waste duty of care. It is recommended that advice is sought from the Environment Agency on this matter.

Where there is requirement for dewatering the site, the relevant consent must be sought from the Environment Agency.

Where there is a requirement to obstruct or alter watercourses a consent under section 23 of the Land Drainage Act must be obtained from Essex County Council.

- 4 Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture



## APPENDIX A

- proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
- 5 Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- 6 Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- 7 It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- 8 The Ministerial Statement made on 18 December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- 9 We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15 of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The LPA should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

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**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**CENTRAL AREA PLANNING COMMITTEE**  
27 July 2022

<b>Application Number</b>	<b>22/00603/FUL</b>
<b>Location</b>	102B & C, High Street, Maldon
<b>Proposal</b>	Section 73A application for the change of use of unit 102C from E(a) retail to E(b) restaurant use and to merge with unit 102B High Street (currently E(b) use) to form a single restaurant. Replace the frontages with aluminium windows and doors across the front of both buildings
<b>Applicant</b>	Mr R Muca
<b>Agent</b>	Chris Cumbers - CBS Cumbers MCIAT
<b>Target Decision Date</b>	EOT agreed – 01.08.2022
<b>Case Officer</b>	Vikki Bowles
<b>Parish</b>	<b>MALDON NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In by Councillor C Swain – Policies D1 and E2

1. **RECOMMENDATION**

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

2. **SITE MAP**

Please see below.



### **3. SUMMARY**

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

- 3.1.1 The application site is located on the southern side of the High Street, sited within the Conservation Area of Maldon. The site consists of two retail units which are part single storey and part two storey in nature with a parapet wall along the front elevation. The unit numbered 102C was previously occupied by a retail outlet known as 'Maldon Discount' and 102B was occupied by a restaurant specifically for use as a coffee, ice-cream and desert parlour known as 'Venice Gelato and Coffee'. The current lawful use of the 102B is Class E(b) and 102C is Class E(a).
- 3.1.2 The site is a primary shopping area within the settlement boundary of Maldon. The prevailing character of the High Street is for commercial units (primarily retail units) at ground floor and some associated secondary storage areas or residential units to the upper floors. The High Street is mixed in character in terms style and architecture, there are examples of properties from the 12<sup>th</sup> century; however, this section is fairly modern, with properties being built between 20<sup>th</sup> and 21<sup>st</sup> century.
- 3.1.3 Planning permission is sought to convert the two independent commercial units into one restaurant (Use Class E(b)). Unit 102B already has a lawful restaurant use (Use as Class E(b)), specifically as a coffee, ice-cream and dessert parlour. The proposal would continue the use of this unit as a restaurant but expand it to include primary cooking. The application includes a change of the lawful use of unit 102C which is currently retail (Use Class E(a)) to a restaurant (Use Class E(b)).
- 3.1.4 The application also includes operational development in the form of the installation of aluminium windows and doors to the front of both units. The application is partially retrospective in nature.
- 3.1.5 An application (reference 22/00604/ADV) for new signage has been granted advertisement consent.

#### **3.2 Conclusion**

- 3.2.1 Whilst the development would be in conflict with Policy E2 it is considered that the fallback position is a material consideration of significant weight in the determination of this application. Furthermore, whilst it is noted that the Environmental Health Team have raised an objection to the development due to lack of information it is considered that a condition could be imposed that would overcome the concerns. Therefore, no objection is raised to the proposed development.

### **4. MAIN RELEVANT POLICIES**

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

#### **4.1 National Planning Policy Framework 2021 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
- 92 – 94 Promoting healthy and Safe Communities
- 104 - 109 Promoting sustainable transport
- 119 -123 Making effective use of land

- 126 -136 Achieving well-designed places
- 189 -193 Conserving & 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
- D3 Conservation and Heritage Assists
- E2 Retail Provision
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

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

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD
- Planning Practice Guidance (PPG)

### **5. MAIN CONSIDERATIONS**

#### **5.1 Principle of Development**

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved Local Development Plan (LDP).

5.1.2 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 areas, the historic environment, local infrastructure and services, character and appearance, minimising need to travel. Policy S8 of the LDP identifies Maldon as one of the main settlements of the District where development should be directed to.

5.1.3 Policy S5 states that the Maldon and Heybridge Central Area will continue to act as the focal point within the District for retail, commercial, industrial, community and tourism activities. Paragraph 2 of the policy states that proposals for retail, office, housing, community, leisure uses and other town centre uses will be supported where they contribute to regeneration and diversification of the town centre.

5.1.4 Policy E2 of the approved LDP states that proposals for the development of retail, office, residential and other main town centre uses will be permitted within defined Town Centre Areas where the scale and type of the development proposed is directly related to the role and function of the centre and its catchment and there would be no significantly adverse impact on the viability of the centre or other centres.

- 5.1.5 The application site is located within an existing area of mixed retail and leisure uses. The site consists of two separate planning units 102B and 102C High Street and to change the use of the units from a retail unit (Class E(a)) to a restaurant (Class E(d)). Whilst the proposed use would result in the loss of a traditional retail use, Policy E2 does allow for this in some instances. This includes where the development would not have a detrimental impact on the function, vitality or viability of the Primary Retail Function and will not create a new continuous frontage of three or more units of non-A uses.
- 5.1.6 Retail areas have experienced a need to diversify and change from providing solely traditional retail units in recent years and the Council's adopted policy accepts the need for this. The development is adjacent to an existing restaurant and therefore, would result in three units being of non-A1 uses in a continuous run contrary to policy. However, this part of the High Street still contains a relatively high percentage of retail units and it is not considered that the proposed development would have a particularly negative impact on the viability of the high street.
- 5.1.7 Section 37(6) of the Planning and Compulsory Purchase Act 2004 states that "*if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise*". There is no legal definition of Material Considerations and it therefore falls to the Local Authority to decide what a relevant material consideration is and what is not. Any planning consideration that relates to development is capable of being a material consideration (Stringer) and case law shows that the 'fallback position' can be a material consideration when determining a planning application. However, it must be noted that it is up to the decision maker to apply appropriate weight to all the material considerations when exercising their planning judgement (Tesco).
- 5.1.8 The LDP was adopted prior to the current Use Classes Order. Currently under Use Class E, a change of use of a retail unit to a restaurant is not considered development. Therefore, a change of use of the individual retail unit to a restaurant would not require planning permission. The fallback position is considered to be a material consideration of significant weight in the determination of this application. Therefore, whilst the development is in conflict with criteria 2, relating to Primary Shopping Frontages, of Policy E2 it is considered, on balance, that the development is acceptable and would not have a detrimental impact on the vitality and viability of the retail function of the High Street.

## **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 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”.

- 5.2.3 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 to the area.
- 5.2.4 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.
- 5.2.5 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to desirability of preserving or enhancing the character or appearance of the conservation area. Similarly, Policy D3 of the approved LDP states that development proposals that affect a heritage asset must preserve or enhance its special character, appearance, setting- including its streetscape and landscape value.
- 5.2.6 The shopfront has already been installed and is glazed in sections with a powder coated aluminium frame of grey and white render. The building is of a relatively modern appearance and the shopfronts in situ prior to the works subject of this application were not of any real architectural merit or benefit to the character and appearance of the area. The development has facilitated a more uniform look and reflects the materials used in the neighbouring unit and similar shop fronts along the High Street. Furthermore, whilst the shopfront at 102B was unauthorised and the subject of enforcement action, a shopfront, broadly similar to the one proposed as part of this application, had been granted planning permission. Whilst it is accepted that a timber shopfront would add value to the conservation area none of the shopfronts recently present would have been timber and it is considered that the current proposed shopfront preserves the special character and appearance of the conservation area. Furthermore, the Specialist in Conservation and Heritage Assets has no objections.
- 5.2.7 The rear of the units is two storey with the second storey in residential use and accessed by a brick built external stair. There is a car park to the rear, to the east of the car park is the rear of the neighbouring restaurant and to the west is a residential unit. It is proposed that a new insulated extract duct be installed on the rear, south west elevation along with a new stainless steel flue. It is also proposed that two ground floor windows be blocked up.
- 5.2.8 The impact of the duct and flue on the appearance at the rear of the building is limited, it is not visible from the public realm and although the flue would project 1 metre above the second storey it would not be visible from the High Street.
- 5.2.9 The loss of the two ground floor windows will have little impact on the visible effect of the rear elevation and the residents of the area at the rear will not be unduly affected by these changes.
- 5.2.10 Therefore, it is considered that the development, by means of its style and design is considered acceptable in its setting and preserves the special character and appearance of the Conservation Area and is in compliance with policy and D1, D3 and H4 of the LDP.



### **5.3 Impact on Residential Amenity**

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the Maldon District Design Guide (MDDG) (2017).
- 5.3.2 The application site is in a town centre location which is characterised by a range of uses including commercial and residential. It is accepted that there is the potential for such uses to sit side by side without resulting in a detrimental impact on the business or the amenity of the adjoining residents. However, there is a need to consider matters such as noise and disturbance from patrons, plant equipment and matters such as opening hours.
- 5.3.3 As part of the proposal a ventilation scheme has been submitted to allow for the production of food for consumption on the premises. After consultation with the Environmental Health Team, it is considered that insufficient information has been provided regarding the potential impact to the occupiers of neighbouring residential properties in regard to noise from the extraction system and a holding objection has been raised by Environmental Health. However, as highlighted above, it is not unusual to have plant equipment in relatively close proximity to residential accommodation in areas such as this where often ambient background noise is higher and more noticeable in evening hours. It is therefore, considered that a condition requiring details to be submitted and in place prior to first use would mitigate any potential harm from the development.
- 5.3.4 The proposed opening hours are 1200 to 2300 weekdays, weekends and Bank Holidays. It is noted that the, relatively recently, approved opening hours for the immediate neighbouring unit, which is also a restaurant, are between 0900 to 2300 weekdays, weekends and Bank Holidays and therefore it is considered that the proposed operational hours are acceptable. It is considered that a restriction on delivery hours is also necessary and could be conditioned.
- 5.3.5 Therefore, on the basis of the above it is considered that, on balance, the proposed change of use would not have a detrimental impact on the residential amenity of the neighbouring occupiers and therefore the scheme is in accordance with Policy D1 of the approved LDP.

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

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposal, inter alia, to sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas.
- 5.4.2 The unit does not benefit from dedicated off road parking; however, it is located within close proximity to a public car park located adjacent to the application site. Due to the Town Centre location it is considered that there are good connections to the site in terms of public transport and furthermore there are a number of private car parks in the vicinity of the site. Therefore, it is considered that the development would be acceptable in terms of parking and highway safety.

## 6. ANY RELEVANT SITE HISTORY

6.1 The relevant planning history for 102B is set out below:

- **02/01160/FUL – Replacement of shopfront - Approved**
- **04/01208/FUL - Replace shop front – Approved**
- **19/00491/ADV** - Application for advertisement consent for an externally illuminated fascia sign – Refused
- **19/00492/FUL** - Section 73A application replacement shopfront and change of use from class A1 to use class A3 (Retrospective) - Refused – appeal dismissed
- **19/00935/ADV** - Application for advertisement consent for a externally illuminated fascia sign – Refused
- **21/00092/FUL** - Change of use from A1 use - shop with coffee sales on site and takeaway to A3 use - Restaurants and cafes with on site and takeaway sales - Approved
- **21/00119/ADV** - Company name in vinyl letters on a painted plywood ground with painted timber border attached to existing fascia – Approved

6.2 The relevant planning history for 102C is set out below:

- **14/00772/FUL – Change of use from A1 Retail to A3 Café shop – Refused**
- **15/01079/ADV** - Application for existing sign over shop entrance with letters only internally illuminated – Refused
- **16/00324/ADV** - Application for replacement sign over shop entrance with non-illuminated letters and overhead lighting strip – Approved
- **21/00770/FUL** - Change of use of the ground floor area from current commercial unit (Use Class E) to a Hot Food Takeaway (Sui Generis) together with new Shopfront and wall mounted ground floor extraction equipment - Refused

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Maldon Town Council	Object – The proposal, due to its scale, design and use of materials, would be out of keeping with the prevailing street scene in the Conservation Area, to the detriment of the character and appearance of the surrounding area, therefore contrary to policy D1 of the Maldon District	Noted and discussed in Section 5.1 and 5.2

Name of Parish / Town Council	Comment	Officer Response
	<p>Local Development Plan.</p> <p>The loss of the retail unit in the High Street contrary to policy E1 of the Maldon District Local Development Plan.</p>	

## 7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Conservation Area Officer	<p>The new shopfront represents an improvement on the previous situation, providing more coherence to the frontage, and results in no further harm to the conservation area. The adjacent property – SARK – has a similar aluminium shopfront which was recently granted planning permission (notably, also retrospective). The extract flues would be located to the rear and would not be prominently visible from public parts of the conservation area. At this location the flues would not harm the special character of the conservation area.</p> <p>For these reasons I advise that the application poses no conflict with policy D3 of the MDLDP, chapter 16 of the NPPF or with the duty set out in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.</p>	Noted
Environmental Health	Object to the application. It is not clear what the likely noise impact might be from the extraction systems to close by residents. A BS 4142 assessment should be undertaken and submitted.	Noted and discussed in Section 5.3
Strategy Team	<p>Object:</p> <ul style="list-style-type: none"> <li>• Loss of retail floorspace on Maldon High Street as the District's main retail centre</li> </ul>	Noted and discussed in Section 5.1 & 5.2

Name of Internal Consultee	Comment	Officer Response
	(Policies S5 and E2, LDP) • Contrary to Strategic Policy S5 to retain the Market Town focus of Maldon's High Street and improve the retail offer and retail choice • The design of the shopfront is not characteristic of Maldon's historic town centre and opportunity not taken to enhance its character (Policies, S5, D1 and E2 • No evidence of marketing the retail space and rents offered	

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: 705/01, 705/02, 705/03, 705/04, 705/05, 705/6A, 705/7B, 705/8B  
REASON To ensure that the development is carried out in accordance with the details as approved.
3. The proposed use hereby approved shall only be in operation between 12.00 hours and 23.00 hours on weekdays, weekends and Bank Holidays.  
REASON In order to ensure the appropriate use of the site and to protect nearby residential amenities in accordance with Policies D1 and D2 of the Maldon District Approved Local Development Plan, the provisions and guidance of the National Planning Policy Framework.
4. Deliveries to the site shall only be undertaken between 08:00 hours and 18:00 hours Monday to Friday.  
REASON In order to ensure the appropriate use of the site and to protect nearby residential amenities in accordance with Policies D1 and D2 of the Maldon District Approved Local Development Plan, the provisions and guidance of the National Planning Policy Framework
5. A scheme to mitigate impacts from cooking odour shall be submitted to and approved in writing by the Local Planning Authority. All works that form part of the approved mitigation scheme shall have be undertaken prior to first use of the development hereby approved. All elements of the approved scheme shall be maintained and retained as such thereafter.  
REASON To ensure the appropriate use of the site and to protect nearby residential amenities in accordance with Policies D1 and D2 of the Maldon District Approved Local Development Plan, the provisions and guidance of the National Planning Policy Framework.
6. A Noise Impact Assessment (NIA), relating to both the proposed use and proposed plant equipment, shall be submitted to and approved in writing by the local planning authority. The NIA shall include a scheme to mitigate the noise from both the use and the ventilation and extract system to the nearest noise sensitive receptors (NSR). All works that form part of the approved mitigation scheme shall have be undertaken

prior to first use of the development hereby approved. All elements of the approved scheme shall be maintained and retained as such thereafter.

REASON To ensure the appropriate use of the site and to protect nearby residential amenities in accordance with Policies D1 and D2 of the Maldon District Approved Local Development Plan, the provisions and guidance of the National Planning Policy Framework.

- 7 No additional external plant or machinery shall be installed unless and until details of the equipment have been submitted to and approved by the Local Planning Authority.

REASON In order to ensure the appropriate use of the site and to protect nearby residential amenities in accordance with Policies D1 and D2 of the Maldon District Approved Local Development Plan, the provisions and guidance of the National Planning Policy Framework.

- 8 All loading / unloading / reception and storage of building materials and the manoeuvring of all vehicles, including construction traffic shall be undertaken clear of the public highway.

REASON To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policies D1 and T2 of the Maldon District Approved Local Development Plan.

### **INFORMATIVE**

1. If further plant, other than the kitchen extraction, is to be installed; then once specified all noise emissions and proposed location should be assessed by a suitably qualified person to ensure the plant limit level can be achieved.

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