



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

to
CENTRAL AREA PLANNING COMMITTEE
24th JULY 2019

Application Number	FUL/MAL/19/00044
Location	The Old Ship, Lock Hill, Heybridge Basin, Essex
Proposal	Section 73A application for change of use of the grassed area to the front of the pub to an amenity area
Applicant	Mrs D Cooper
Target Decision Date	26 th July 2019
Case Officer	Nicola Ward
Parish	HEYBRIDGE EAST
Reason for Referral to the Committee / Council	Member Call In Cllr Harker – The visual impact on the character of the Conservation Area

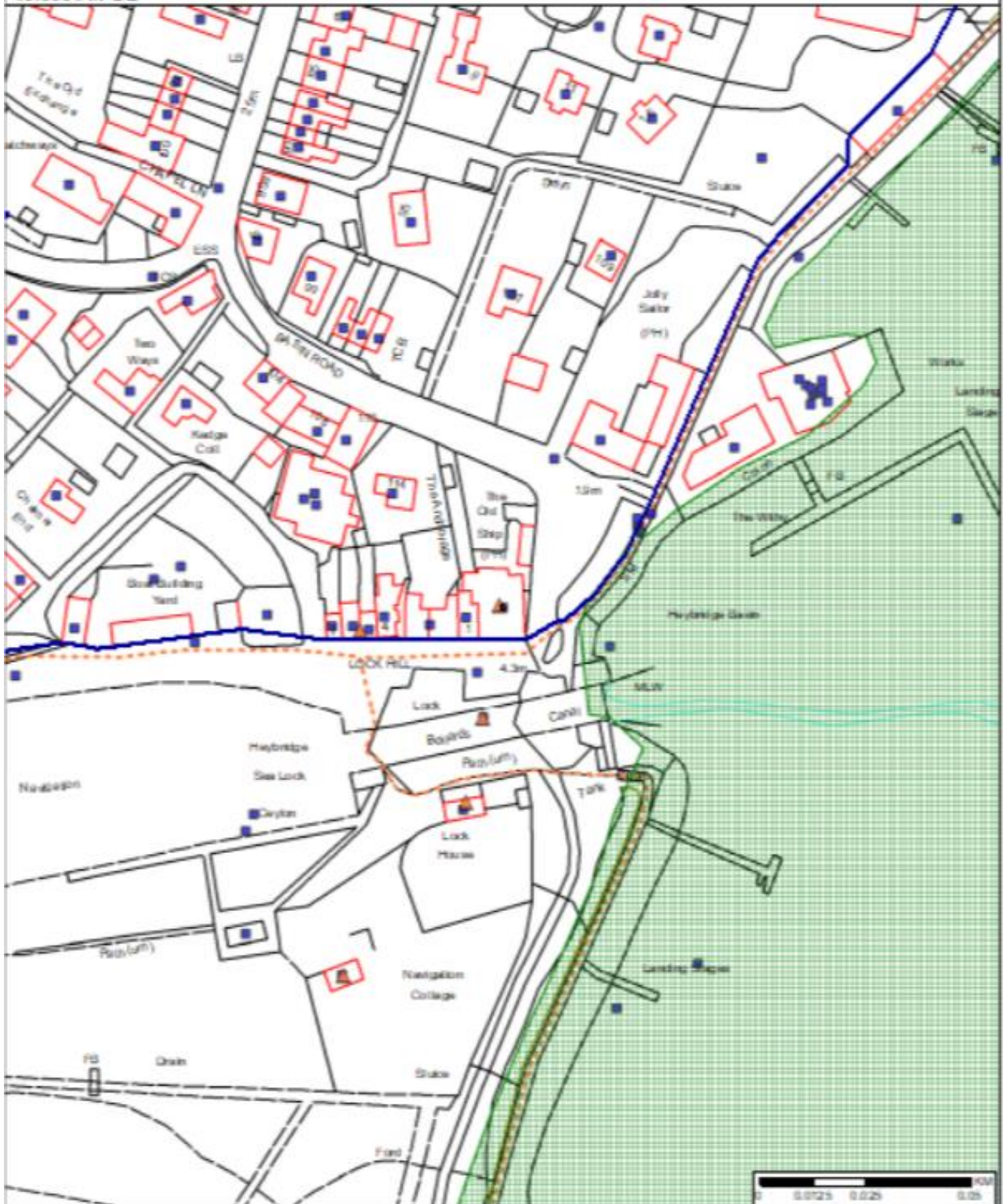
1. RECOMMENDATION


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

2. SITE MAP

Please see overleaf.

The Old Ship Lock Hill 19/00044/FUL



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	Organisation: Maldon District Council
	Department: Department
	Comments:
	Date: 12/07/2019
	MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 Retrospective planning permission is sought for the extension of an existing amenity space and the placement of picnic tables to the front of public house known as the 'The Old Ship'. The amenity area is to be used by the patrons of the public house as a seating area. The original amenity space hosts an area of hardstanding that is occupied by picnic benches. No further hardstanding is proposed as part of the development. The development has already been carried out and therefore the application is retrospective in nature.

3.2 Conclusion

- 3.2.1 It is considered that the development, by reason of its siting does not harm the appearance or character of the Conservation Area. It is not considered that the development has a determinantal impact on the amenity of the adjacent residents. In addition, the development does not detrimentally impact on the provision of highway safety. It is therefore considered that the proposed development would be in accordance with policies D1, D3, E3 and H4 of the LDP.

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:

- 7 Sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places
- 155-169 Planning and Flood Risk and Coastal Change
- 184-202 Conserving and Enhancing the Historic Environment

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

- Policy S1 – Sustainable Development
- Policy S2 – Strategic Growth
- Policy S8 – Settlement Boundaries and the Countryside
- Policy D1 – Design Quality and Built Environment
- Policy D2 – Climate Change and Environmental Impact of New Development
- Policy D3 – Conservation and Heritage Assets
- Policy E3 – Community Services and Facilities
- Policy H4 – Effective Use of Land
- Policy T1 – Sustainable Transport
- Policy T2 – Accessibility

4.3 Relevant Planning Guidance / Documents:

- Essex Design Guide
- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 Planning permission is sought for the enlargement of an existing amenity space and the placement of picnic tables to be used by the patrons of the public house as a seating area. The principle of providing facilities in association with the commercial premises is considered acceptable in line with policies D1, D3 and H4 of the approved LDP.

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 seek 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 any local design standards or style guides in plans or supplementary planning documents”.

- 5.2.3 This principle has been reflected to the approved LDP. 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 method. 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 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to desirability of preserving or enhancing the character or appearance of the conservation area. Similarly Policy D3 of the approved LDP states that development proposals that affect a heritage asset must preserve or enhance its special character, appearance, setting- including its streetscape and landscape value.
- 5.2.5 The application is for the use of the grassed area located to the north west of the public house, The Old Ship, to be used by the patrons of the public house for eating and drinking. The area located to the east of the application area already hosts hardstanding with the siting of nine picnic tables for the patrons of the public house to use. This was approved under reference number 05/00049/FUL. The grassed area subject of this application measures approximately 101m² and the existing hardstanding measures approximately 85m², which results in a total area to be used by the patrons of 186m².
- 5.2.6 The area of grass subject of this application has nine picnic tables sited within it. Whilst it is noted that picnic tables are movable and not fixed to the ground and therefore would not necessarily constitute development. The tables subject of this application will remain on the subject area and will not be removed from the site, it is considered that the picnic table, due to the level of prominence, would constitute development and therefore an assessment of the impact of the picnic tables on the character and appearance of the area would be required. It is considered that whilst the structures are of limited architectural merit they are of a style associated within public house 'beer gardens' and match that that are currently sited on the existing hardstanding. Therefore, the placement of additional picnic tables in association with The Old Ship is not considered to result in a detrimental impact on the character and appearance of the conservation area.
- 5.2.7 Through the consultation process concerns have been raised regarding the impact on the character of the area through issues such as used glasses and plates reaming in one site, rubbish and the appearance of the existing seating area. Whilst these concerns are noted these matters relate more to the both the existing situation and also the effective management processes in place rather than to the planning process. The planning system is not able to be used to resolve existing issues or when there are other legislative powers that can control the identified harm. It is therefore, not considered that these matters area material consideration of such weight as to warrant a reason for refusal.
- 5.2.8 Overall, it is considered that the extension of the existing seating area and the siting of nine picnic tables, by means of their sitting and style, is considered acceptable in its setting and does not detract from the appearance of the locality, nor have a detrimental impact on the character and appearance of the Conservation Area. This view is supported by the comments received from the Conservation Officer. Therefore, the development is considered to comply with the stipulations of policy D1, D3 and H4 of the LDP.

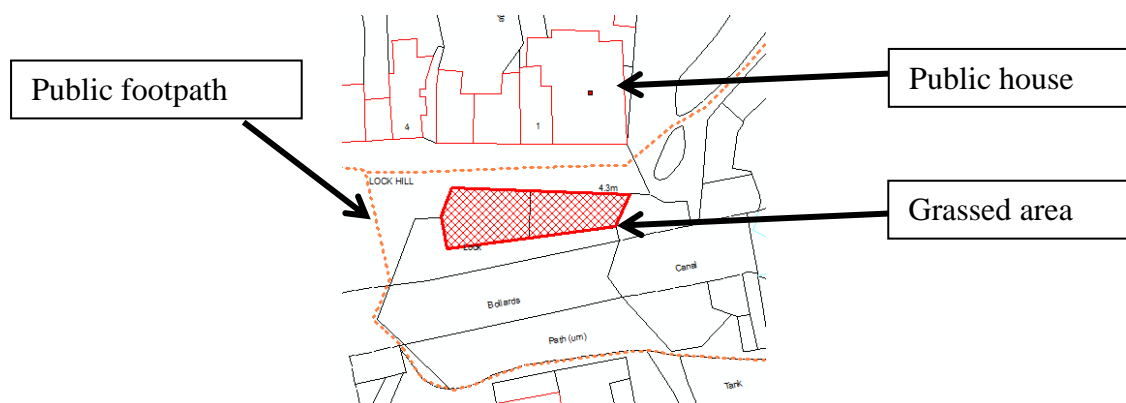
5.3 Impact on Residential Amenity

- 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.
- 5.3.2 The grassed area subject of this application is located 6.4m from the closest neighbouring properties 1, 2 and 3 Lock Hill and approximately 8m from 4 lock Hill.
- 5.3.3 A condition was imposed under reference 05/00049/FUL for, 'Retention of paved seating area for use as a beer garden', restricted the hours of use to 0900 and 2300 on Mondays to Saturdays and 1000 to 2230 on Sundays or Public Holidays.
- 5.3.4 Whilst it is noted that the enlargement of the outside seating area would result in an intensification of the use, it can not be assumed that this will result in an increase in noise and disturbance to adjacent residents. There is already an amenity space with tables and chairs adjoining the seating area and it is not considered that the principle of increasing the amenity area has resulted in additional harm, in terms of noise and disturbance, as to warrant refusal. Furthermore, without the need for planning permission patrons of the public house could frequent this area. Formally this arrangement through the introduction of tables and chairs may increase the length of time this part of the space is used by the patrons the informal 'fallback' position is a material consideration. On balance it is not considered that the principle of the use would be
- 5.3.5 Notwithstanding the above, it is considered that it would be reasonable to impose a condition restricting the hours of use to that imposed under reference 05/00049/FUL to ensure that the use does not have an adverse impact on the neighbouring occupiers by way of noise and disturbance.
- 5.3.6 It is considered that the change of use of the grassed area to a seating area for the patrons of the public house is acceptable, subject to the relevant conditions. It is considered that the conditions would be sufficient to ensure that there are no unacceptable impacts upon the residential amenity of neighbouring occupiers in terms of noise and disturbance. Therefore, it is considered that the development complies with policy D1.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 pursues to create and maintain an accessible environment, requiring development proposal, inter alia, to 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 maximum standards. This takes into account Government guidance which encourages the reduction in the reliance on the car and promotes methods of sustainable transport.

- 5.4.3 The public house has an allocated parking area on a piece of land located to the east of the public house which would not be altered as part of this application. It is not considered the formation of the use of the amenity space has resulted in a real and demonstrable need for on-site car parking provision.
- 5.4.4 Comments from the highway refer to a public footpath however, from the site visit and the Councils maps it appears that the footpath is located approximately 10m from the grassed area, please see the map below showing the footpath in relation to the subject grassed area. Therefore, it is not considered that the condition would be necessary or reasonable.



- 5.4.5 The development has not altered the existing access or parking arrangements on site and does not have an adverse impact on the safety of the highway users it is therefore considered that the development complies with policy T2 and D1 of the LDP.

5.5 Other Material Considerations

- 5.5.1 The Council's Environmental Health Service has been consulted on the scheme. Condition to request a 'Management Plan' relating to the management of the clearance of the tables and conduct of the customers. These matters are not considered to be material planning considerations therefore, it is not considered it would be reasonable to impose such a condition.

5.6 Flood Risk

- 5.6.1 Whilst it is noted that the application site is located with flood zone 3, the development does not host nor propose any additional hardstanding it is not considered that there are any concerns in relation to an increase of flood risk. Furthermore, the environmental health department has been consulted as part of the application and did not raise any objection or concerns regarding flood risk.

6. ANY RELEVANT SITE HISTORY

- 6.1 No relevant planning applications for this site however, the Council has received the following applications that should be noted:

Application Number	Description	Decision
ADVA/MAL/90/00364	Renewal of consent -new external decoration lettering and sign	Approved
LBC/MAL/99/00656	Proposed formation of new openings in existing internal partitions and new bar counter installation	Grant Listed Building Consent
LBC/MAL/99/00834/	Proposed erection of 2 no. hanging signs and construction of a ramped access and guarding to front entrance to enable disabled access	Grant Listed Building Consent
ADV/MAL/99/00835	Proposed erection of 2 no. non-illuminated hanging signs	Approved
LBC/MAL/99/00972	Proposed installation of a fume extract flue from kitchen	Grant Listed Building Consent
FUL/MAL/00/00124	Proposed change of use of existing first floor residential accommodation to restaurant use (A3) addition to kitchen at ground floor level and provision of disabled access to main entrance	Approved
LBC/MAL/00/00125	Proposed change of use of existing first floor residential accommodation to restaurant use (A3) addition to kitchen at ground floor level and provision of disabled access to main entrance	Approved
FUL/MAL/00/00126	Proposed erection of temporary building for use as kitchen accommodation for one year only	Refused
LBC/MAL/00/00127	Proposed erection of temporary building for use as kitchen accommodation for one year only	Refused
FUL/MAL/05/00049	Retention of paved seating area for use as a beer garden	Approved

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Hybridge Parish Council	No Comment	Noted

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No Objection subject to relevant condition requiring a management plan for the clearance of the refuse and the noise created by the patrons of the public house	Noted and addressed within section 5 of the report.

7.3 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Highways Authority	No Objection	Noted

7.4 Representations received from Interested Parties

- 7.4.1 **13** letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objections	Officer Response
<ul style="list-style-type: none">• Impact on the road users with the pub staff and the customers crossing the road to access the amenity area• The area is not cleaned or maintained• Rubbish blowing into the lock and the expansion of the seating area will increase this• The rubbish left attracts birds which caused noise and health issues• Disturbance by patrons of the public house• Impact on the appearance of the area• Detrimental impact on the occupiers of the cottages in terms of disturbance and privacy• Unable to keep the existing area clean and tidy approval of this application will increase the issue	<ul style="list-style-type: none">• The wider site already hosts a number of picnic tables and the application site can be used by patrons of the public house. It is not considered to be demonstrable harm in relation to this.• Issues such as decorum of the patrons, effective management processes including the cleanliness and tidiness, are not material considerations beyond the broad principles . These are discussed within the report.• Other matters raised are discussed within section 3.2 of the report.

8. PROPOSED CONDITIONS

1. The use of the area outlined in red on plan number TOP-TP-102B hereby permitted shall be used as an 'amenity area to be used in connection with the public house 'The Old Ship', with a maximum of nine picnic tables and for no other purpose.
REASON: To protect the amenity of the neighbouring occupiers in accordance with policy D1 of the Local Development Plan.
2. No customers shall be present upon the area outlined in red on plan number TOP-TP-102B premises outside the permitted hours.
11:00 hours – 23:00 hours Mondays -
Saturdays
17:00 hours– 22:30 hours Sundays and Bank Holidays
REASON: To protect the amenity of the neighbouring occupiers in accordance with policy D1 of the Local Development Plan.
3. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 as amended, no alteration shall be undertaken to the ground surfacing materials or enclosure of the site to that installed and as denoted on plan number TOS-TP-102B unless otherwise agreed in writing by the local planning authority.
REASON: To protect the character and appearance of the area in accordance with policy D1 and D3 of the Local Development Plan.