



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

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

<b>Application Number</b>	<b>FUL/MAL/19/00201</b>
<b>Location</b>	Land West of Marine Parade, Promenade Park, Park Drive, Maldon
<b>Proposal</b>	Mobile catering unit within adventure golf site - permission for 10 years.
<b>Applicant</b>	Mr Martin Devine - South West Adventure Golf Ltd
<b>Agent</b>	N/A
<b>Target Decision Date</b>	31/05/2019
<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 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.

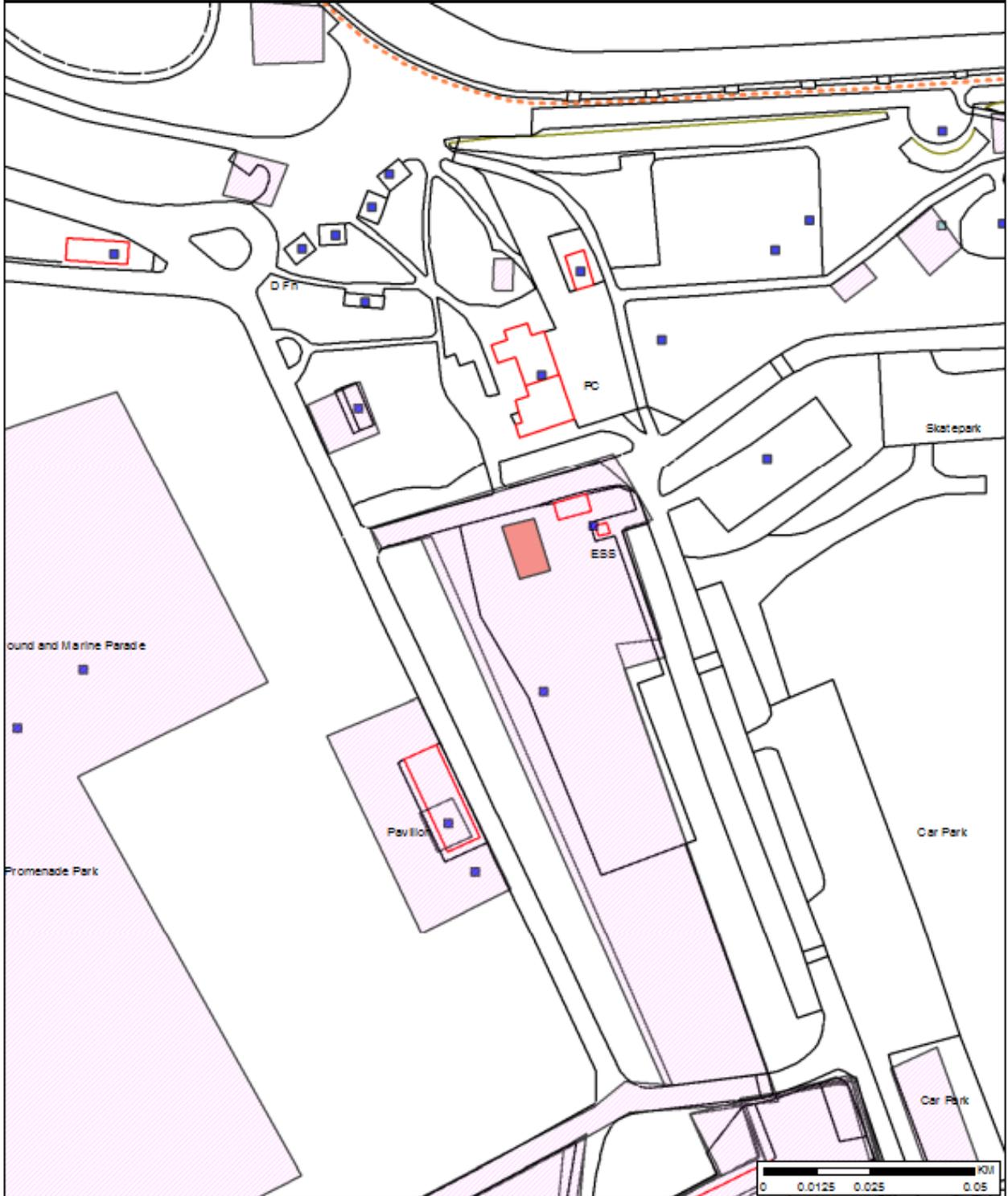
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see overleaf.

**19/00201/FUL**  
**South West Adventure Golf**



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	<p>Organisation: Maldon District Council</p>	<p>Department: Department</p>	
	<p>Comments: Central Planning Committee</p>	<p>Date: 30/04/2019</p>	
	<p>www.maldon.gov.uk</p>	<p>MSA Number: 100018588</p>	

### **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 14/00819/FUL, for the construction of an 18 hole adventure golf course with an additional 19<sup>th</sup> ‘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 mobile catering unit within the existing adventure golf site, for 10 years. This unit will be located within the area earmarked for the cafeteria within the 2014 application. The Design and Access Statement submitted with the application states that the previously approved cafeteria is not currently economically sustainable and it is now the intention to only provide mobile catering during busy seasonal periods.
- 3.1.4 The catering unit will measure 5.5 metres wide, 2.6 metres deep, 2.8 metres high to the eaves and 3.6 metres high overall.
- 3.1.5 The proposed hours of opening are 09:00 to 21:00 every day and there will be two full time equivalent members of staff. The application form has stated that recycling and waste bins will be provided, located behind the catering unit but accessible to the waste company. The application form states there will be no foul sewage or trade effluent as part of the proposal.
- 3.1.6 It is noted that there was a previous application at this site for the stationing of two mobile catering units. This granted a temporary permission for the two units for two years, under application FUL/MAL/16/00629. This permission expired in July 2018.

#### **3.2 Conclusion**

- 3.2.1 The proposal involves the siting of a mobile catering unit within the existing adventure golf site within Promenade Park. For a temporary period, the proposed mobile catering unit is not considered to detrimentally impact on the character and appearance of the surrounding area, although the structure is not considered to be an appropriate permanent solution. It also would not detract from 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, E2 and H4 of the Maldon District Local Development Plan (LDP).

- 3.2.2 It is considered that under these exceptional circumstances that the proposed catering unit will encourage business and tourism to Promenade Park, in relation to the existing lawful use of the site and will contribute to the objectives within the CAMp. Therefore, it is considered that a temporary permission of 3 years is considered suitable in order to give the applicant sufficient time to submit an application for a permanent economically viable cafeteria option, other than the original cafeteria approved under application FUL/MAL/14/00819. For the reasons set out within the report, it is considered that it is not appropriate to grant a permanent permission and that a ten year temporary permission is excessive.

#### **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
- 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 of a catering unit 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.
- 5.1.4 It is noted that there was a previous application at this site for the stationing of two mobile catering units. This granted a temporary permission for the two units for two years, under application FUL/MAL/16/00629. This permission expired in July 2018. The Planning Practice Guidance on the use of planning conditions states that it will rarely be justifiable to grant a second temporary permission. However it also states that circumstances where a temporary permission may be appropriate include where it is considered that the planning circumstances may change at the end of that period. The 2016 temporary permission for two catering units stated that a temporary permission was required so its impact on the character of the area could be assessed; the report also considered that the two year period would give enough time for the cafeteria approved under the 2014 original permission to be built. The Design and Access Statement submitted under the current application suggests that the originally approved cafeteria is no longer economically sustainable and therefore it is now proposed to only have mobile catering units available during busy seasons.
- 5.1.5 It is considered that under these exceptional circumstances that the proposed catering unit will encourage business and tourism to Promenade Park, in relation to the existing lawful use of the site and will contribute to the objectives within the CAMp. Therefore, notwithstanding the advice within the Planning Practice Guidance, it is considered that a temporary permission of 3 years is considered suitable in order to give the applicant sufficient time to submit an application for a permanent economically viable cafeteria option, other than the original cafeteria. For the reasons set out below, it is considered that it is not appropriate to grant a permanent permission and that a ten year temporary permission is excessive.

## 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 a locally designated Historic Park and Garden. 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 mobile catering unit for 10 years. It will be located within the existing adventure golf site. Although it is not considered to be an unduly large addition, it would be of a temporary style and is considered to be of a low design quality which would be a visually intrusive addition within Promenade Park. Due to this, it is considered that the proposed catering unit would have an unacceptable visual impact on the character and appearance of the surrounding area. Although the applicant has requested temporary permission for the catering unit for a period of 10 years, this is considered to be an excessive time period and, although this would not be permanent, it would still have a harmful impact on the visual amenity of the surrounding area and therefore allowing the unit to be in place for 10 years would not be considered acceptable.
- 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. The previously approved cafeteria under application FUL/MAL/14/00819 was permanent and of a more suitable design, which was more in keeping with the character of the adventure golf site and the wider surrounding area, in comparison to the catering unit proposed under the current application. However, the previously approved cafeteria has not been built. Although, as the 2014 permission was implemented within the 3 year time limit, the cafeteria could still be built, the Design and Access Statement submitted with this current application states that the previous cafeteria approved under application FUL/MAL/14/00819 is not considered to be economically sustainable and therefore it is now proposed to only have mobile catering units available during busy seasons.
- 5.2.10 Despite the concerns in relation to the design of the proposed catering unit and its impact on the surrounding area, in this instance, it is also considered that the proposed catering unit would provide benefits in terms of economic development and tourism in relation to the lawful existing use of the adventure golf site. Furthermore, its benefits would also contribute towards the objectives within the CAMp. Therefore, although the proposed catering unit would not be considered acceptable on a permanent basis or for 10 years, due to its impact on the surrounding area, it is considered that a temporary permission of 3 years can be found acceptable, as it would not be considered to cause permanent detrimental harm to the character and appearance of the area.

5.2.11 Overall, the proposed catering unit would be considered to be visually unacceptable if it were to be located within the site on a permanent basis. However, given that it would provide benefits in terms of economic development and tourism, on balance, it is considered that a temporary planning permission of three years can be found acceptable as it would not be considered to cause permanent detrimental harm to the character and appearance of the surrounding area and therefore the proposal is considered to accord with this aspect of policies S1, S8, D1, D3, H4 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 other 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 mobile catering unit 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 catering unit would not result in an unneighbourly form of development, in accordance with this aspect of policies D1 and H4 of the LDP.

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

5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

5.4.2 The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety, and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an

unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.

- 5.4.3 It is noted that the site is located within Maldon Promenade Park, with the promenade car park located east of the site. This existing car park is considered to provide sufficient parking to manage any increase in demand in parking provision as a result of the proposed catering unit. Furthermore, no concerns were raised in 2014 regarding a larger purpose built facility and it is noted that this could still be implemented.
- 5.4.4 The siting of a mobile catering unit 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 catering unit is considered to be in accordance with this aspect of policies D1 and 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 mobile catering unit. 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 existing 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 catering unit 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 it is in relation to the lawful use of the site as a golf course and therefore 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 The Council has considered granting temporary consent for the food and drinking kiosk for a period of three years. Although the application requests permission for ten years, this is considered to be excessive. It is considered that the proposed catering unit would be unacceptable in terms of its visual appearance, if it were to be granted permission on a permanent basis. Therefore, the reason to impose this condition is to give the Council the opportunity to reassess the impact of the proposal after a set period of time and to ensure that the development would not impact on the character and appearance of the locally designated park or surrounding area in accordance with policies D1 and D3 of the LDP. It is also considered that a three year temporary permission would be reasonable, in order to give the applicant time to submit an application for a permanent economically viable cafeteria option that could replace the originally approved cafeteria from application FUL/MAL/14/00819.
- 5.6.2 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.
- 5.6.3 It is noted that the proposal is in contrast to the cafeteria granted permission under application FUL/MAL/14/00819. However this is why it is considered reasonable to restrict this permission to a 3 year temporary permission, to allow time for the applicant to submit an application for a more economically viable cafeteria.
- 5.6.4 The Council's Customer Service Committee and its functions are not a material consideration in regards to this planning application.
- 5.6.5 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 catering unit are 9:00-21:00. These proposed hours are considered to be acceptable and sufficiently in line with the opening hours of the site in which the unit 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/19/00092** - Proposed gemstone mining attraction. – Pending consideration

## 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 refusal <ul style="list-style-type: none"> <li>• There are sufficient businesses providing catering within Promenade Park</li> <li>• The unit is remote from the golfing attraction that it is associated with</li> </ul>	Comments noted.  This is not a material consideration.  The unit is located within the existing adventure golf site.

### 7.2 **Internal Consultees**

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	No objections – if approved, include an informative regarding food hygiene and 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.

Name of Internal Consultee	Comment	Officer Response
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 any other prevailing conditions.	Comments noted. See Section 5.5.4

**7.3 No representations have been received from Interested Parties**

**8. PROPOSED CONDITIONS**

- 1 The catering unit hereby approved shall be removed and the land restored to its condition immediately prior to the development authorised by this permission on or before 29<sup>th</sup> May 2022 in accordance with a scheme of work previously submitted to and approved in writing by the local planning authority unless before that date a formal planning application for the retention of the building has been approved by the local planning authority.  
**REASON** It is considered that the grant of a permanent planning permission would not be appropriate due to the visual unacceptability and low design quality of the catering unit, and its impact on the character and appearance of the surrounding area. In this instance, a temporary permission would be acceptable and would also provide the applicant with more time to develop a more economically viable cafeteria than the cafeteria approved under

application FUL/MAL/14/00819, in accordance with policies D1, H4, E1, E2 and E5 if the Maldon District Local Development Plan.

- 2 The development hereby permitted shall be carried out in complete accordance with the following documents: ATS/565/01, ATS/565/02, 18064-04 Rev B, 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 development hereby permitted shall only be open to the public between 09:00 hours and 21:00 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.

**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.