



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

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

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

1. RECOMMENDATION

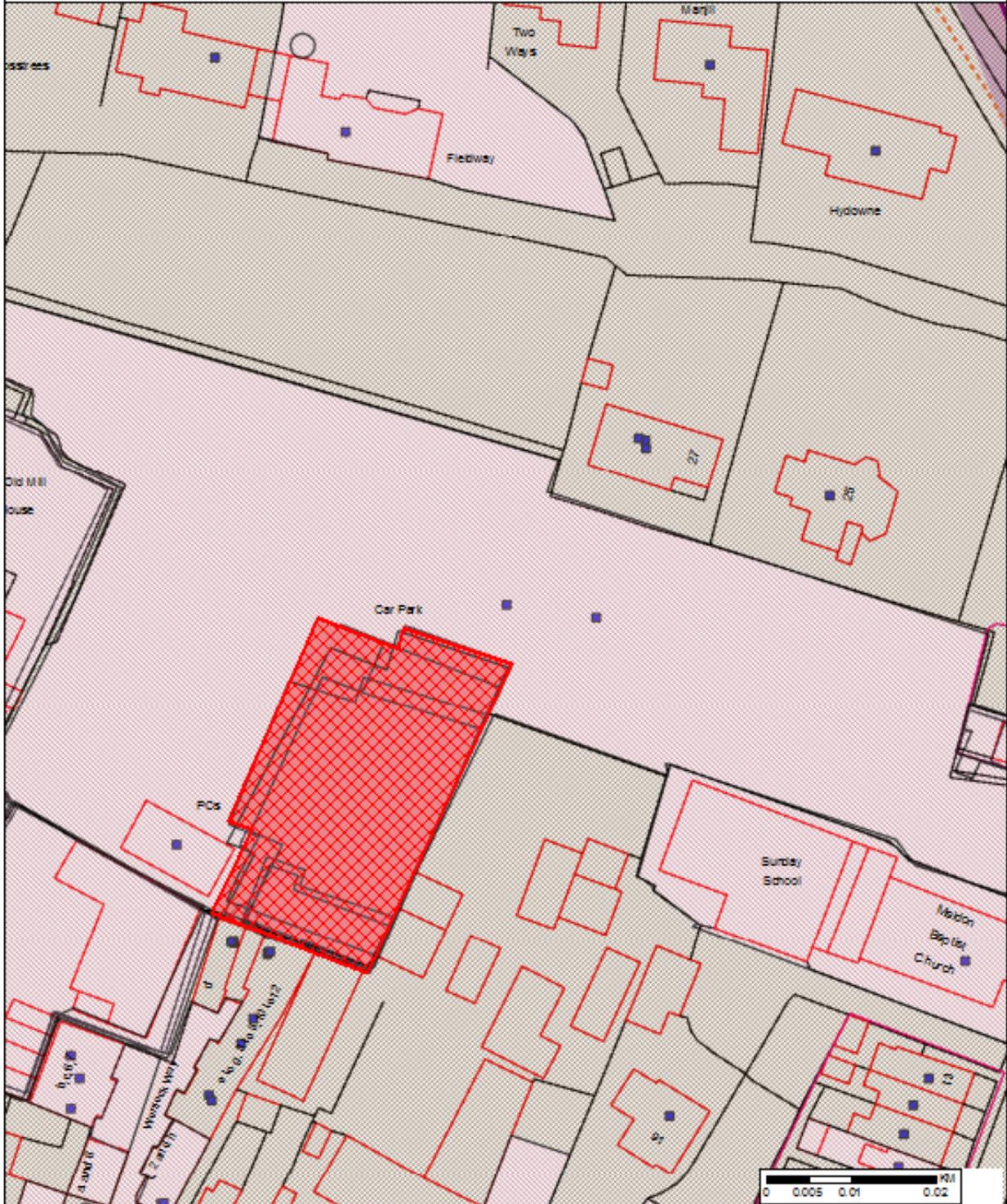
APPROVE subject to the conditions (as detailed in Section 8 of this report).

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

2. SITE MAP

Please see overleaf.

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



 <p>Copyright For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorized reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p>	Scale:	1:625
	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Central Area Committee
	Date:	31/12/2018
www.maldon.gov.uk	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

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

3.2 Conclusion

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

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2018 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 85-90 Ensuring the vitality of town centres
- 102-111 Promoting sustainable transport
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places
- 184-192 Conserving and enhancing the historic environment

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

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

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

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

5.2 Principle of Development

5.2.1 Policy S1 refers to the NPPF's presumption in favour of sustainable development and makes specific reference to the local economy, housing growth, effective use of land, prioritising development on previously developed land, design, the environment, sustainable communities, the effects of climate change, avoiding flood risk area, the historic environment, local infrastructure and services, character and appearance, minimising need to travel.

5.2.2 Policy S5 states that proposals for retail, office, housing, community, leisure uses and other town centre uses will be supported where they contribute to the regeneration and diversification of Maldon Town Centre.

5.2.3 The application site is in a mixed-use area within the Town of Maldon and, therefore, the principle of the development is not unacceptable in principle, subject to an assessment of the proposal as set out below.

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

5.3 Design and Impact on the Character of the Area

- 5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality, built environment for all types of development.
- 5.3.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:

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

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

- 5.3.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-
- Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
 - Height, size, scale, form, massing and proportion;
 - Landscape setting, townscape setting and skylines;
 - Layout, orientation, and density;
 - Historic environment particularly in relation to designated and non-designated heritage assets;
 - Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
 - Energy and resource efficiency.

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

5.4 Impact on Residential Amenity

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

5.5 Access, Parking and Highway Safety

- 5.5.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposal, inter alia, to include sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.5.2 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards.
- 5.5.3 It is acknowledged that the use would result in car parking spaces being unavailable on market days. However, there is no evidence to suggest that the use of the site has resulted in any on-street car parking, detrimental to the free flow of traffic or highway safety. Furthermore, taking into account the overall number of car parking spaces available within the town centre as a whole and the economic benefits of there being a market within the town centre, no objection to the proposal on the basis of car parking is raised.

6. ANY RELEVANT SITE HISTORY

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

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

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

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

7.2 Statutory Consultees and Other Organisations

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

7.3 Internal Consultees

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

7.4 Representations received from Interested Parties

7.4.1 No representations received.

8. PROPOSED CONDITIONS

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