



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

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

<b>Application Number</b>	<b>FUL/MAL/18/01032</b>
<b>Location</b>	Units At Bentalls Industrial Complex Colchester Road Heybridge Essex CM9 4NW
<b>Proposal</b>	Section 73A application for the change of use to storage and distribution (Use Class B8).
<b>Applicant</b>	Mr A Gunn
<b>Agent</b>	Mrs C Legg - Smart Planning Ltd
<b>Target Decision Date</b>	11.01.2019 E.o.T. 25 January 2019
<b>Case Officer</b>	Spyros Mouratidis
<b>Parish</b>	<b>HEYBRIDGE WEST</b>
<b>Reason for Referral to the Committee / Council</b>	Major Application Not Delegated to Officers

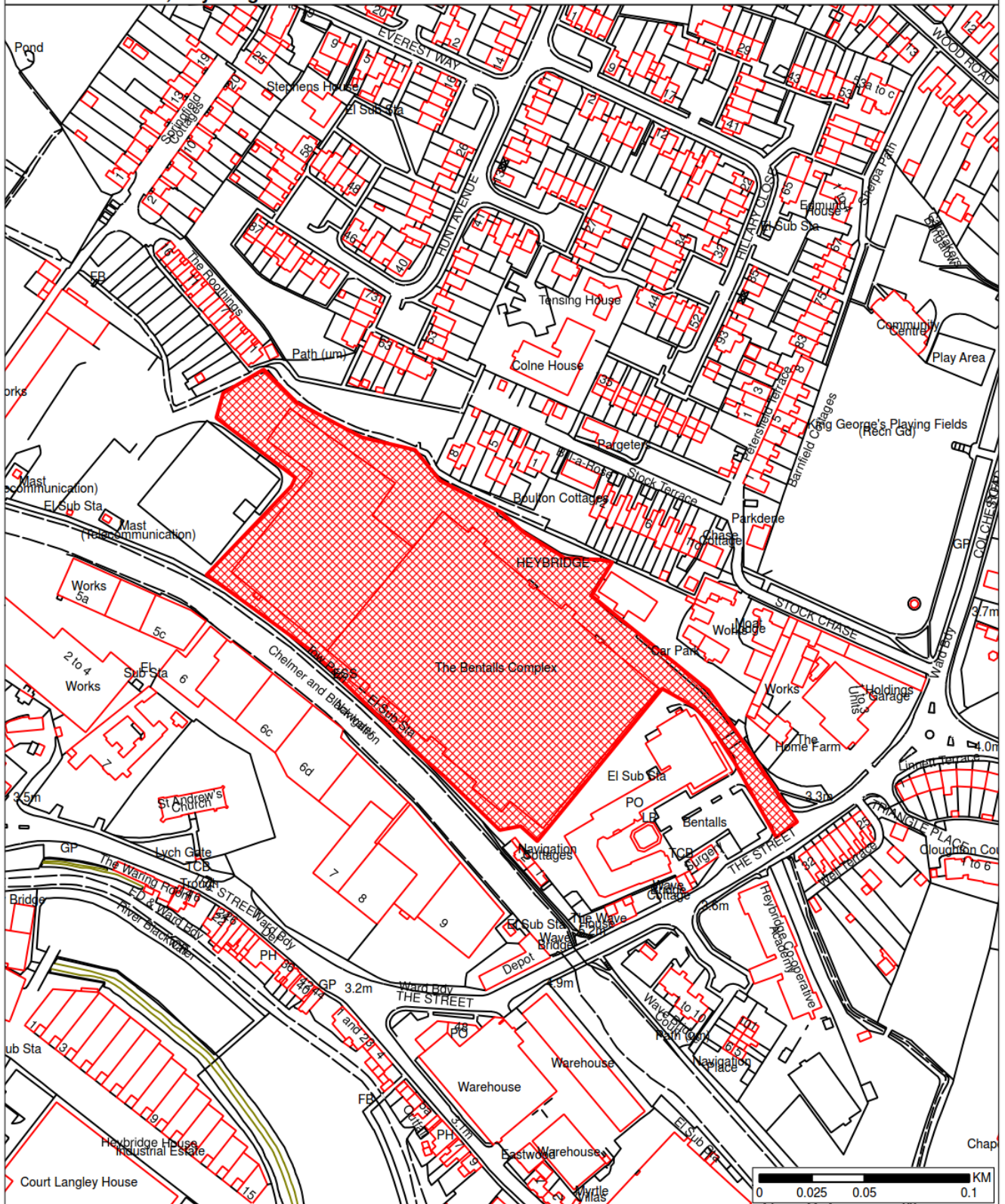
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.

**18/010312/FUL - Units at Bentalls Industrial Complex**  
Colchester Road, Heybridge



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Maldon District Council 100018588 2014

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Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: Central Area Planning Comm

Date: 03/01/2019

MSA Number: 100018588



### **3. SUMMARY**

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

- 3.1.1 Planning permission is sought for the change of use of the Application Site from print works, a use falling within Use Class B2 (General Industrial) to a storage and distribution centre, a use falling within Use Class B8 (Storage or distribution). No external changes are proposed. As the use has already commenced, the application is retrospective in nature and has been submitted under the provisions of Section 73A of the Town and County Planning Act 1990 as amended.
- 3.1.2 The Application Site lies within settlement boundary of Maldon and Heybridge, on the Heybridge Centre as defined in the Council's Central Area Masterplan SPD. It should be noted that although the attached plan shows that the road is named The Street, all the properties after the Wave Bridge are registered with their addresses being on Colchester Road. This part of the highway is also shown in the Council's records as Bentall's Approach. Approximately 80m to the east of the access is the junction of Colchester Road with Goldhanger Road.
- 3.1.3 The Application Site is part of the Bentalls Industrial Estate. To the southeast is the Home Farm Industrial Estate, to the south is the Bentalls Shopping Centre, to the west, across the canal is the Street Industrial Estate. There are residential properties to the south (Navigation Cottages, Well Terrace), north (the Roothings) and north east (Hunt Avenue and Stock Chase) of the site.
- 3.1.4 As already mentioned the site is within the area covered by the Central Area Masterplan SPD and is recognised as an opportunity site. It also lies within a designated employment area and a Food Zone 3. Moreover, the site is adjacent to the Chelmer and Blackwater Navigation Conservation Area and the River Chelmer local wildlife site Ma01 as designated in the approved Local Development Plan (LDP).

#### **3.2 Conclusion**

- 3.2.1 The application is for an employment use within a designated employment area. Subject to conditions to establish that the associated noise generation will not be detrimental to the amenity of the neighbouring residents or that appropriate measures will be put in place to attenuate any detrimental disturbance, the application is for an acceptable development. Given that there are no external alterations to the building, the character and appearance of the area will not be impacted by the development and the significance of the adjacent conservation area will be preserved. In addition, there will not be any increase of flood risk as the footprint of the built area will remain the same. No adverse impact is anticipated for the adjoining local wildlife site or the highways in the vicinity of the application site. Overall, having regard to all material planning considerations, the development is in line with local policies S1, S5, D1, D2, D3, D5, E1, N2, I2, T1 and T2 of the approved LDP and national policies contained in the National Planning Policy Framework.

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

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

##### **4.1 National Planning Policy Framework (NPPF) 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
- 54-57 Planning conditions and obligations
- 80-84 Building a strong, competitive economy
- 85-90 Ensuring the vitality of town centres
- 102-111 Promoting sustainable transport
- 117-121 Making effective use of land
- 148-169 Meeting the challenge of climate change, flooding and coastal change
- 170-183 Conserving and enhancing the natural environment
- 184-202 Conserving and enhancing the historic environment

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

- S1 Sustainable Development
- S5 The Maldon and Heybridge Central Area
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Change
- E1 Employment
- N2 Natural Environment and Biodiversity.
- T1 Sustainable Transport
- T2 Accessibility
- I2 Health and Wellbeing

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

- Planning Practice Guidance (PPG)
- Maldon and Heybridge Central Area Masterplan SPD (CAMp)
- Maldon District Design Guide SPD (MDDG)
- Maldon District Vehicle Parking Standards SPD (MDVPS)

## 5. MAIN CONSIDERATIONS

### 5.1 Principle of Development

- 5.1.1 The Local Planning Authority has to determine planning applications in line with the local plan unless other material planning considerations indicate otherwise. Policy S1 of the approved 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 the following key principles in policy and decision making:  
(...)*

*3) Promote the effective use of land and prioritise development on previously developed land and planned growth at the Garden Suburbs and Strategic Allocations;”*

- 5.1.2 The application site is previously developed land as it is part of an industrial estate where the buildings have remained. Policy S5 relates to the Maldon and Heybridge Central Area which incorporates the Causeway Regeneration Area. The policy states:

*“The Central Area will continue to act as the focal point within the District for retail, commercial, industrial, community and tourism activities. (...) The development and regeneration strategy for the Central Area comprises the following:*

*1) Development and regeneration will take place having regard to a masterplan endorsed by the Council;*

*(...)*

*3) Renewal of the Causeway Regeneration Area to improve the supply of high quality Use Class B floorspace (commercial and industrial), and increase employment. This will include the provision of: modern workspaces suitable for small and medium sized enterprises; start-up units; support for existing businesses that are seeking to expand and mixed-use developments which enable significant numbers of jobs to be created;*

*(...)*

*5) Increase public access next to, and enhance the setting of the riverside to create a vibrant environment that incorporates a range of uses;*

*6) 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, the Causeway, the Hythe, and the Leisure Quarter and other key attractions;*

*7) Preserve and enhance the quality of the historic character including the built environment, archaeology and historic skyline within the context of its riverside, estuarine and rural location;*

*8) Actively manage traffic and visitors to the town and surrounding area through enhanced public transport provision and the use of effective car park management;*

*9) Protect the sensitive environmental relationship between the Central Area and the adjacent environmentally designated areas including the River Blackwater and Chelmer and Blackwater Navigation; and*

*10) Minimise all forms of flood risk and ensure that flood infrastructure are effectively managed.”*

5.1.3 The CAMp includes six objectives and eighteen (18) projects. The Application Site is part of project 13, Wyndham Heron and Rootings and it is expected to contribute to objectives CA1 – Town centre economy and CA4 access to the river/ water. It is envisaged that the renewal of the site will incorporate employment and mixed use buildings, that a comparable number of employment spaces will be created as when the site was fully used, that there will be an improvement in the quality of the canal frontage and there will be a footbridge to connect the site with the rest of Heybridge. The application merely seeks the change of use of the application site. Hence, although it is not a project toward the realization of the project 13 of the CAMp, it does not conflict with the project. Furthermore the envisaged project 13 in the CAMp is a long term one and as such in the short or medium term a use should be encouraged in line with other policies. The Urban Design officer has been consulted for the application and has raised no objections for the development.

5.1.4 Policy E1 of the approved LDP designates the Application Site as part of the employment site E1 (I), The Causeway, Maldon and Heybridge. In this employment site uses falling within use classes B1, B2 and B8 are considered appropriate. For the designated existing employment sites the policy states:

*“The areas indicated below and defined on the Policies Map will be reserved for employment development. Planning applications for development will only be permitted for employment purposes if they accord with the use class specified. (...) Proposals to develop vacant employment sites and buildings, or to modernise or redevelop existing employment sites and buildings will be viewed favourably, especially where this supports the retention of existing businesses and/or provides employment space that meets the current needs of local businesses in the District.”*

5.1.5 The development has resulted in a use falling within use class B8. Therefore, considering the previous paragraphs the principle of the development is acceptable in line with policies S1, S5 and E1 of the approved LDP. Other material planning considerations will be discussed in the following sections of the report.

## **5.2 Design and Impact on the Character of the Area and on Designated Heritage Assets**

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. These principles have been incorporated in policy D1 of the LDP and the MDDG.

5.2.2 The Application Site is adjacent to the Chelmer and Blackwater Navigation Conservation Area. A Conservation Area is “an area of special architectural or historic interest” with a character which is “desirable to preserve or enhance” (Planning (Listed Buildings & Conservation Areas) Act, 1990). This special character derives from a range of factors including the design of the buildings as well as the materials used. According to policy D3 of the approved LDP any proposal within a conservation area requires clear and convincing justification and can only be considered acceptable if it would not harm the building, its settings and any feature



that contributes to the special architectural or historic interest or the benefits from the proposal overwhelmingly outweigh the loss or harm.

- 5.2.3 The application is for regularization of the existing use. Not external alterations are proposed or have been carried out. Therefore, the development has not altered the character and appearance of the area in any material way. Moreover, the development has not harmed the significance of the adjacent conservation area. The Conservation Officer has been consulted for the application and has raised no objections for the development. On this basis the impact of the proposal upon the designated heritage asset and the character and appearance of the area is acceptable in accordance with the relevant sections of policies D1 and D3 of the approved LDP. The installation of external plant or machinery or the storage of items externally has the potential to cause harm to the surrounding area. Conditions to control these associated activities would meet the six tests of national guidance.

### **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. Similarly policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.3.2 The nature of a B8 use is materially different from a B2 use. While it is noted that what is undertaken on site is significantly less disturbing than the continuous operation of a printing factory (the previous use of the Application Site), the nature of the existing use has the potential to cause more wide spread noise and disturbance. Whilst the B2 use was carried out within the building and hence most of the noise could be contained, the B8 use will generate noise from vehicle movements which are carried out mainly outside the building. Furthermore, as the application site has speed bumpers which could exacerbate the noise generated from the vehicles, in addition to the noise from the vehicles' running engines or reversing movements or the noise from employees working around the vehicles.
- 5.3.3 A condition about the hours of operation would limit these sources of disturbance to specific working hours when the ambient noise levels would be higher due to other activities. However, there is the potential of undue noise and disturbance even within the permitted hours of operation. As such, a condition requiring an acoustic report which would also identify any appropriate mitigation measures as suggested by the Council's Environmental Health team, would meet the six tests of the national policy.
- 5.3.4 The Council's Environmental Health team has also suggested conditions about the hours of operations and deliveries, the installation of external plant or machinery. These conditions would meet the six tests of the national policy. A condition about external illumination would not meet the six tests given that illumination can currently be installed without planning permission. Bearing in mind that the storage, loading and unloading of items will be carried inside the buildings, there are no sufficient circumstances to justify taking away existing rights. Subject to the appropriately worded conditions, the impact of the development on the residential amenity of

neighbouring occupiers is acceptable in line with the relevant part of local policies D1 and D2 of the approved LDP.

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

- 5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 of the approved LDP 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 MDVPS contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety, and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
- 5.4.3 The development has not altered the highway access or parking arrangements on site. Whilst the nature of the use could create significant traffic carried out by HGVs, the location of the site is in an area with good connections to primary highway network and according to the submitted supporting statement, the lorry movements are not expected to be more than four per day after the expected 36 movements during the initial six weeks when the units on site are being filled. It was estimated that this initial period would be over by December 2018. It is not considered that the aforementioned movements would be detrimental to the highway network of the area.
- 5.4.4 Whilst there is no additional floorspace created there is still the requirement for appropriate provision of car, cycle and other parking on site. As noted in Table 1 below, the MDVPS requires for B8 use of warehouse distribution one car parking space per 100m<sup>2</sup>, one cycle parking space per 500m<sup>2</sup> for employees, one cycle parking space per 1000m<sup>2</sup> for visitors and one lorry space per 200m<sup>2</sup>. The total requirement for the buildings on site which cover an area of approximately 16,750m<sup>2</sup> is shown on Table 1 below:



**Table 1: Vehicle parking standards and required parking for the Application Site.**

Type of parking	Car parking	Cycle parking	Operational (lorries)
Parking Standard B8 Warehouse Distribution	1 space / 100m <sup>2</sup>	E: 1 space / 500m <sup>2</sup> V: 1 space / 1000m <sup>2</sup>	1 space / 200m <sup>2</sup>
Amount required	168	51	84
Parking Standard B2 General Industry	1 space / 50m <sup>2</sup>	E: 1 space / 100m <sup>2</sup> V: 1 space / 400m <sup>2</sup>	N/A
Amount required	336	210	N/A

Source: MDVPS and officer's calculations on the basis of the MDVPS.

- 5.4.5 It should be noted that whilst the required provision of parking spaces is the minimum required in accordance with the MDVPS, there are material considerations that should be taken into account. The Application Site is located within a central location where there is good connection with public transport. Furthermore, the lawful use of the Site is for a use falling within Use Class B2. As noted on Table 1, the required parking provision for such a use according to the MDVPS is substantially higher than the required provision for a B8 use; the car parking provision is double, the required provision for cycle parking for employees is five times higher etc. Whilst there is no required provision in the MDVPS for lorries in relation to a B2 use, the Application Site was visited by lorries on a frequent basis because of the activities associated with the lawful use. The fact that the site operated as a B2 use for a number of years without any detrimental issues in relation to parking indicates that there is no need to require the full amount of parking spaces calculated in Table 1 particularly as a B2 use could be operated from the site lawfully and there is a great shortfall in on-site parking provision. It is noted that the Highways Authority has raised no objections for the application.
- 5.4.6 The Applicant has indicated that 15 full-time, ten of which on site, and 25 part-time jobs will be created. In the accompanying statement it is stated that at busy periods up to 35 employees will be on site as a result of the use. A provision for 35 car parking spaces would be a reasonable requirement. Given the existing parking and extended hardsurface provided on site, the parking provision required for vehicles could be accommodated on site. Considering the ratio of car parking to cycle parking contained on the MDVPS, a total of eleven cycle parking spaces should be provided on site. As there is no cycle parking provision on site, a condition to require the provision of eleven cycle parking spaces in total would meet the six tests of the national guidance. On this basis, the proposal is considered acceptable in terms of access, parking and highway safety.
- 5.4.7 A travel management plan has been submitted to support the application. There is a commitment to reduce private vehicle movements by incorporating appropriate measures. The measures include the display of the adjacent cycling routes on notice boards, the provision of on-site changing facilities, the promotion of car sharing with dedicated spaces and promotional material etc. These measures can be incorporated in the decision notice as conditions if the application was to be successful. However, in order for conditions to be imposed the six tests should be met and in this instance the proposed measures would not be necessary to make the development acceptable.

As such they would not meet the tests and therefore should not be imposed as conditions. It is also proposed by the Applicant that the travel management plan is monitored every six months. This can only be achieved with a Section 106 agreement. The three tests for planning obligations should be met. In this case, a S.106 agreement to monitor the travel management plan would not be necessary to make the development acceptable in planning terms. As such it would fail the tests and therefore should not be imposed

## **5.5 Ecology**

- 5.5.1 Paragraph 180 of the NPPF states that in order to prevent unacceptable risks from pollution, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Paragraph 170 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by, among others, preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.
- 5.5.2 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, among others, noise, smell, light, visual impact and pollution of the development. Policy D2 seeks all development to minimise its impact on the environment by incorporating measures to minimise all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.5.3 As already mentioned in section 3 of the report, the Application Site is adjacent to River Chelmer local wildlife site Ma01 as designated in the approved LDP. Policy N2 of the LDP states that:

*“Development proposals which help to improve the condition of existing international, national or local designations will be encouraged.*

*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. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.*

*(...)*

*Biodiversity by design - Wherever possible, all development proposals should incorporate ecologically sensitive design and features. Where appropriate, development proposals near any watercourses or water bodies should provide a sufficient buffer which will be beneficial from the perspective of minimising the encroachment of development, providing ecological enhancements, and preventing pollution.”*

- 5.5.4 It is considered that the development has not improved but also has not negatively affected the locally designated site. The Application Site is covered by concrete and or buildings which offer limited opportunities to local wildlife. As there are no physical alterations, there is little scope in achieving gains for biodiversity; a condition to require changes to this effect would not meet the six tests of the national guidance. On this basis the development is not in conflict with policy N2 of the LDP as it does not harm the locally designated site. As this is a locally designated site Habitat Regulations are not applicable. Nevertheless, Natural England has been consulted and raised no objections to the development.

## **5.6 Flood Risk**

- 5.6.1 The application site is located within Flood Zone 3a, defined by PPG as having a high probability of flooding. Policy D5 of the LDP, in line with national policy, provides local flood risk considerations and seeks to direct development to the lower risk flood zones. The development is a change of use and does not involve any operational development. Paragraph 164 of the NPPF states that:

*“Applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 50.”*

- 5.6.2 The application of the sequential or the exception test is not required. The use of the site for storage and distribution is classed as a less vulnerable use as per the relevant classification table contained in the PPG<sup>1</sup>. This is the same classification as the lawful use of the site for general industrial purposes.
- 5.6.3 In line with footnote 50 of the NPPF, a site specific flood risk assessment (FRA) has been provided by the Applicant prepared by Waterco Consultants and dated October 2018. The FRA recognises that while the site benefits from flood defenses there is a high probability in a rare event these defenses to be breached and the safe refuge on site will be only on the first floor as there is no safe access through areas not at risk of flooding.
- 5.6.4 The FRA proposes some flood resistance/ resilience measures however, a condition to require these measures to be incorporated would not meet the six tests as it would not be necessary to make the development acceptable; the development does not involve any physical alterations and the use is falling within the same classification of vulnerability from flooding as the lawful use. The Council’s Environmental Health and the Lead Local Flood Authority suggested a condition about surface water drainage. As already stated, the Application Site is already developed and the application does not include any operational development. A condition about surface water drainage would not meet the six tests. While the site is at actual risk of flooding, this risk would not change whatever the outcome of this application.

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<sup>1</sup> Table 2: Flood risk vulnerability classification, Paragraph: 066, Reference ID: 7-066-20140306, Revision date: 06 03 2014, PPG available online: <https://www.gov.uk/guidance/flood-risk-and-coastal-change#flood-zone-and-flood-risk-tables>

- 5.6.5 A flood warning and evacuation plan (FWEP) has been submitted by the Applicant's Agent in response to comments from the Emergency Planner. A condition to require this to be displayed at all times on the premises, in line with the advice from the Emergency Planner, would meet the six tests of the national guidance. The Environment Agency has been consulted and raised no objection to the application. Subject to the appropriately worded condition about the display of the FWEP on the premises, the development is acceptable in relation to flood risk.

## **5.7 Other Material Considerations**

### Land contamination

- 5.7.1 According to the submitted accompanying statement, the previous company submitted a report to the Environment Agency to confirm that the site was left in an appropriate and safe condition. This is sufficient to assume that there is no detrimental contamination on the site. The Council's Environmental Health team and the Environment Agency have been consulted for the application and raised no objections in relation to land contamination. The storage of dry food that is currently carried out is not expected to create any contamination on the land in the future.

### Impact on health

- 5.7.2 Policy I2 of the LDP seeks to ensure that the District's health and wellbeing is improved by ensuring increased opportunities for higher levels of physical activities. This is in line with the national policy as stated in the NPPF. The development is located in a central and sustainable location where the opportunity for local employees to walk or cycle to work is increased due to the available infrastructure. Furthermore, a condition to require the creation of cycle parking spaces apart from complying with the MDVPS it will increase the opportunities for higher levels of physical activity in line with local and national policy.

### Condition to limit permitted development rights

- 5.7.3 A use falling within Use Class B8 can be changed without planning permission to a use falling within Use Class B1 (business). The LDP policy E1 identified that a B1 use for this area would be appropriate. Under the current development order the site can also be changed to a use falling within Use Class C3 (dwellinghouses) for a temporary period and subject to a prior approval process. Furthermore there is no guarantee what the future permitted development rights will be. Hence, a condition stating that the use of the site is only for a B8 use would meet the six tests.

### Planning balance

- 5.7.4 Weighing all the matters discussed in the previous sections of the report, along with the planning history, any consultation responses and any representations from interested parties (particulars of which are in the following sections of the report), it is considered that, subject to appropriately worded conditions, the development is acceptable and accords with local policies S1, S5, D1, D2, D3, D5, E1, N2, I2, T1 and T2 of the approved LDP and national policies contained in the NPPF.

## **6. ANY RELEVANT SITE HISTORY**

- **FUL/MAL/89/00189/FUL** – Industrial use for the storage and sorting of waste and recyclable materials, APPROVED 21.04.1989

- **FULF/MAL/90/00314** - Light industrial units for B2 or B8 use - phased construction A and B – APPROVED 22.05.1990
- **FUL1/MAL/90/00314** - Renewal of consent - light industrial units for B2 or B8 use (phased construction A and B) – APPROVED 20.06.1995
- **FUL/MAL/98/00576** - Proposed warehouse loading areas and associated car parks – APPROVED 10.09.1998
- **FUL/MAL/00/00081** - Change of use from retail use (A1) to warehouse and storage (B8) APPROVED 26.05.2000
- **FUL/MAL/00/01011** - Proposed change of use of existing warehouse to part of printing works. – APPROVED 26.04.2001
- **FUL/MAL/02/01346** - Extension to existing industrial unit to form enclosed loading/unloading area. – APPROVED 24.04.2003
- **FUL/MAL/03/00828** - Extension to existing industrial unit to form enclosed loading/ unloading area, (amended proposed to enlarge sliding door opening to North East elevation) – APPROVED 16.09.2003
- **FUL/MAL/04/00695** - New single storey entrance and reception. – APPROVED 01.10.2004
- **FUL/MAL/05/00056** - New factory building housing new print works and link corridor. REFUSED 31.03.2005
- **FUL/MAL/05/00620** - New factory building housing new print works and link corridor– APPROVED 23.08.2005

**Other planning history on site:**

- **FULF/MAL /90/00240** - Additional mezzanine floor space to existing industrial building and press cooling – APPROVED 26.06.1990
- **FULF/MAL /90/01025** - Variation of Condition 4 of consent ref. MAL/240/90 to omit footpath to south of – WITHDRAWN 11.10.1991
- **FUL/MAL/94/00467** - Addition of exhaust stack to a height of 3m above ridge of roof. Outlet of proposed emission control arrestment device – APPROVED 01.08.1994
- **FUL/MAL/95/00329** - Insertion of two roller shutter doors – APPROVED 20.06.1995
- **FUL/MAL/97/00538** - Roof mounted exhaust ducts from printers – APPROVED 02.10.1997
- **FUL/MAL/98/00435** - Single storey extension to form enclosure to existing equipment – APPROVED 16.07.1998
- **FUL/MAL/98/00436** - Single storey extension to form stores APPROVED 16.07.1998
- **FUL/MAL/98/00813** - Erection of two stainless steel flues above roof line over new press – APPROVED 01.12.1998
- **FUL/MAL/00/00088** - Proposed erection of 2 no. stainless steel flues above the roof line over the new press – APPROVED 30.03.2000
- **FUL/MAL/00/00207** - Proposed extension for skip storage – APPROVED 26.05.2000

- **FUL/MAL/00/00238** - Proposed erection of a canopy – APPROVED 02.05.2000
- **FUL/MAL/03/01074** - Resiting and replacement of portakabin – APPROVED 15.12.2003
- **FUL/MAL/04/01220** - Retention of 2 no. floodlight columns – APPROVED 28.04.2005
- **FUL/MAL/05/00184** - 5 no. roof extract vents and 1 no. roof exhaust stack to existing building – REFUSED 18.05.2005
- **FUL/MAL/05/00617** - 5 No. roof extract vents and 1No. roof exhaust stack to existing building– APPROVED 23.08.2005
- **FUL/MAL/05/00622** - Temporary warehouse for storage – APPROVED 23.08.2005
- **FUL/MAL/08/00436** - Retention of portakabin (renewal of planning permission FUL/MAL/03/01074) – APPROVED 29.05.2008
- **FUL/MAL/13/00577** - Retention of portakabin (renewal of planning permission FUL/MAL/03/01074 and FUL/MAL/08/00436 ) APPROVED 28.08.2013

## 7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Heybridge Parish Council	No response	

### 7.2 **Statutory Consultees and Other Organisations**

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Highways Authority	No objection	Noted
Environment Agency	<p>No objection – The site is in Flood Zone 3a and the use is a 'less vulnerable' as defined in the PPG. To comply with the NPPF the application is required to pass the Sequential Test and be supported by a site specific Flood Risk Assessment (FRA). The key points to note from the submitted FRA are:</p> <ul style="list-style-type: none"> <li>- The site benefits from flood defences.</li> <li>- The defences have an effective crest level</li> </ul>	<p>Comments noted. Please note that there is no requirement to pass the sequential test as per paragraph 164 of the NPPF. Please also see the consultation response from the Council's Emergency Planner.</p>

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
	<p>which is below the flood risk probability and the site is at actual risk of flooding.</p> <ul style="list-style-type: none"> <li>- In the event of flooding there will be safe refuge above the 1:1000 including climate change level on the first floor.</li> </ul> <p>No objections to the proposed development on flood risk access safety grounds because an Emergency Flood Plan has been submitted.</p>	
Natural England	No comment	Noted
Lead Local Flood Authority	No objection – the application is for a change of use.	Noted
Cadent Gas Network	No objection – There is apparatus within the application site. No activities should be carried out near the apparatus.	Noted – no activities are proposed near the apparatus.
Anglian Water Services	No response	
Essex and Suffolk Water	No objection	

### 7.3 Internal Consultees

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Urban Design Officer	No objection - The site is within the Maldon and Heybridge Central Area Masterplan SPD area and is an identified 'opportunity site' within the Development Framework as a redundant site. The application proposes re-use of the existing redundant building.	Noted



<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Conservation Officer	No objection - The proposed change of use will have no impact upon the setting or significance of the Chelmer and Blackwater Navigation Conservation Area.	Noted
Environmental Health	No objection subject to conditions about external illumination, hours of operation and deliveries, no external machinery, no external plant or equipment, noise mitigation and surface water drainage.	Noted – The proposed condition are considered to meet the six tests of national policy with the exception of the conditions about external illumination (see section 5.3) and surface water drainage (see section 5.6).
Economic Development	No objection - The economic activity proposed at this site will bring substantial income to the Maldon District and create a minimum of 15 jobs.	Noted
Emergency Planner	No objection – provided that the detail within the flood risk assessment around evacuation is included into a separate flood warning and evacuation plan and disseminated to users of the site	Noted. A condition to this effect would meet the six tests of the national policy.

#### 7.4 Representations received from Interested Parties

7.4.1 1 representation was received **commenting** on the application and summarised as set out in the table below:

<b>Comment</b>	<b>Officer Response</b>
Having lived with Heron print and all the problems they caused with noise, pollution etc. A normal operation, daytimes and weekdays only, would be welcomed. Preferably, given the housing problems, the factory/storage should go to a brownfield site out of town and this site is then turned to housing.	Noted. Hours of operations condition would be in line with the six tests of national policy.



## 8. PROPOSED CONDITIONS

- 1 Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order), premises shall only be used for purposes falling within Use Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended (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 order to ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with policies S1, S5, D1, D2, N2, T1 and T2 of the approved LDP and national policies contained in the NPPF.
- 2 The use of the premises shall only operate between 07:00 hours and 19:00 hours Mondays to Fridays, 08:00 hours and 13:00 on Saturdays and at no time on Sundays, Bank and Public Holidays.  
**REASON** To ensure appropriate use of the site in the interests of protecting the amenities of adjacent occupiers in accordance with local policies D1 and D2 of the approved LDP and national policies contained in the NPPF.
- 3 No machinery shall be operated nor shall any process be carried out and no deliveries or collections undertaken at the site other than between 07:00 hours and 19:00 hours on weekdays and between 08:00 hours and 13:00 hours on Saturdays and not at any time on Sundays and Public Holidays.  
**REASON** To ensure appropriate use of the site in the interests of protecting the amenities of adjacent occupiers in accordance with local policies D1 and D2 of the approved LDP and national policies contained in the NPPF.
- 4 No process loading or unloading shall be undertaken outside the buildings.  
**REASON** To ensure appropriate use of the site in the interests of protecting the amenities of adjacent occupiers in accordance with local policies D1 and D2 of the approved LDP and national policies contained in the NPPF.
- 5 No extraction or ventilation equipment, vents, air conditioning units or similar plant equipment shall be installed or fitted to any external part of the buildings except in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The scheme as approved and installed shall be retained as such thereafter.  
**REASON** To safeguard the visual amenity of the area and to ensure appropriate use of the site in the interests of protecting the amenities of adjacent occupiers in accordance with local policies D1 and D2 of the approved LDP and national policies contained in the NPPF.
- 6 No items shall be stored outside of the buildings.  
**REASON** To safeguard the visual amenity of the area and to ensure appropriate use of the site in the interests of protecting the amenities of adjacent occupiers in accordance with local policies D1 and D2 of the approved LDP and national policies contained in the NPPF.
- 7 The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within three months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-
  - i. within three months of the date of this decision a scheme, including a timetable for its implementation, to assess, establish and rank the noise sources associated with the operation hereby permitted and to evaluate

the Applicant's preferred mitigation measures as to whether they are appropriate for the established noise sources, carried out by a suitably competent person, shall have been submitted for the written approval of the local planning authority; or

- ii. if within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
- iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State
- iv. the approved scheme shall have been carried out and completed in accordance with the approved details and timetable.

**REASON** To ensure appropriate use of the site in the interests of protecting the amenities of adjacent occupiers in accordance with local policies D1 and D2 of the approved LDP and national policies contained in the NPPF.

- 8 The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within three months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-

- i. within three months of the date of this decision a scheme, including a timetable for its implementation, to provide at least 12 covered and secure cycle parking spaces within the Application Site shall have been submitted for the written approval of the local planning authority; or
- ii. if within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
- iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State
- iv. the approved scheme shall have been carried out and completed in accordance with the approved details and timetable.

**REASON** To ensure appropriate parking provision exists on site and to encourage the use of bicycles in line with local policies D1, T1, T2 and I2 of the approved LDP, the guidance provided in the MDVPS (2018) Supplementary Planning Document and national policies contained in the NPPF.

- 9 The submitted Flood Warning and Evacuation Plan prepared by Smart Planning with reference 18.5388 shall be available at all time on the premises and its conclusions shall be adhered to in perpetuity.

**REASON** To ensure appropriate parking provision exists on site and to encourage the use of bicycles in line with local policies D1, T1, T2 and I2 of the approved LDP, the guidance provided in the MDVPS (2018) Supplementary Planning Document and national policies contained in the NPPF.

## **INFORMATIVES**

1. The Applicant is advised to consult Environment Services on any requirements we may have regarding Food Safety and Health & Safety matters at the premises. New food business will need to register with Environment Services 28 days before it commences operation and comply with EC Regulation 852/2004.
2. The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The Chelmer & Blackwater Navigation and Heybridge Hall Ditch are both designated as 'Main River'. Application forms and further information can be found at: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> Anyone carrying out these activities without a permit where one is required is breaking the law.
3. Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.  
If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.  
If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.  
All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.  
Email: [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) Tel: 0800 688 588
4. No works to infill ditches should be undertaken without prior consent from Essex County Council. You should also be aware that works of this nature may require planning permission  
No raising of land in flood plains should take place without prior consent from Essex County Council. You should also be aware that works of this nature may require Environment Agency consent if in a flood plain.  
The removal of land drains likely to interrupt the flow may require prior consent from Essex County Council on 08457430430 or [floods@essex.gov.uk](mailto:floods@essex.gov.uk). You should also be aware that works of this nature may require planning permission.