



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

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
03 DECEMBER 2018**

Application Number	FUL/MAL/18/01253
Location	Land North Of Lower Farm, Steeple Road, Mayland
Proposal	Change of use to B8 storage and the construction of hardstanding and boundary treatments including a gates, fencing and hedging.
Applicant	Mr Colin Wisbey
Agent	Mr Mike Otter – GPO Design Ltd
Target Decision Date	11.12.2018
Case Officer	Devan Lawson
Parish	STEEPLE
Reason for Referral to the Committee / Council	Member Call In by Councillor M W Helm Reason: Public Interest

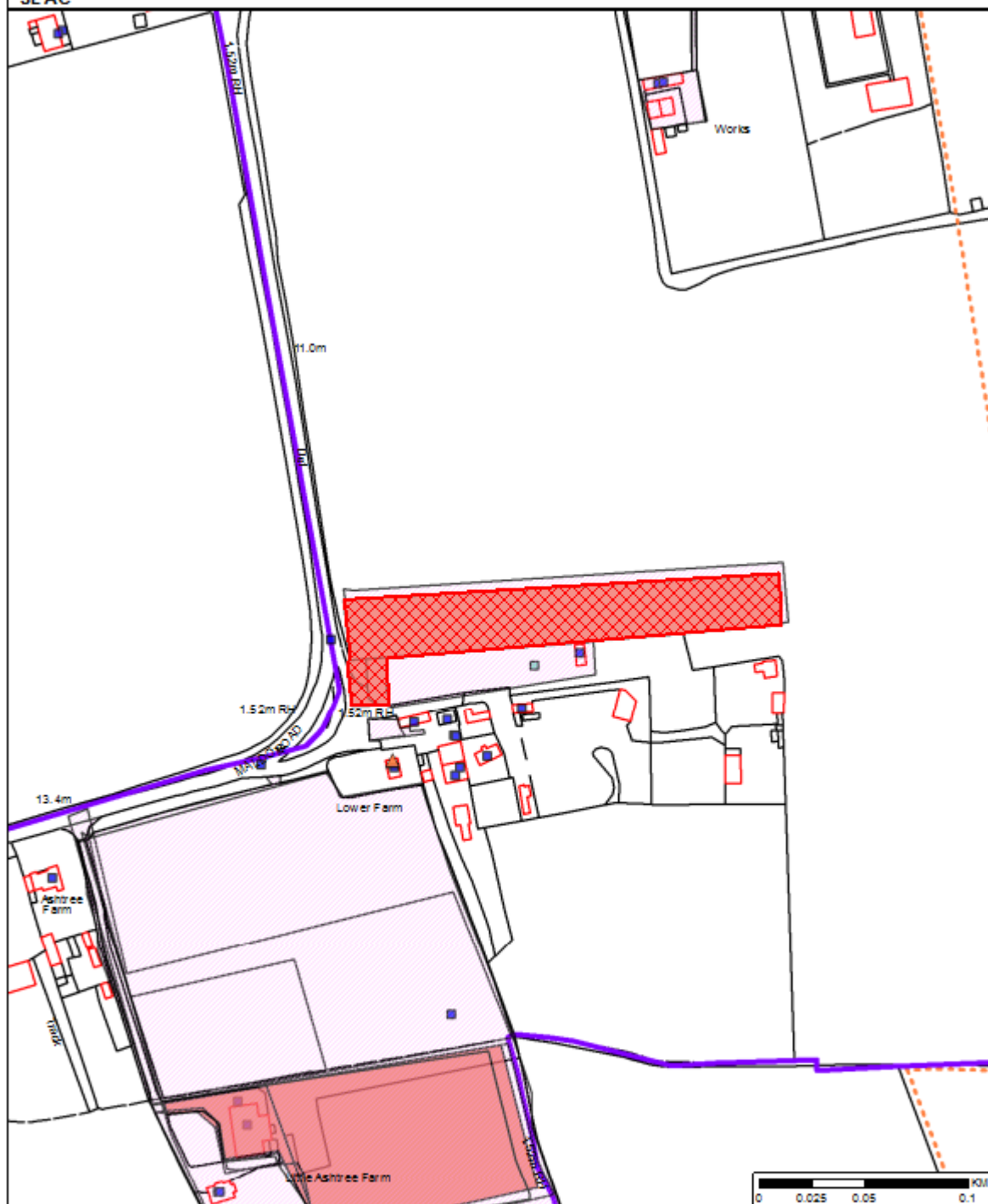
1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

18/01253/FUL
SEAC



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Maldon District Council 10/01/2014



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Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: 18/01253/FUL

Date: 06/11/2018

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located on a bend to the eastern side of Steeple Road, outside of a defined settlement boundary. The majority of the works subject of this application which will be discussed in section 1.2 have already been undertaken. However, prior to this, the site was largely agricultural land which formed part of the open countryside. In its current form the site consists of a large area of hardstanding, with an earth bund to the northern and eastern boundaries and green palisade fencing to the western boundary. The site is currently in use for the storage of vehicles. However, this is not the lawful use of the site.
- 3.1.2 Adjacent to the site, to the south, is an existing commercial use. The south western part of the application site is situated within the existing employment use. However, the bulk of the application site, to the north, does not form part of the existing employment use and as stated above, does not have a lawful commercial use.
- 3.1.3 The surrounding area is rural in nature, with open countryside to the north, east and west. However, to the south of the site is a small cluster of mixed residential and commercial uses.

Proposal and Background

- 3.1.4 Planning permission is sought to regularise the use of the site for storage uses falling within Use Class B8, the construction of a concrete hardstanding across the site and boundary treatments which include gates and fencing to the southern and western boundaries. It is also proposed to plant a native hedge along the boundaries to the site.
- 3.1.5 The existing unauthorised earth bund to the northern and eastern boundaries of the site has not been submitted for consideration as part of this application. The applicant has advised within the covering letter that this is to be removed.
- 3.1.6 The southern and southwestern fence and access gates, which have been included as part of this application, form the boundaries of part of the existing employment site.
- 3.1.7 Planning permission was sought under the terms of application FUL/MAL/8/00902 for a similar development but was refused by the Council for the following reason:

1 'The development is located outside of a defined settlement boundary and outside of the employment sites identified within the LDP and there has been no justification as to why the development is required outside of these areas. Furthermore, as a result of the fencing, gates and hardstanding the development has an urbanising effect on the rural character of the area that results in an unwelcome visual intrusion into the open and undeveloped countryside outside of a defined settlement boundary. In addition the bund has created an alien and incongruous feature which interrupts the existing landscape character of the area. Therefore, the development results in demonstrable harm to the character and appearance of the site and the intrinsic character and beauty of the countryside contrary to policies, S1, S8,

3.1.8 Following this decision the proposal subject of this application has been submitted to the Council for determination. It should therefore, be noted that the following amendments have been made to the previous proposal:

- The existing unauthorised earth bund situated on the northern and western boundaries of the application site shall be removed.
- The fencing to the west of the area of land proposed for the change of use shall be removed. However, the fencing to the western side of the existing employment site is to remain as part of the application.
- The south facing gate at the western end of the site has been omitted from the application.
- Planting of a native hedge is proposed along each of the boundaries. The applicant states that the height of the hedge at the front and southern boundaries of the site would be 1.8m, along the northern and eastern boundaries would be 2m in height.

3.2 Conclusion

3.2.1 Whilst being adjacent to a commercial land use, the application site relates to what was formally and is lawfully an open agricultural field which played a positive role in the intrinsic character and beauty of the countryside. The development has been carried out on undeveloped land and there is no policy consideration which would support the change of use in this locality. Furthermore the development results in an unacceptable urban sprawl into the countryside which would not be successfully mitigated against through the use of hedge planting as the hedge would not provide sufficient screening of the site. Therefore, the development is an unwelcome visual intrusion into the open and undeveloped countryside and the benefits of the proposal do not outweigh the harm to the character and appearance of the rural area.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2018 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 58 Enforcement
- 83-84 Supporting a prosperous rural economy
- 102-111 Promoting sustainable transport
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places

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

- S1 Sustainable Development
- S2 Strategic Growth
- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- E1 Employment
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The application site is situated outside of a defined settlement boundary and also outside of the defined Employment Land Areas, as specified within policies S8 and E1 of the Local Development Plan (LDP).
- 5.1.2 The nearest village to the application site is Mayland, which is approximately 600m away from the application site and it is therefore relevant to note that policy S1 of the LDP states that “When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF and will apply, among other things, the following key principles in policy and decision making:
- 1) 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 priorities 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;
 - 12) Maintain the rural character of the District without compromising the identity of its individual settlements;

- 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 The requirement to focus strategic growth to the District's main settlements is also reiterated in Policy S2. The reason given is that these areas constitute the most suitable and accessible locations in the District. It is also noted that "Strategic growth in the rural villages will be related to the settlement hierarchy, reflect the size, function and physical capacity of the settlement and will not result in unsustainable spatial patterns to the detriment of the wider area.
- 5.1.4 Support of sustainable economic growth to create jobs and prosperity is one of the central themes of the NPPF. On that basis, the provision of new employment opportunities is not objected to, one of the requirements of the NPPF is to ensure that Local Plan's set criteria is met or identify strategic sites for local and inward investment to match the strategy and to meet anticipated needs over the plan period. It is noted that the approved LDP has set the need of the District and strategic sites for Employment Uses have been identified. The application site, although adjacent to an existing non-designated employment site is outside the boundaries of the identified employment land areas.
- 5.1.5 Policy E1 of the approved LDP states that 'The Council will encourage employment generating developments and investment in the District to support the long term growth vision outlined in the Council's Economic Prosperity Strategy (EPS)'. However, it further continues adding that 'new proposals for employment uses will generally be directed to the designated employment areas prior to considering other sites within the District.' The LDP identifies a need for 11.4ha of employment land over the plan period; however, this need is addressed in full within the allocated sites. It is possible that the provision of employment land in this location might undermine the viability of employment land in preferable, allocated locations, thereby affecting the delivery of the LDP.
- 5.1.6 Having regard to the location of the site it is considered that the latter part of Policy E1 Is also relevant, which states that 'outside of the designated employment allocations, new provision for high quality employment space or the expansion of existing employment areas will be considered favourably subject to design, environment and infrastructure considerations.' This should be read in conjunction with policies S1 and S8 of the LDP where it stipulates that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. Outside of the defined settlement boundaries, the Garden Suburbs and Strategic Allocations, planning permission for the development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for, amongst other things, employment generating proposals, as stipulated in Policy S8(b) of the LDP.
- 5.1.7 The applicant has advised that the required change of use and construction of hardstanding and fencing is required for the open air storage of machinery and vehicles and including the delivery and removal of the vehicles and machinery to the site. However, there is no justification as to why this is required outside of the designated employment land areas and any evidence to support the applicants claim that *'there is not any alternative available sites within the District which would be*

suitable for relocating and expanding the business'. Therefore, whilst the benefits of supporting employment generating development is afforded some weight, by reason of the lack of justification in relation to the need for such development outside the designated employment land areas, an objection is raised to the principle of the development which would be contrary to the local policies and national guidance stated above. Furthermore, it is not clear whether the development does provide an employment generating scheme as there is conflicting information provided within the supporting letter and the application form.

- 5.1.8 The supporting letter states that following the development that 12 jobs will be provided. However, there has been no evidence provided to substantiate this claim and it is not clear how this many jobs would result from a storage use which typically employs a low number of people. In contrast it is stated in section 18 of the application form that the existing employee number of 18 is equal to the resulting number of employees. Therefore, it would not appear that there is increase in the number of employees as a result of the development. Having regard to the conflicting information it is not possible to clearly determine the employment benefits arising from the proposal. However, it should be noted that the information within the application form benefits from a signed declaration. Therefore, it is considered that the benefits resulting from the development are somewhat minimal. An assessment of the impacts on the intrinsic character and beauty of the countryside will be considered under section 5.2.
- 5.1.9 Regard has also been had to policy S7 of the LDP which 'seeks to support and facilitate sustainable economic development within the villages' through a number of criteria. However, the criterion does not relate to the provision of new employment uses within the countryside. Therefore, it is not considered that this policy would provide a basis to support the principle of this development.
- 5.1.10 Consideration has also been had to paragraph 107 of the NPPF (2018) which considers the importance of providing adequate overnight lorry parking facilities. However, given that this development does not serve a new or expanded distribution centre and the site will be used to store vehicles and machinery in association with the neighbouring use, it is not considered that the site meets the aims of this paragraph and therefore, does not support the principle of development in this location.

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 in terms of:-

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

5.2.4 Similar support for high quality design and the appropriate layout , scale and detailing of development is found within the Maldon District Design Guide (2017).

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

5.2.6 The works being applied for have largely already been carried out. However, prior to this the site was rural in nature and consisted of open agricultural land which contributed positively to the intrinsic character and beauty of the countryside. The Landscape Character Assessment (EB009a) which forms part of the Evidence Base for the Local Development Plan characterizes this area as part of the Tillingham and Latchingdon Coastal Farmland. A key sensitivity to change in this area has been highlighted to be ‘the open nature of the skyline of several areas of the coastal farmland is visually sensitive, with new development potentially visible within expansive views across the area and also within views to and from adjacent drained estuarine marsh and coastal farmland.’ The landscape guidelines for this area suggest that it should be ‘ensured that new development responds to the historic settlement pattern and scale, and uses materials that are appropriate to the local landscape character. Such development should be well integrated into the surrounding landscape.’

5.2.7 The development as carried out involves the intensive use of the land for employment

purposes, with the provision of concrete hardstanding, gates and fencing which is considered to have an urbanising effect on the countryside contrary to Policy S8. Whilst there is no objection to the replacement fence and gates on the western boundary of the existing employment site, as it is considered to result in no more demonstrable harm than the previous chain link fence, the extension of the employment site including the expansive area of hardstanding and associated paraphernalia for a B8 storage use is considered to result in detrimental urban sprawl into the countryside which would materially harm the intrinsic character and beauty of the countryside. Whilst it is noted that the proposed planting would provide some screening of these urban features, the proposed hedging would take some time to mature and cannot be relied upon to remain permanent or be kept at the stated heights.

- 5.2.8 Upon considering the provision of the proposed native hedging, it is considered relevant to note the findings of the Inspector under appeal APP/X1545/W/18/3206973 at Land behind (to the south of) Ashtec Automotive, Unit 4, Woodrolfe Road, Maldon, which was decided on the 5th November 2018. The appeal related to the change of use land to form a storage yard to be used in association with the neighbouring employment site and the Inspector noted *‘that the change of use of land facilitated by the erection of industrial style fencing and the provision of concrete hardstanding would have a suburbanising effect which would be out of keeping with the character of the area that would be a discordant form of development which would erode the open and rural qualities of the area’*.
- 5.2.9 Although in different areas of the District, it is considered that the referenced appeal has significant similarities to the application subject of this appeal due to its siting outside of the settlement boundary and the proposed use of soft landscaping in order to try and mitigate against the impacts of the development. It is therefore relevant to note that the Inspector considered that due to the time taken for the landscaping to mature and its lack of long term reliability would fail to mitigate against the detrimental harm to the character and appearance of the countryside. Having regard to the above it is not considered that the proposed use of hedging would be sufficient in mitigating against the detrimental impacts on the intrinsic character and appearance of the countryside.
- 5.2.10 Regard is also had to the Inspectors comments in regards to the consideration of the prominence of the site from within the public realm. The Inspector stated that *‘the argument that a development would be out of view is not a good one in principle as it could be oft-repeated to the overall detriment of the character and appearance of the area.’* Therefore, the comments made within the applicants supporting statement which state that *‘there is no adverse impact on the character and beauty of the countryside since the site will be barely visible from within the public realm’* are not considered to provide a sound reason for approving the application.
- 5.2.11 Whilst the fields adjacent to the application site are bound by hedgerows it is noted that during the winter months the hedges provide minimal screening of the site. This is also considered likely to be the case for the proposed hedgerow, regardless of its height. As a result, it is not considered that the proposed hedge would be sufficient in fully screening the development and associated use of the site particularly from northern and eastern parts of the public realm. Therefore, although it says within the submitted Baseline Landscape Assessment that the 2m high hedge as a result of its proximity and density will ensure that the screen remains effective, for the reasons

discussed it is considered that the provision of the hedge would fail to fully mitigate against the urbanising impacts of the change of use. This would be consistent with the abovementioned appeal decision at another site within the Maldon District.

- 5.2.12 It is considered that the development by way of the siting, and extent of the hardstanding and paraphernalia which is associated with the use of the site results in an intrusive and incongruous form of development in a prominent location within the surrounding area and the countryside. Furthermore, the proposed landscaping would not be sufficient in mitigating the harm. Therefore, the development would cause substantial and demonstrable harm to the character and appearance of the site and wider area and the countryside. Furthermore, having regard to the findings of section 5.1 it is not considered that the employment benefits arising from the development outweigh the harm that the development would result to the intrinsic character and beauty of the countryside. As such, the development does not comply with policies S1, S8 and D1 of the LDP and guidance contained within the NPPF.

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 MDDG (2017).
- 5.3.2 The nearest neighbouring dwelling is Lower Farm House, located 26m from the application site to the south. Between the application site and the neighbouring dwelling is an existing scrap yard, which is closer than this application site, therefore, it is not considered that the outdoor storage within this site would have an adverse impact on the amenity of the existing occupiers of that property to such a degree to warrant refusal. Furthermore, it is noted that the Environmental Health Service, although yet to comment on this application, raised no objection to the previous application subject to a condition restricting the hours of use.
- 5.3.3 For the reasons discussed it is not considered that the proposal would detrimentally impact on neighbouring amenity in accordance with policies D1 and H4 of the LDP.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than

average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety, and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.

- 5.4.3 It is worth noting since the determination of the previous application the Maldon District Vehicle Parking Standards has been adopted and therefore, there are different considerations in terms of vehicle parking requirements.
- 5.4.4 The adopted vehicle parking standards state that 1 vehicle parking space should be provided per 150m² of warehouse or open air storage, 1 cycle space per 500m² for staff, 1 cycle space per 1000m² for visitors and 1 lorry space per 200m² for operational purposes. The applicant has advised within the application form that vehicle parking is not relevant to this application.
- 5.4.5 The area that has been subject to the change of use has an area of 4,550m². Therefore, the Vehicle Parking Standards suggest that the following parking requirements apply:
- 31 vehicle parking spaces
 - 10 Staff Cycle spaces
 - 5 visitor cycle spaces
 - 23 lorry spaces
- 5.4.6 Whilst the required parking provision is noted, given the use of the site which is for the storage of machinery, and vehicles awaiting repair it is considered that there would be sufficient space within the site to accommodate sufficient space to park a sufficient number of vehicles. As a result it is considered reasonable to apply some flexibility to the required level of parking. Furthermore, the Local Highway Authority have requested a prior to commencement condition seeking to ensure that the areas for the loading and unloading of vehicles, the storage of materials and maneuvering of vehicles during the construction of the proposal is provided clear of the highway. However, given that the majority of the development has been completed, it is not considered that this is reasonable or necessary.
- 5.4.7 The access to the site is adjacent to an existing access serving the neighbouring site. Given that the access is situated away from the main highway as Lower Farm is served by a layby off of Steeple Road, it is not considered that there are any detrimental impacts to highway safety. Furthermore, it is noted that the Local Highway Authority has raised no objection in this regard.

5.5 Private Amenity Space and Landscaping

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces.

5.5.2 This application does not relate to residential development and therefore, there is no requirement for the provision of private amenity spaces.

5.5.3 In terms of landscaping, whilst the hedging to the boundaries of the site would provide some screening of the development, it is not considered that the hedging would provide an appropriate form of mitigation against the detrimental and urbanising impacts of the development as discussed under section 5.2.

5.6 Surface Water Drainage and Contamination.

5.6.1 It is noted that the development has been carried out and may result in an increase in surface water runoff. Environmental Health and the Local Highway Authority have suggested conditions regarding surface water. Given, that the development has been carried out and having regard to the size of the site in relation to the expansive open space around the site, it is not considered reasonable to impose conditions requiring a scheme of surface water runoff to be agreed prior to the first occupation of the development in the interests of surface water flooding. However, in the interests of the natural environment it would be necessary to impose a condition requiring that surface water from the vehicle parking and service areas shall be passed through a storm by-pass oil inceptor. Furthermore, a condition should be imposed if the application were to be approved ensuring that any containers used for the storage of oil and other chemicals shall be stored in areas which do not drain to any watercourse, surface water sewer or soakaway. Given that the development has already occurred, these conditions will be required to be submitted within three months of the decision or 11 months after an appeal has been made.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/18/00902** - Change of use to B8 Storage and the construction of hardstanding and boundary treatments including a bund, gates and fencing.
Refused.
- **ADV/MAL/18/00903** - Siting of two non-illuminated adverts on fence.
Approved

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Steeple Parish Council	Undesirable change of use from agricultural to industrial and is contrary to the LPD	Please see sections 5.1 and 5.2

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Natural England	No comments to make and the LPA should refer to the standing advice	Noted.
Essex County Council Highways Authority (ECC)	No objection subject to conditions.	Noted and addressed at section 5.4

7.3 Internal Consultees

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Environmental Health	No objection subject to conditions	Noted. Where relevant the conditions will be addressed within the report.
Economic Development	No objection as it enables the sustainability of an existing business and enables the employment of 12 people.	Please see section 5.1

7.4 Representations received from Interested Parties

7.4.1 No letters of representation have been received in relation to this application.

8. REASON FOR REFUSAL

- 1 The development is located outside of a defined settlement boundary and outside of the employment sites identified within the LDP and there has been no justification as to why the development is required outside of these areas. Furthermore, as a result of the hardstanding and the use of the site, the development has an urbanising effect on the rural character of the area that results in an unwelcome visual intrusion into the open and undeveloped countryside outside of a defined settlement boundary and has failed to be sufficiently mitigated against through the use of soft landscaping. Therefore, the development results in demonstrable harm to the character and appearance of the site and the intrinsic character and beauty of the countryside contrary to policies, S1, S8, D1 and E1 of the LDP, guidance contained within the NPPF and the Maldon District Design Guide.