



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

to
**CENTRAL AREA PLANNING COMMITTEE
29 MAY 2019**

Application Number	FUL/MAL/19/00092
Location	Land West of Marine Parade, Promenade Park, Park Drive, Maldon
Proposal	Proposed gemstone mining attraction.
Applicant	Mr Martin Devine - South West Adventure Golf Ltd
Agent	N/A
Target Decision Date	31.05.2019
Case Officer	Louise Staplehurst
Parish	MALDON EAST
Reason for Referral to the Committee / Council	Council Owned Land Member Call in – Councillor S Savage – public interest, out of keeping with the original planning application and not being referred to Customer Services Committee first.

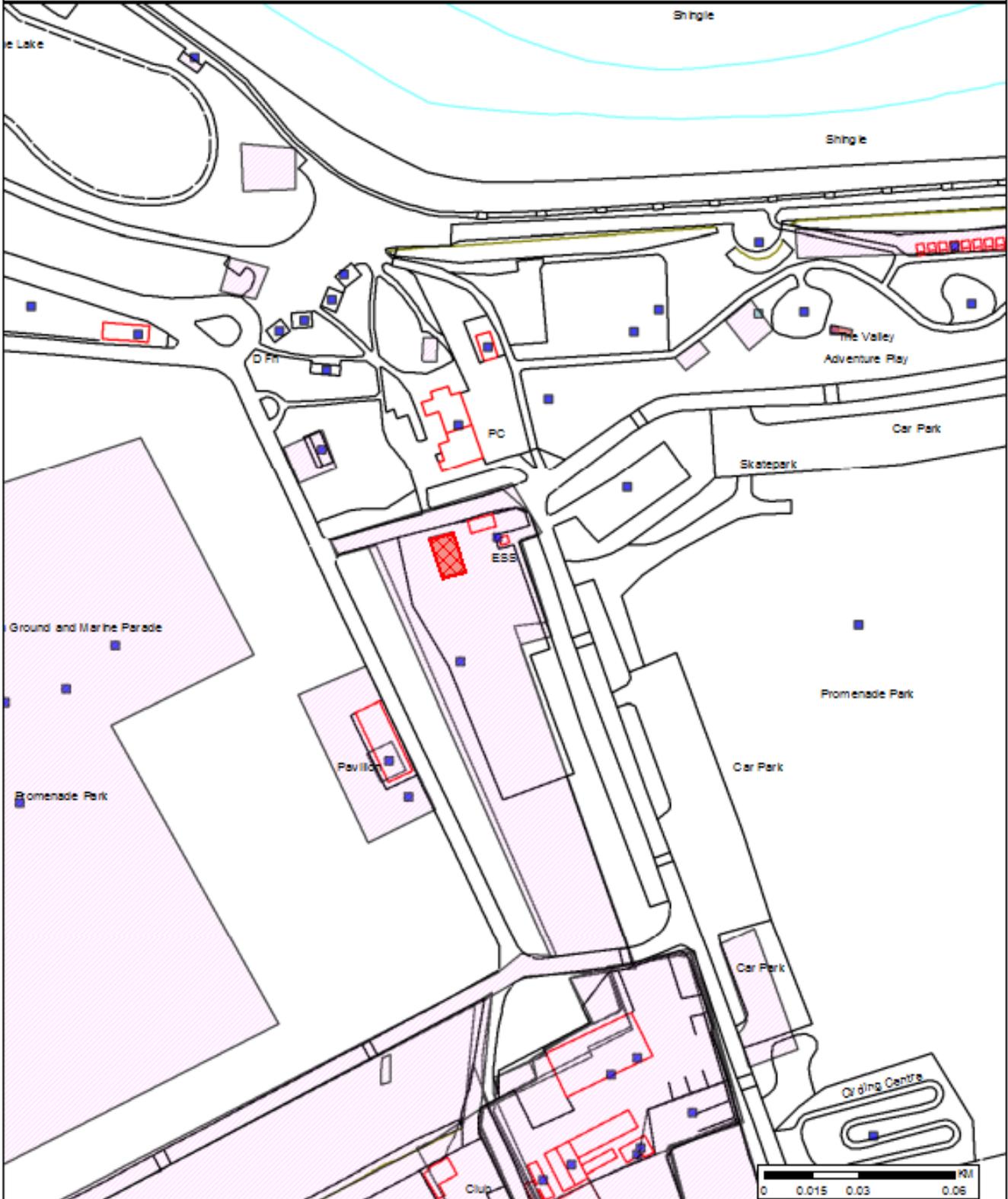
1. RECOMMENDATION

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

2. SITE MAP

Please see overleaf.

19/00092/FUL
South West Adventure Golf



 <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 Stationary Office © Crown copyright. Unauthorized reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p>	Scale:	1:1,673
	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Central Planning Committee
	Date:	07/05/2019
www.maldon.gov.uk	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 parish boundary of Maldon. Promenade Park lies within the leisure quarter as identified in the Maldon and Heybridge Central Area Masterplan (CAMP) and shown on the map (page 38) within the clarification section of policy S5 of the Maldon District Local Development Plan (LDP). Although Promenade Park is not a formally Registered Park and Garden, as identified by Historic England, it has been identified within the LDP as a local Historic Park and Garden and is therefore considered to be a non-designated local heritage asset.
- 3.1.2 The application site measures 0.5 hectares and is located to the east of the recreation ground and west of Marine Parade beyond which is the main parking area for Promenade Park. Planning permission was granted in 2014, under application FUL/MAL/14/00819, for the construction of an 18 hole adventure golf course with an additional 19th ‘free game’ hole. The approved works included pirate themed paraphernalia and a cafeteria, although it is noted the cafeteria has not been built.
- 3.1.3 Planning permission is sought for a gemstone mining attraction, located within the existing adventure golf site.
- 3.1.4 The mining attraction will be located to the north of the site. It will be oval shaped and have a wooden finish. It will measure 4.6 metres high overall to the top of the water tower and will gradually step down in a circular direction to form the collection trays. It will measure 5.6 metres wide in total and 12.2 metres deep overall.
- 3.1.5 There will be 2 pumps, with a continuous duty rated motor and will have a cast iron, anti-clog impeller.
- 3.1.6 The proposed opening hours are 9:30 until 19:00 every day.

3.2 Conclusion

- 3.2.1 The proposal involves the siting of a gemstone mining attraction within the existing adventure golf site. The proposed attraction is not considered to detrimentally impact on the character and appearance of the site or surrounding area, the amenity of neighbouring occupiers or parking provision and highway safety. There is also no objection to the proposal in relation to flood risk. The proposal is therefore in accordance with policies D1, D3 and E2 of the Maldon District Local Development Plan.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2019 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 The proposed gemstone mining attraction would be operated within the grounds of the existing adventure golf site, as approved under FUL/MAL/14/00819 and therefore it is considered to be a subsidiary use in relation to the existing site. The proposal does not relate to an independent operation existing outside of the current site. The proposal is considered to be supporting and diversifying the existing lawful operation at the site and therefore the principle of development can be found acceptable in this respect.

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 of a gemstone mining attraction would be in line with 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 MDDG (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 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.
- 5.2.7 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.
- 5.2.8 The proposal seeks permission for a gemstone mining attraction. It will be located within the existing adventure golf site. Although the attraction would have a height of 4.6 metres, most of it would be located at a lower level and therefore it is not considered to be unduly prominent. The materials will consist of wood and therefore the materials are not considered to harmfully impact on the visual amenity of the surrounding area. It would be considered to appear in keeping with the playful character and lawful use of the site, and therefore it would not appear visually intrusive or out of keeping with the area when viewed at a distance and in conjunction with the permitted intended use and other activities within the site. In this instance, it is considered that the proposal would be an appropriate use within the site and is not considered to harm the character and appearance of the surrounding area to an extent that would justify the refusal of the application.
- 5.2.9 It is noted that the original application which granted permission for the adventure golf site, FUL/MAL/14/00819 also granted permission for a café to the north of the site, in a similar location to the proposed catering unit. This approved café was larger, measuring 20 metres wide, 10 metres deep and 3 metres high, with an additional 20 metre wide, 3.5 metre deep decked area. The café proposed under that permission was not built. However, as the permission was implemented within the 3 year time limit, it is noted that the café could still be built, as the development has begun. After undertaking a site visit, it is noted that the area reserved for the café development currently consists of bark and a hardstanding, with some picnic benches in place. Given the fallback position of the previously approved café, and the fact that the proposed mining attraction would have less of a visual impact than the previously

approved café, the proposal is not considered to cause harm to the visual amenity of the site or surrounding area to an extent that would justify the refusal of the application.

- 5.2.10 The proposed gemstone mining attraction is therefore considered to accord with this aspect of policies S1, S8, D1, D3 and E5 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 10 metres to the north of the site. There are kiosks, used for the sale of food, a minimum distance of 20 metres north of the site. The immediate surrounding area is grassland, with playing fields to the west of the site and a car park to the east.
- 5.3.3 The gemstone mining attraction is located a considerable distance away from the closest residential properties which are located over 230 metres to the west of the site.
- 5.3.4 It is consequently considered that the proposed development 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 It is noted that the site is located within Maldon Promenade Park, with the promenade car park located east of the site. The existing car park is considered to provide sufficient parking to manage any increase in demand in parking provision as a result of the proposed mining attraction.
- 5.4.4 The siting of a gemstone mining attraction is not considered to have an adverse impact on the existing parking spaces within Promenade Park or obstruct the free flow of pedestrians using the site. Furthermore, due to its siting, no parking spaces would be lost.
- 5.4.5 Therefore, the proposed gemstone mining attraction is considered to be in accordance with this aspect of policy T2 of the LDP.

5.5 Flood Risk

- 5.5.1 The application site lies within Flood Zone 3, defined by the ‘Planning Practice: Flood Risk and Coastal Change’ as having a high probability of flooding. The NPPG identifies that the Sequential Test aims to guide new development to areas with the lowest probability of flooding, particularly Flood Zone 1. Local Planning Authorities are required to take into account the vulnerabilities of land uses and consider reasonably available sites where possible in Flood Zone 2. It is only when there is no reasonably available land within Flood Zone 1 or 2 that site can be considered in Flood Zone 3.
- 5.5.2 The proposal is to use the land to site a gemstone mining attraction. This is a recreational activity and falls under ‘Water Compatible Development’, as defined in the NPPG. To comply with the NPPG, the application would need to pass the Sequential Test, but not the Exception Test, as the proposal is deemed appropriate development.
- 5.5.3 A Flood Risk Assessment was submitted as part of the application. The assessment states that, although the proposal is located within a flood risk area, no significant problems are anticipated as the proposal does not include residential facilities and any risks to day visitors can be managed to avoid significant risk from flooding. It is noted that the assessment includes details of the source of the flooding, the flood evacuation plan and flood alert notices. It also states that the proposal will be located within the area previously earmarked for a café building, to be used in conjunction with the adventure golf Site. Furthermore, it is noted that only the eastern half of the site lies within a flood zone and the area where the proposed gemstone mining attraction would be located is not within a flood zone. In this instance, it is considered that the Sequential Test has been passed as there is no other land available within Promenade Park for the proposal, especially as the attraction is to be operated in conjunction with the lawful use of the site as an adventure golf course and therefore it should be located within the grounds of that use.
- 5.5.4 The Environment Agency has been consulted but no response has been received at the time of writing this report. The Council’s Emergency Planner has been consulted and has advised that the information submitted in the flood risk assessment is acceptable and that if the detail within this assessment regarding evacuation is included in a separate warning and evacuation plan available to visitors/residents, this would be suitable. However, it is considered that due to the development being ancillary to the

existing lawful use of the site, it is not considered necessary or reasonable to require this information by way of a condition.

- 5.5.5 Therefore, the proposal is considered to be acceptable in terms of flood risk, in accordance with policy D5 of the LDP.

5.6 Other Matters

- 5.6.1 It is noted that the application has been called in by former Councillor Savage due to it being out of keeping with the original planning application and it not being referred to the Customer Services Committee first.
- 5.6.2 It is noted that the proposal is in contrast to the cafeteria granted permission under application 14/00819/FUL. However, the proposed gemstone mining attraction is considered to be in line with the permitted intended use of the site and would be beneficial in terms of tourism and economic development and would also contribute towards the objectives regarding the promotion of the Maldon Central Area as a focus for culture and visitor attractions, within the CAMp. Therefore, there is no objection to the proposal in relation to it being out of keeping with application FUL/MAL/14/00819.
- 5.6.3 The Council's Customer Service Committee and its functions are not a material consideration in regard to this planning application.
- 5.6.4 Under the original application for the adventure golf site, FUL/MAL/14/00819, the application form stated the opening hours would be 9:30-22:30. The proposed opening hours for the gemstone mining attraction are 9:30-19:00. These proposed hours are considered to be acceptable and sufficiently in line with the opening hours of the site in which the gemstone mining attraction would be located and therefore there is no objection to these opening hours.

6. ANY RELEVANT SITE HISTORY

- 6.1 The relevant planning history for the site is set out below.
- **FUL/MAL/14/00819** - 18 hole adventure golf course with additional 19th free game hole. To include pirate themed props and structures with cafeteria and clad storage containers. – Approved
 - **DET/MAL/15/05029** - Compliance of conditions notification for application FUL/MAL/14/00819 (18 hole adventure golf course with additional 19th free game hole. To include pirate themed props and structures with cafeteria and clad storage containers) Conditions 3,4,5,7,8,9,10,11,12,13 – Cleared
 - **FUL/MAL/16/00629** - Temporary planning permission for two catering units – Approved
 - **DET/MAL/16/05115** - Compliance with conditions notification of approved application FUL/MAL/14/00819 (18 hole adventure golf course with additional 19th free game hole. To include pirate themed props and structures with cafeteria and clad storage containers). Condition 9 - Foundation details – Cleared
 - **FUL/MAL/19/00201** - Proposed catering unit. – Pending consideration

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Maldon Town Council	Recommends approval	Comments noted.

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objections – if approved, include an informative regarding health and safety	Comments noted.
Economic Development	Recommend approval as it will contribute to the economic income of the Maldon District and create additional jobs.	Comments noted.
Conservation Officer	No objection – The buildings reflect the playful character of the existing golf course. The site is close to the boundary with the conservation area but the proposal will not harm the conservation area. Promenade Park is a historic landscape which should be regarded as a non-designated heritage asset. The proposed structure would not harm the significance of the park.	Comments noted.
Emergency Planner	If the detail within the flood risk assessment around evacuation is included into a separate warning and evacuation plan and available to visitors/residents, this would be suitable for the site in the event of a flood incident as long as it is used as intended without	Comments noted. See Section 5.5.4

Name of Internal Consultee	Comment	Officer Response
	any other prevailing conditions.	

7.3 No representations have been received from Interested Parties

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: Location Plan, Front & Rear Elevations, Side Elevations, Block Site Plan
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 materials used in the development hereby approved shall be as set out within the supporting document submitted with the application, on 28.01.2019.
REASON To ensure the appropriate use of the site in accordance with policy D1 of the Maldon District Local Development Plan.
- 4 No means of external illumination of the development hereby approved 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 Please note that any signage proposed at the site will require advert consent.
- 2 The applicant is advised to consult Environmental Services on any requirements we may have regarding Food Safety and Health and Safety matters at the premises. New food business will need to register with Environmental Services 28 days before it commences operation and comply with EC Regulation 852/2004.