



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

**to
CENTRAL AREA PLANNING COMMITTEE
14 NOVEMBER 2018**

Application Number	FUL/MAL/18/00699
Location	Blackwater Leisure Centre, Park Drive, Maldon
Proposal	Provision of building to be used as a community hub and associated boundary treatments (nursery, childcare provision, children's holiday club, crèche for the leisure centre, private hire by community groups).
Applicant	Mrs Sharon Kennedy – Watership Downs
Agent	Paul Lonergan – Paul Lonergan Architects Ltd
Target Decision Date	19/11/2018
Case Officer	Louise Staplehurst
Parish	MALDON EAST
Reason for Referral to the Committee / Council	Council Owned Land Major Application – Site Area Member Call In – Councillor S J Savage – request of applicant and public interest

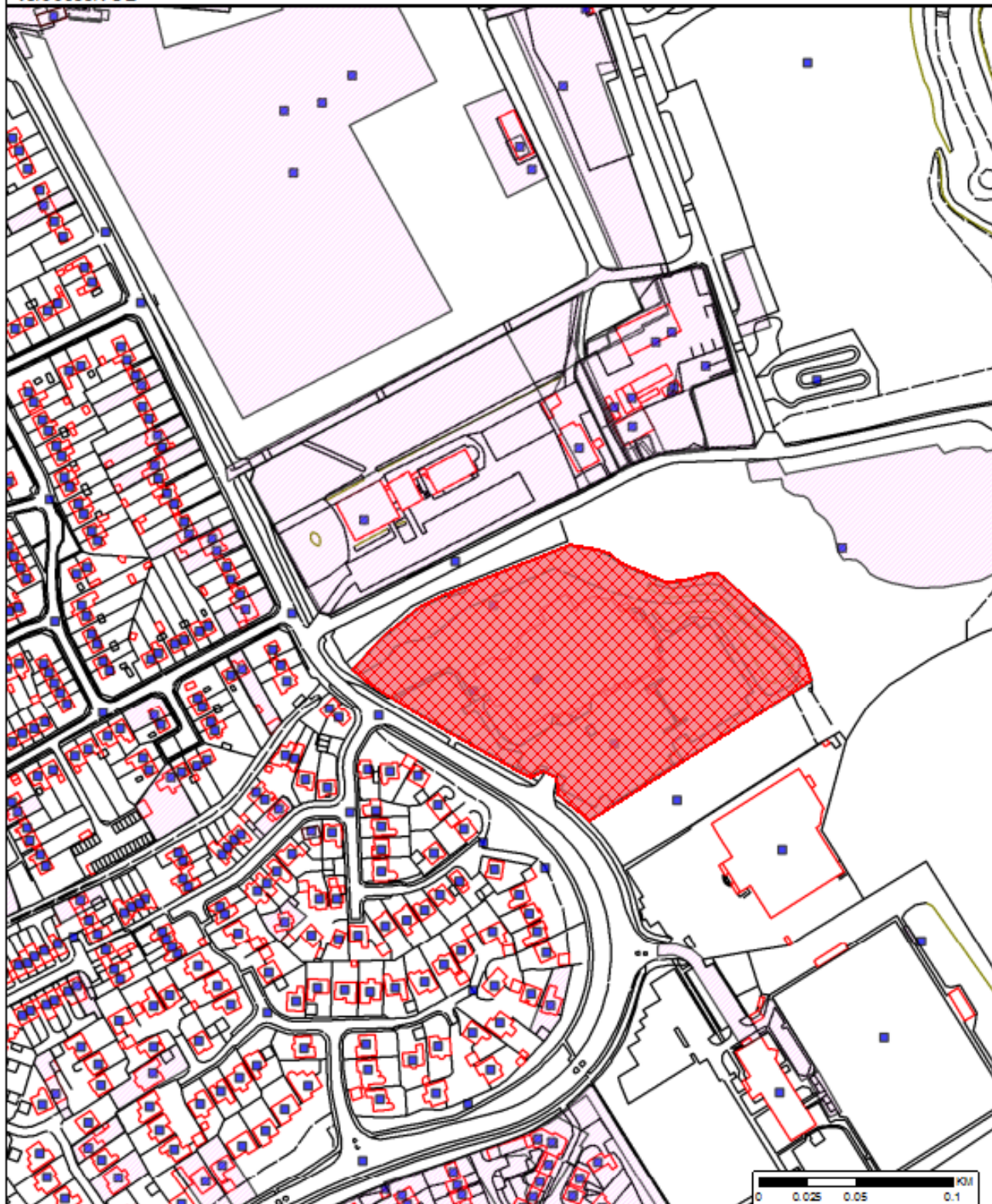
1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

Blackwater Leisure Centre, Park Drive, Maldon
18/00699/FUL



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Maldon District Council 100018588 2014



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Scale: 1:2,702

Organisation: Maldon District Council

Department: Department

Comments: Central Planning Committee

Date: 31/10/2018

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located north east of Park Drive, within the settlement boundary of Maldon. The site comprises the Blackwater Leisure Centre and associated car park.
- 3.1.2 The site is located within the defined development boundary of Maldon and is an area with a mix of uses. To the south east of the site is Madison Heights, a recreational centre with bowling facilities, a children's play centre, a roller skating facility, bar and restaurant. To the immediate north of the site is Park Drive Health Club and the waste depot. Beyond this is Maldon Promenade Park. The application site, Park Drive and Madison Heights sites are all allocated in the local plan for leisure centre purposes.
- 3.1.3 The existing building is set back from the roadside and can be accessed on foot via an existing footway leading from Park Drive, approximately opposite Mirosa Drive. The main vehicular entrance to the site is further south along Park Drive.
- 3.1.4 In addition, to the north of the site is an area of grassland and some mature trees which form part of a woodland. There is also a stream within this locality.
- 3.1.5 The proposed building will be located to the rear of the Leisure Centre building. The proposed building will be of a log cabin construction, with a black shingle roof, double glazed wooden windows and doors.
- 3.1.6 The proposed building will measure 14 metres wide and 8.8 metres deep, with a 1.5 metre deep and 5.8 metres wide section stepped back from the principal elevation in the centre. It will measure 2.3 metres high to the eaves and 3.6 metres high overall. There will be a further 1.3 metre projection and 14 metres wide decking area to the front of the building. This will measure 2.8 metres deep in the inset section.
- 3.1.7 There will be a fence around the building, to form a compound measuring 54.2 metres wide and 30 metres deep and the largest depth. The fence will measure 3 metres high from ground level adjacent to the building and will follow the ground level as it rises, and will measure 2 metres high at highest slope of the ground level. There will be a gated access into the outdoor compound on the west side of the fence.
- 3.1.8 A new path access measuring 2.4 metres wide will be located in between the leisure centre and the proposed building.
- 3.1.9 The applicant has submitted supporting information regarding the use of the building. The Design and Access Statement states that the building will be used predominantly by Watership Downs Nursery. This Nursery has been located along Downs Road, Maldon. However it is looking to relocate to the Leisure Centre site due to the lease on the current site coming to an end. The proposed site would provide an 11 place crèche facility for children 0-5 years old; the proposed hours of operation would be 09:00-13:00 on weekdays and will operate 51 weeks of the year. The site would also provide a 30 place pre-school for children aged 2-5 years; the proposed hours of operation are 09:00-15:30 on weekdays and will operate 39 weeks of the year,

following school holidays. The site will also provide childcare for 15 children aged 5-11 years; the morning session will run from 07:00-8:45 including school drop off and the afternoon session will run from 15:15-18:00 including school collection. The site will also offer holiday childcare provision for children aged 0-5 years.

- 3.1.10 It is proposed to let other community groups, such as Scouts or Guides, hire the site from 18:30-21:00. It is also proposed to let the site be hired at weekends, for events or children's parties, between 09:00 and 18:00. The site would also provide a community hub for families offering Health Visitor access, Essex Child and Family Wellbeing Services courses, drop in sessions for children aged 0-5 years and a weekly Mother and Toddler session.
- 3.1.11 The bin storage will be located to the rear of the building. Within the building there will be a kitchen, office and toilet facilities. The Design and Access Statement states that it has been agreed with Places for People Leisure, who runs the Leisure Centre in partnership with Maldon District Council, that the utilities can connect to existing supplies. Waste and recycling will be collected in relation to commercial waste collection services for the Leisure Centre.

3.2 Conclusion

- 3.2.1 The proposed building would not result in a detrimental impact on the visual amenity of the streetscene. Furthermore, the proposal is considered to be beneficial in terms of employment and regarding the provision of a community facility. However, it has not been sufficiently proven that the proposal will not result in an unacceptable level of noise, in terms of the impact on the neighbouring residential area, primarily in relation to the evening and weekend use. Furthermore, there is no on-site parking proposed, and therefore the proposal is contrary to policies D1, H4, T1 and T2 of the Local Development Plan (LDP) and guidance contained within the National Planning Policy Framework (NPPF).

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2018 including paragraphs:

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

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

- D1 Design Quality and Built Environment
- D5 Flood Risk and Coastal Management
- E1 Employment
- E3 Community Services and Facilities
- T1 Sustainable Transport

- T2 Accessibility
- S1 Sustainable Development
- H4 Effective Use of Land

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATION

5.1 Principle of Development

- 5.1.1 Policy E3 states that the Council will seek to retain and enhance the provision of community services and facilities within the District. Proposals which help to improve the provision of community services and facilities will be encouraged, including the expansion of existing services. The proposed building seeks to provide a facility which will be used for childcare and as a community hub, which is in line with the aims set out within policy E3 of the LDP. As such the general principle of development is acceptable, particularly given the existing land use as a leisure centre and the position of the site within the settlement boundary of Maldon, subject to other considerations which are examined below.

5.2 Design and impact on the character and appearance of the area

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design should be sought to create a high quality built environment for all types of development. There is similar support for high quality design and the appropriate layout, scale and detailing of development found within the MDDG (2017).
- 5.2.2 The proposed building is considered to be of an acceptable design when having regard to the existing building on the site, and its scale and appearance. The use of timber in the construction of the building is considered to be acceptable.
- 5.2.3 The proposed building will be sited to the rear of the host building, but will be visible from Park Drive to the west. However the scale of the building, including its height and depth, would not result in an unduly prominent addition to the existing site. With regard to visual impact, due to its location to the rear of the leisure centre, there would be some limited views of the building from Park Drive. However, given the scale of the building in relation to the existing leisure centre, as well as it being partially shielded by vegetation to the west, the views of the proposed building are not considered to be detrimental to an extent that would justify the refusal of the application.

- 5.2.4 There will be a green chain-link fence around the compound. This will be visible from Park Drive. However it is not considered to cause such a level of harm to the visual amenity of the streetscene to an extent that would justify the refusal of the application.
- 5.2.5 The existing footpath between the proposed building and the leisure centre will be widened to allow for better access to the building for buggies and wheelchairs. The widening of the path will not cause harm to the amenity of the surrounding area.
- 5.2.6 Therefore the proposed building, fence and external alterations are considered to be in accordance with this aspect of policy D1 of the LDP.

5.3 Impact on Residential Amenity

- 5.3.1 Policy D1 of the LDP seeks to protect the amenity of surrounding areas, taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.3.2 To the north of the site is a leisure club, and waste disposal tip and to the south of the site is Madison Heights. Therefore, there are no concerns relating to the impact of the proposal on these sites as they have similar levels of activity.
- 5.3.3 The site is located directly opposite a residential area to the west. It is considered that the proposed building would not have a materially harmful impact on the residential amenity of the neighbouring occupiers, in terms of loss of privacy or loss of light, due to the minimum separation distance of 43 metres between the western fence of the compound and the closest residential property.
- 5.3.4 It is proposed to primarily use the site during the day. However it is also proposed to hire out the building at evenings and weekends. If the application were to be approved, conditions are likely to be suggested regarding the hours of operation, in order to protect the residential amenity of neighbouring occupiers.
- 5.3.5 The proposed development would be located in close proximity to residential dwellings to the west; Mirosa Drive, Tideway, Jersey Road and Beaumont Way. Although these properties are located at least 43 metres from the closest fence of the compound, no evidence has been submitted to prove that the proposed development would not have a detrimental impact in terms of an unacceptable level of noise. Further to the use of the building as a nursery and community hub, there is also an outdoor compound which would exacerbate the noise from the children.
- 5.3.6 In making this assessment it is noted that the Council's Environmental Health Team has objected due to the lack of a Noise Impact Assessment. It is considered that the background noise levels, including the noise from the highway and the existing use of the site as a leisure centre, could provide grounds to be satisfied that the daytime use could be acceptable, especially as this is when residents would be less susceptible to noise impacts. Therefore, it is considered that the daytime use would potentially be supported, but this should have been demonstrated by a Noise Impact Assessment which has not been provided.

- 5.3.7 It is also proposed to hire out the building during evenings and weekends. It is this proposed use that is considered to be particularly likely to impact on neighbours and therefore in this respect, Officers support the Environmental Health Team's request for a Noise Impact Assessment, to assess the effect of the noise levels on the nearby residential area and demonstrate that no harm would arise. Furthermore, there is no evidence that the proposed building would include any sound insulation, in contrast to the main Leisure Centre building and therefore, whilst the existing uses are noted, it is considered that these would be better mitigated than this proposal. In addition, there is also an outdoor compound which would exacerbate the noise levels.
- 5.3.8 Therefore, in the absence of a noise survey, it has not been demonstrated that it would be possible or reasonable to impose a condition, which would overcome the concerns in relation to the impact on the residential amenity of neighbouring occupiers.
- 5.3.9 After the concerns from the Environmental Health Team were received, the applicant was invited to submit a Noise Impact Assessment. The applicant was also invited omit the evening and weekend use from the application, so it only related to a daytime nursery use. However both of these suggestions were rejected. The applicant considered the evening and weekend hire as an essential part of the business model and so did not wish to remove this element from the proposal.
- 5.3.10 In light of the above, it is considered that it has not been satisfactorily demonstrated that the development would not result in an unacceptable noise impact for neighbouring residential sites and therefore the proposal is contrary to this aspect of policy D1 of the LDP.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Councils adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian and cycle routes.
- 5.4.2 The site features an existing car park that serves the Blackwater Leisure Centre. There is also pedestrian access via an existing footpath to the west of the site, leading across the road, and to the south, leading to the car park. There are no changes proposed to the access and parking arrangements of the site.
- 5.4.3 The adopted SPD requires that a crèche/nursery should have one space per full time staff and waiting facilities where appropriate. The application form states that there will be 22 part time members of staff; the full time staff equivalent being 11 members of staff. Therefore the site would need to provide 11 parking spaces for the employees of the nursery. Regarding the evening and weekend use, the parking standards requires 1 parking space per 22 square metres; totalling 5 parking spaces in relation to the proposed building. As the nursery use and the private hire use will not occur at the same time, it is considered that the total number of parking spaces needed at the site at any one time would be a minimum of 11 parking spaces. The Design and Access Statement submitted with the application states that the users of the proposed building will be informed that they can only use the parking at the Leisure Centre if they are also using their facilities. It also states that there will be no parking on site for staff members. It is noted that the current site of the Watership Downs Nursery,

on Downs Road, has no parking. However this is not considered to justify having no parking for the proposed building, particularly as the Downs Road site is in a more sustainable location that is within the Maldon Town Centre Area.

- 5.4.4 It is noted that the parking area for the Leisure Centre is extensive and may be capable of accommodating the increase in parking requirements. However, as the application has stated that this car park will not be available for use by the staff members of the proposed nursery building, this cannot be considered.
- 5.4.5 There may be some increased traffic as a result of the nursery. However, this is likely to be limited to the set drop-off and collection times and therefore it is not considered to cause demonstrable harm to the flow of traffic to an extent that would justify the refusal of the application.
- 5.4.6 It is considered that the provision of no on-site parking for the proposed building is unacceptable and therefore the proposal is considered to be contrary to policies T1 and T2 of the LDP.

5.5 Flood Risk

- 5.5.1 The site is in flood zone 2 and has an area in excess of 1 hectare. A flood risk assessment has been submitted. The Flood Risk Assessment states that there are no other locations large enough to accommodate the new building and the associated external space required, nor any sites that are close enough to the Leisure Centre to be able to provide a crèche facility for Leisure Centre users. Furthermore, the building will not be in use overnight and therefore the risk to users from flooding will be low.
- 5.5.2 No objections to the proposal have been raised by the Environment Agency and therefore there are no objections in relation to flood risk.

5.6 Employment

- 5.6.1 Policy E1 of the approved Maldon District Local Development Plan (MDLDP) states that the Council will encourage employment generating developments and investment in the District to support long term growth vision outlined in the Council's Economic Prosperity Strategy.
- 5.6.2 The Design and Access Statement submitted with the application has stated that the proposed building will result in the 16 current employees of Watership Downs Nursery being kept in employment, with the proposed number of employees being 22.
- 5.6.3 The Economic Development team were consulted on this application and have no objection as it enables a well-established business to continue once their current premises are no longer available. The facility will be able to offer a wide range of services, with the ability to employ at least 16 members of staff and the opportunity to employ an additional minimum of 10 more members of staff. The proposal is therefore in accordance with policy E1 of the LDP.

5.7 Other Matters

- 5.7.1 The Council's Environmental Health team have also recommended conditions relating to contaminated land on the site. These are considered to be reasonable conditions and would be included, should the application be approved.
- 5.7.2 It is noted that there has been an objection due to the loss of wildlife. However, the proposed site is currently a well-kept grass area and therefore it is not considered highly likely that there is a high amount of wildlife that would be under threat if the proposal were to be approved. If such wildlife were found during the construction process, there is other legislation that would provide protection.

6. ANY RELEVANT SITE HISTORY

- **OUT/MAL/98/00396** - Construction of multi-purpose sports hall and ancillary facilities to existing leisure centre – Approved
- **FUL/MAL/00/00538** - Proposed single storey extension to existing swimming pool to provide new entrance, sports hall, health and fitness, aerobics studio, consultation rooms and changing facilities – Approved
- **FUL/MAL/01/00093** - Proposed erection of temporary accommodation to provide a Fitness Suite, Male/Female changing facilities and covered glazed link to existing building. – Approved
- **FUL/MAL/01/00679** - Erection of temporary accommodation to provide a temporary crèche. – Approved
- **ADV/MAL/02/00820** - Erect unilluminated totem signboard adjacent to site entrance and install 2 no. unilluminated signs on south east elevation of building – Approved
- **FUL/MAL/14/00570** - Extension to Leisure Centre to create Aerobics Studio – Approved
- **FUL/MAL/16/01252** - Retrospective - Change of use of 3No. parking bays for use as mobile car wash – 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	Recommends approval.	Comments noted.

7.2 Representations received from Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	There are concerns raised regarding the noise impact. A Noise Impact Assessment has not been submitted. Object, until satisfied that noise from the development will not affect the amenity of nearby residential premises. Recommend conditions to deal with contaminated land.	Comments noted.
Economic Development	No objection as it enables a well-established business to continue after their premises become unavailable in 2019. The proposed premises can offer a diverse range of facilities and enables the expansion of the business, and the employment of more staff.	Comments noted.

7.3 Representations received from External Consultees

Name of External Consultee	Comment	Officer Response
Cadent Gas	Cadent have identified gas apparatus within the application site boundary. The applicant must ensure the works do not infringe on Cadent's legal rights.	Comments noted.
Natural England	No comments to make	Noted
SuDS	No objection	Comments noted
County Highways	No response	N/A
Tree Consultant	No response	N/A
Essex Wildlife Trust	No response	N/A

7.4 Representations received from Interested Parties

7.4.1 1 Letter of objection has been received at the time of writing this report.

Objecting Comment	Officer Response
There is a lot of wildlife which would be lost.	See Section 5.7.2
There are traffic problems at Madison Heights and the football club, which would be increased. The car park of the Leisure Centre is full most of the day.	See Section 5.4

Objecting Comment	Officer Response
There is already a crèche at the football club. Evening functions should not be allowed. A noise assessment should be submitted. The purpose of Watership Downs seems to have changed. The site area is a flood plain. Where is the entrance and exit going to be?	Comments noted. Competition is not a planning consideration and there is no policy that limits this type of use. Comments noted. The Environmental Health team have raised concerns regarding the noise. See Section 5.3.6-5.3.10. No objections have been received in relation to flooding from the Environment Agency or Environmental Health. The building will use the car park of the leisure centre and will use the existing footpath access.

7.4.2 4 Letters of support have been received at the time of writing this report.

Supporting Comment	Officer Response
The new facility will have the benefit of parking and safe access whereas before, when Watership Downs Nursery was location of Downs Road, parents and children stepped directly onto the road, as well as there being issues with parking. When the nursery operated in its old location, there were no noise complaints, and the proposed location is further away from residential sites than previously. The proposed site benefits from a higher number of clients and increased employment. The existing location of the nursery will be reverted to a maritime use and provide employment in the waterfront. Tesco support the application as they donate food to the nursery and have given them a new playground. The Maldon Child and Family Wellbeing Service works with the nursery to provide an affordable crèche. Having the new building will allow this service to have access to a family community space and provides opportunities to run community projects, including healthy eating projects, and a meeting point for groups.	Comments noted.

- 7.4.3 1 Letter commenting on the application has been received at the time of writing the report.

Comment	Officer Response
Assume there will be a late night noise restriction, especially if it is used for private hire.	Comments noted. The Environmental Health team have raised concerns regarding the noise. See Section 5.3.6-5.3.10.
The Agent has submitted a letter from the Children's Community Development Lead	
- Should Watership Downs Nursery be faced with closure, this would lead to the loss of pre-school places within the ward, which would not be met with alternative local provision.	Comments noted.

8. **REASONS FOR REFUSAL**

1. The proposed development would be within close proximity of residential properties. In the absence of a noise assessment, the impact on the residential neighbours cannot be fully assessed. As such, it has not been satisfactorily demonstrated that the activities associated with the development, in particular the evening and weekend use, would not result in excessive noise levels within the neighbouring residential dwellings which would have the potential to be detrimental to their residential amenity. Notwithstanding the positive aspects of the development, it is considered necessary to take a precautionary stance and deem that the proposal is contrary to policies D1 and H4 of the MDLDP and the guidance contained within the NPPF.
2. The proposal has not been accompanied by sufficient evidence to demonstrate that there will be any available parking at the site. The adopted SPD requires at least 11 parking spaces for this type of development and in the absence of adequate parking it is considered that the proposal could cause parking stress and impact upon highway safety. Therefore the proposal is contrary to policies T1 and T2 of the MDLDP and the guidance contained within the NPPF.