



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

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to  
**CENTRAL AREA PLANNING COMMITTEE  
20 FEBRUARY 2019**

<b>Application Number</b>	<b>FUL/MAL/18/01457</b>
<b>Location</b>	Unit 4, Promenade Park, Park Drive, Maldon
<b>Proposal</b>	Change of use of first aid hut into an A3 café.
<b>Applicant</b>	Mr Richard Holmes
<b>Agent</b>	Mr Richard Heard
<b>Target Decision Date</b>	22.02.2019
<b>Case Officer</b>	Louise Staplehurst
<b>Parish</b>	<b>MALDON EAST</b>
<b>Reason for Referral to the Committee / Council</b>	Council Owned Land Council application

**1. RECOMMENDATION**

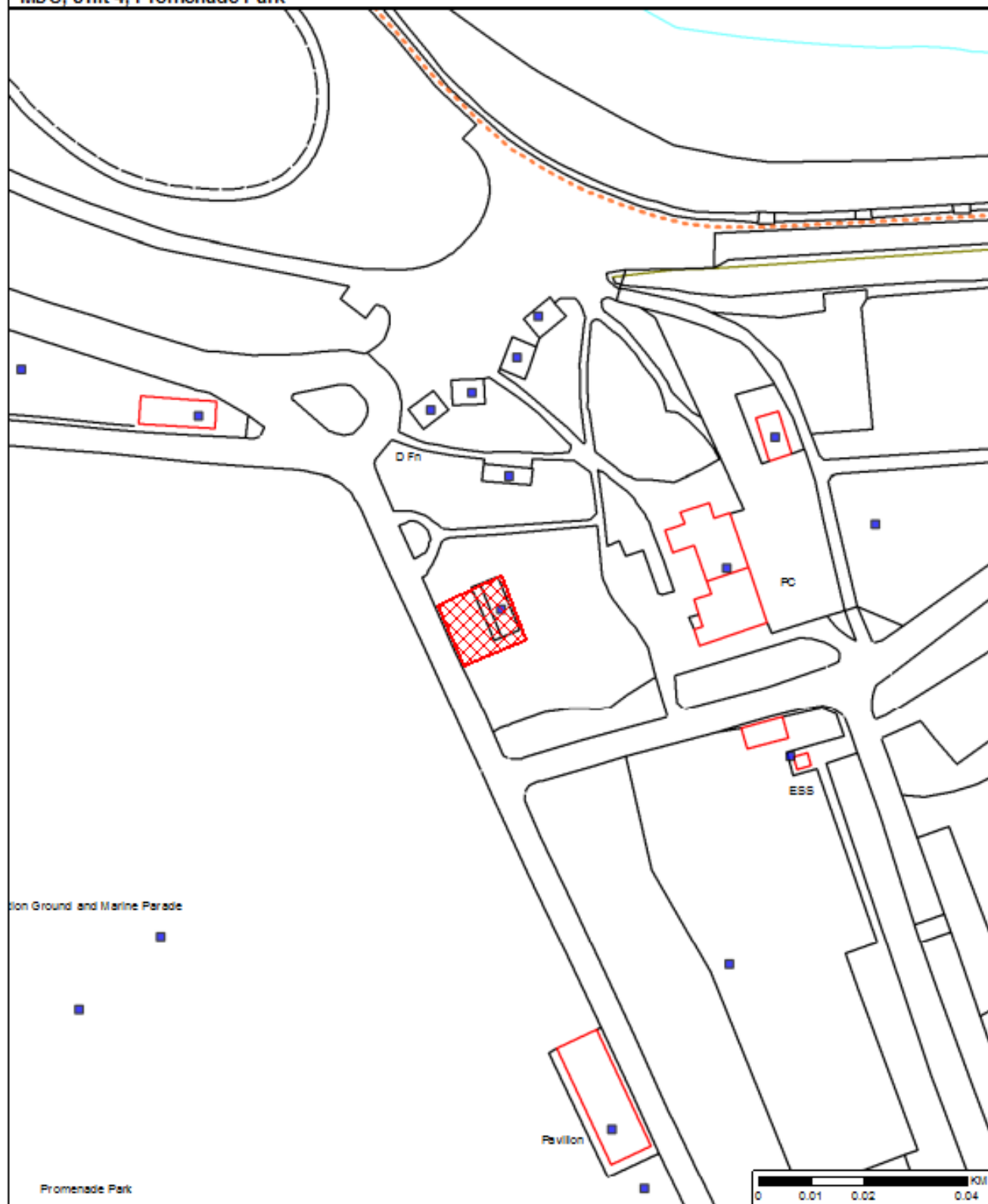
**APPROVE** subject to the conditions (as detailed in Section 8 of this report).


**2. SITE MAP**

Please see overleaf.

18/01457/FUL

MDC, Unit 4, Promenade Park



 <p><b>Copyright</b> For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorized reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100015555 2014</p> <p><a href="http://www.maldon.gov.uk">www.maldon.gov.uk</a></p>	Scale:	1:1,000
	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Central Planning Committee
	Date:	29/01/2019
	MSA Number:	100018588

### **3. SUMMARY**

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

- 3.1.1 The application site lies within Promenade Park to the east of Park Drive, within the development boundary for Maldon and Heybridge. The site also lies within the leisure quarter as identified in the Maldon District Local Development Plan (MDLDP) and the Maldon and Heybridge Central Area Masterplan (CAMp). Promenade Park is a historic park and is a non-designated heritage asset.
- 3.1.2 Planning permission is sought for a change of use class from a first aid building (sui generis) to a café (A3). No external alterations are proposed in this application.
- 3.1.3 Specifically, the unit is currently used as a gallery and the applicant wishes to use it as a café. Before its use as a gallery in May 2018, it was used as a first aid hut and it is that use which is considered to be lawful as no planning application for a Class D use has been submitted and the use has not occurred in excess of 10 years.
- 3.1.4 The waste arrangements will be similar to other surrounding kiosks; the kiosk will have a small waste storage inside the building and a bin to the rear of the building, which will be collected by a Trade Waste Collector. Both the foul drainage and the surface water drainage will be connected to the mains sewer.
- 3.1.5 The proposed hours of opening are 10:00 to 18:00 every day of the week. There is currently 1 full time equivalent member of staff. The proposed café will employ 3 full time equivalent members of staff.

#### **3.2 Conclusion**

- 3.2.1 The proposal involves the change of use from a sui generis building to an A3 (café) use. The proposed change of use is not considered to detrimentally impact on the character and appearance of the surrounding area, the amenity of neighbouring occupiers or parking provision and highway safety. The proposal is therefore in accordance with policies D1, D3 and E2 of the MDLDP.

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

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

#### **4.1 National Planning Policy Framework 2018 including paragraphs:**

- 11 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 124-132 Achieving well-design places
- 170-183 Conserving and enhancing the natural environment
- 184-202 Conserving and enhancing the historic environment

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

- D1 Design Quality and Built Environment
- D3 Conservation and Heritage Assets
- E1 Employment
- E2 Retail Provision
- E3 Community Services and Facilities
- E5 Tourism
- N3 Open Space, Sport and Leisure
- T1 Sustainable Transport
- T2 Accessibility
- S1 Sustainable Development
- S5 Maldon and Heybridge Central Area
- S8 Settlement Boundaries and the Countryside
- H4 Effective Use of Land

**4.3 Relevant Planning Guidance / Documents:**

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

**5. MAIN CONSIDERATIONS**

**5.1 Principle of Development**

- 5.1.1 Policy E2 aims to support the provision of retail, office, tourism, cultural and community uses. Although the site is not located within a town centre area, or a primary or secondary area, there are surrounding kiosks being used for similar uses, such as cafes and takeaways. It is not considered that the development is at a scale that would require a retail impact assessment.
- 5.1.2 The application site lies within the Leisure Quarter of the CAMp. The CAMp includes six objectives and eighteen projects. The application site is part of the area affected by project sixteen and the proposal sits comfortably with the project of managing the Promenade Park. Project sixteen is expected to contribute to four objectives of the CAMp. The application is contributing towards objective CA3 which seeks to promote the Maldon Central Area as a focus for culture and visitor attractions.
- 5.1.3 Policy E5 of the LDP states that the Council encourages the provision of tourist facilities and attractions that would provide facilities for residents and attracts visitors to the District. The site is located within Maldon Promenade Park which provides a number of tourist based facilities. It is therefore considered that the development

proposal to use the site as a café would support the existing leisure and recreation facilities within the park. Therefore the principle of development is considered to be acceptable subject to other material considerations which will be discussed below.

## **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 should be sought 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 local design standards, 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 There is similar support for high quality design and the appropriate layout, scale and detailing of development found within the Maldon District Design Guide (2017).

5.2.5 Policy D3 is also applicable to as Promenade Park is part of a locally designated Historic Park and Gardens. This policy stipulates that development proposals that affect a heritage asset (whether designated or non-designated) and/or its setting will be required, amongst other aspects, to preserve or enhance its special character,

appearance, setting, including its streetscape and landscape value and any features and fabric of architectural or historic interest.

- 5.2.6 Policy N3 of the LDP states that the Council is committed to protecting and maintaining existing formal and informal open spaces, sports pitches, children's play areas, leisure and recreation facilities, while ensuring all new development contributes towards any identified local needs. The Council's policy is to enable, support and empower communities to be safe, active and healthy, as a corporate priority as well as part of the sustainable community's objectives.
- 5.2.7 There are no external or internal alterations proposed as part of the change of use application and therefore the proposal would not result in demonstrable harm to the character and appearance of the site or the surrounding area.
- 5.2.8 The change of use within this application is therefore considered to accord with this aspect of policy D1, D3 and E2 of the LDP.

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

- 5.3.1 Policy D1 of the LDP seeks to protect the amenity of surrounding areas, taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.3.2 There are public toilets over 33 metres to the east of the site. There are other kiosks, used for the sale of food, a minimum distance of 18 metres north of the site. The immediate surrounding area is grassland, with playing fields to the west of the site.
- 5.3.3 The proposed change of use is not considered to affect the other businesses in the surrounding area, in particular as many also fall under similar A3 or A5 use classes.
- 5.3.4 There are no residential properties within the immediate locality.
- 5.3.5 It is consequently considered that the change of use would not result in an unneighbourly form of development, in accordance with this aspect of policy D1 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 Taking into account the adopted parking standards and the size of the building on the site, the proposed use would require 9 parking spaces. No vehicle parking information has been submitted for this application. However the site is located within Maldon Promenade Park, with the promenade car park located southeast of the site. This is considered to provide sufficient parking to manage any increase in demand in parking provision as a result of the proposed change of use.
- 5.4.4 Therefore the proposed change of use is considered to be in accordance with this aspect of policy T2 of the LDP.

## **5.5 Community Facility**

- 5.5.1 Policy E3 aims to retain and enhance the provision of community services and facilities within the District, particularly where they are essential to the local community. Policy E3 states that where a proposal will result in the loss of a community facility, the application should demonstrate that the existing service is not and cannot be made viable.
- 5.5.2 The gallery has been located in the building for 9 months, since May 2018. Whilst it is noted that a gallery could be considered to be a community facility, the gallery at the site does not have planning permission and therefore its use as a gallery is not considered to be lawful. It is noted that supporting comments have been received in relation to the loss of the gallery. However as the use as a gallery is considered unlawful, the loss of the gallery as a community facility is given minimal weight in this assessment.
- 5.5.3 The lawful use of the site is as a first aid facility, which could constitute a community facility. It is noted that the application site is located within the leisure quarter of the CAMp, which aims to increase the vitality of Promenade Park and encourage visitors to the area. The proposed café use would comply with the aims of the CAMp and would encourage visitors to the area and increase the vibrancy of Promenade Park. Therefore, the loss of the first aid facility is not considered to justify the refusal of the application.

## **5.6 Other Matters**

- 5.6.1 The Environmental Health Food Team raised concerns regarding the small size of the kitchen, with a lack of work surfaces and refrigeration facilities. In response to this, the agent confirmed that the kitchen will be fitted out in line with the Food Hygiene Standards. The Food Team has now confirmed they have no objections to the

proposal. The need to meet separate legislation is not a material planning consideration.

- 5.6.2 Conditions regarding the opening hours and hours for deliveries and collections have been included in order to ensure the appropriate use of the site and to protect the amenity of residents located east of Park Drive, adjacent to the vehicle entrance of Promenade Park.
- 5.6.3 No signage has been proposed as part of this application. However any signage at the site will require advert consent.

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

- 6.1 There is no relevant planning history for the kiosk which this application relates to. However the relevant planning history for Promenade Park is set out below.

- **FUL/MAL/96/00254 & CON/MAL/96/00255** – Demolition of existing changing room and erection of plant room/shelter. Repair of sea wall – Approved
- **FUL/MAL/00/00474** – Proposed erection of a bronze Saxon Byrhtnoth statue – Approved
- **FUL/MAL/02/00769** – Demolition of storage sheds and erection of new shed for tractor storage – Approved
- **FUL/MAL/04/00376** – Reconstruction of damaged Sea Wall in order to restore integrity, increase flood protection and provide pedestrian access to river foreshore. Construction of temporary jetties and use of land as temporary stockpile area. – Approved
- **FUL/MAL/04/00894** – Proposed cafeteria/restaurant and life guard station office. – Approved
- **FUL/MAL/04/01260** – Demolition of changing rooms and cricket pavilion and erection on same site of four changing rooms and sports pavilion. – Approved
- **FUL/MAL/05/00017** – Erection of monument to the Battle of Maldon, including bronze sculpture of Byrhtnoth. – Refused
- **FUL/MAL/05/00185** - 1. Reconstruction of sea wall in order to raise flood defence level and maintain stability. 2. Installation of adventure and water play equipment in the valley area. Erect pump house and office store buildings. 3. Reconstruction of boating lake and deposition of excavated materials. – Approved
- **FUL/MAL/05/00490** – Erection of monument to the Battle of Maldon including bronze sculpture of Byrhtnoth – Refused
- **FUL/MAL/06/00747** – Demolition of changing rooms and erection of four changing rooms. – Approved
- **FUL/MAL/07/00346** – Retail sales of shellfish/seafood for on/off site consumption – Approved
- **FUL/MAL/09/00586** – Proposed extension to existing changing facilities at Promenade Park. Extension to accommodate lobby, store and changing rooms with additional showers and w/c's. – Approved
- **FUL/MAL/11/00811** – To increase boundary fence height from 2m to 3m. Increase length to incorporate east, south and partial west boundaries of depot site. Screen fencing by planting mixed native hedging inter-planted with standard native trees. – Approved



- **FUL/MAL/12/00270** – Erection of storage building for maintenance equipment and members changing room facility – Approved
- **FUL/MAL/14/00240** – Installation of 8 no. beach huts for leisure and recreational use – Approved
- **FUL/MAL/16/00629** – Temporary planning permission for two catering units – Approved
- **FUL/MAL/18/00480** – Use of land for the temporary siting of a mobile food and drink kiosk – Refused
- **FUL/MAL/18/00481** – Use of land for the provision of mobile play equipment (e.g. 4-person bungee trampoline) – Temporary Planning Permission – Refused

## 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>
Maldon Town Council	Recommends approval.	Comments noted.

### 7.2 **Internal Consultees**

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	<p>No observations on the proposed change of use in relation to noise and odours.</p> <p>The food team may have concerns regarding the use of the hut as a food premises.</p>	Comments noted.
Environmental Health Food Team	<p>Kitchen is small with no sink, little work surface space for food preparation and is there any refrigeration facilities?</p> <p>Following on from the above response, the agent has confirmed that the kitchen will be fitted out in line Food Hygiene Standards, therefore there are no objections to this proposal.</p>	Comments noted.

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Economic Development	Recommend approval as it will contribute to the economic income of the Maldon District and create additional jobs.	Comments noted.
Conservation Officer	The change of use will have no impact on the setting of the Maldon Conservation Area, or the significance of the Promenade Park as a historic designated landscape.	Comments noted.

### 7.3 Representations received from Interested Parties

- 7.3.1 23 letters have been received objecting to the application and the reasons for objection are summarised as set out in the table below:

<b>Objection Comment</b>	<b>Officer Response</b>
<ul style="list-style-type: none"> <li>Object to the change of use of the gallery.</li> </ul>	The gallery is not the lawful use of the site.
<ul style="list-style-type: none"> <li>Maldon needs gallery workshops like this as there is little on offer. It is a unique business. The gallery is of more value to Maldon than a café.</li> </ul>	Comments noted. The gallery is not the lawful use of the site.
<ul style="list-style-type: none"> <li>The gallery brings art to the community and promotes the wellbeing of individuals as well as attracting visitors to the area.</li> </ul>	Comments noted. The gallery is not the lawful use of the site.
<ul style="list-style-type: none"> <li>It shouldn't just be about economics. The Council should support cultural facilities such as the gallery rather than removing it.</li> </ul>	Comments noted.
<ul style="list-style-type: none"> <li>Another café would be unfair to existing food and drink outlets. There are plenty of cafes and food outlets.</li> </ul>	This is not a material planning consideration.
<ul style="list-style-type: none"> <li>The owners of the gallery were not consulted.</li> </ul>	Comments noted.
<ul style="list-style-type: none"> <li>Most of the food outlets serve unhealthy food.</li> </ul>	This is not a material planning consideration.

<ul style="list-style-type: none"> <li>• Rubbish from food outlets pollutes the area.</li> </ul>	This is not a material planning consideration.
<ul style="list-style-type: none"> <li>• Environmental Health has raised concerns over the suitability of the building as a food premises.</li> </ul>	Although the Environmental Health Food Team raised some concerns, these were addressed after speaking with the agent.
<ul style="list-style-type: none"> <li>• The application was advertised as a first aid hut rather than the gallery.</li> </ul>	The proposal on the application form stated the building was used as a first aid hut. The gallery is not the lawful use of the site.
<ul style="list-style-type: none"> <li>• Another café will contribute towards the obesity crisis</li> </ul>	This is not a material planning consideration
<ul style="list-style-type: none"> <li>• We should expand the facilities in the area to give better careers to youngsters.</li> </ul>	Comments noted.
<ul style="list-style-type: none"> <li>• Before being a gallery, the building was run down.</li> </ul>	Comments noted.

## 8. PROPOSED CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
**REASON** To comply with Section 91(1) of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in complete accordance with the following documents: ATS/522/11, ATS/522/12, ATS/522/13, ATS/522/14.  
**REASON** To ensure that the development is carried out in accordance with the details as approved, in accordance with National Planning Policy Framework and policy D1 of the Maldon District Local Development Plan.
- 3 The use hereby permitted shall only be undertaken between 10:00 hours and 18:00 hours on Monday to Sunday.  
**REASON** To ensure the appropriate use of the site in accordance with policy D1 of the Maldon District Local Development Plan.
- 4 Deliveries to and collections from the site shall only be undertaken between 08:00 hours and 18:00 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 protect the amenity of the surrounding area, in accordance with policy D1 of the Maldon District Local Development Plan.
- 5 No goods, materials, plant, machinery, skips, containers, packaging or other similar items shall be stored or kept outside of the building.  
**REASON** To protect the amenity of the surrounding area, in accordance with policy D1 of the Maldon District Local Development Plan.
- 6 No means of external illumination of the site shall be installed unless otherwise agreed in writing by the Local Planning Authority.  
**REASON** To protect the amenity of the surrounding area, in accordance with policy D1 of the Maldon District Local Development Plan.

## **INFORMATIVE**

- 1 No external alterations are shown on the plans submitted under this application. Please note that any alterations to provide extraction or ventilation will require planning permission.
- 2 Please note that any signage proposed at the site will require advert consent.