



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

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE  
5 AUGUST 2019**

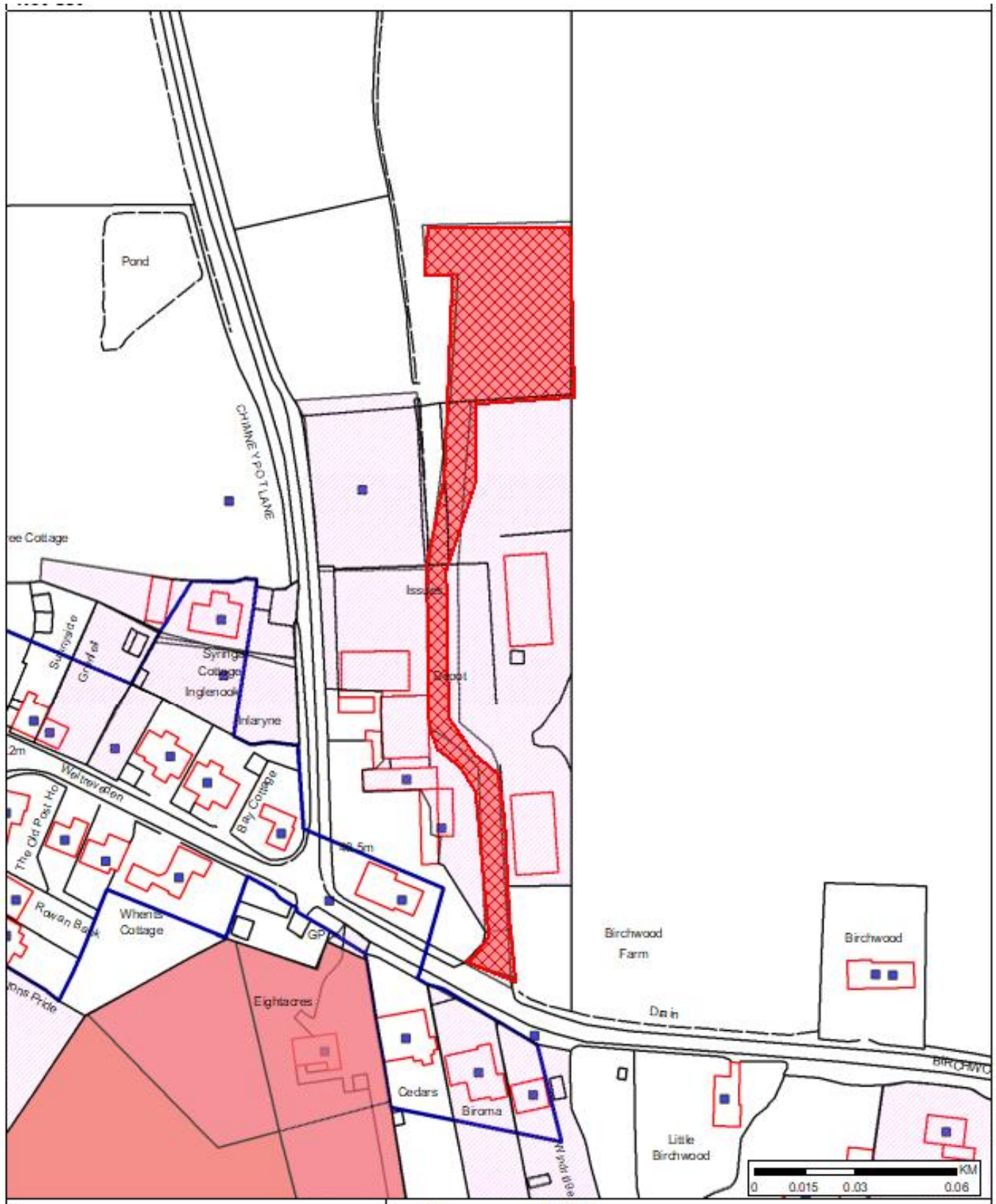
<b>Application Number</b>	<b>FUL/MAL/19/00674</b>
<b>Location</b>	Birchwood Farm, Birchwood Road, Cock Clarks
<b>Proposal</b>	Erection of building for oyster purification and ancillary aquiculture storage by the Maldon Oyster Company
<b>Applicant</b>	Mr Emans - Maldon Oyster Company
<b>Agent</b>	Kate Jennings - Whirledge & Nott
<b>Target Decision Date</b>	07.08.2019
<b>Case Officer</b>	Hannah Bowles
<b>Parish</b>	<b>PURLEIGH</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In The planning application is called in by Councillor Miss S White due to public interest.

**1. RECOMMENDATION**

**REFUSE** for the reasons as detailed in Section 8 of this report.

**2. SITE MAP**

Please see overleaf.



### **3. SUMMARY**

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

- 3.1.1 The application site relates to a piece of land located to the east side of Chimney Pot Lane, approximately 20 metres away to the north and outside the defined settlement of Cock Clarks village. The land is currently laid to grass and can be accessed through Birchwood Farm. The northern boundary of the site adjoins an agricultural field. The site is enclosed by young hedging and trees on the eastern and western boundaries. The site abuts Birchwood Farm to the south. The site gradient is flat.
- 3.1.2 To the south of the site is Birchwood Farm. A Lawful Development Certificate was granted in 2003 (reference: LDP/MAL/03/00035 dated 15.04.2003) for the site to be used within Use Class B2 (general industrial). The agricultural building and outbuildings within Birchwood Farm is currently home to a variety of small businesses and local services, including Maldon Oyster Company and a Classic Car Restoration business. A further Lawful Development Certificate was granted in 2017 (reference: LED/MAL/17/01056 dated 14.11.2017) on land to the north east of Birchwood Farm which is immediately to the east of this application site. Furthermore, to the south west of the site planning permission was granted in 2018 (reference: FUL/MAL/18/00966) for a building with associated parking and access to be used as a brewery for Maldon Brewing Company.
- 3.1.3 To the south of Birchwood Farm, houses front onto Birchwood Road, and Hackman's Lane. Houses that are located within the village settlement boundary are clustered together and on smaller plots whereas houses that are located outside the settlement boundary are on spacious plots. There is a dwelling 'Syringa' located approximately 20 metres away to the south western corner of the application site.
- 3.1.4 Planning permission is sought for the construction of a new building (Class B2 (General Industrial)) and would be occupied by the Maldon Oyster Company, the building will house up to 20 purification tanks, a cold store, mess room, packing area and associated plant. There is provision to wash the oysters under cover provided by a proposed canopy. The proposed building will be used in association with the existing business on the larger site. The proposal also includes associated parking facilities, turning area and landscaping. Access to the site would be taken from the existing access point to Birchwood Farm from Birchwood Road.
- 3.1.5 The proposed building would be a steel portal frame, with green metal profile cladding. It would measure 34m by 16m and would extend 7m to the top of the ridge. A canopy to the east of the building is proposed, it would extend 6m from the side elevation of the building. The building contains 20 rooflights, several low level windows, five doors and three roller shutter doors.

#### **3.2 Conclusion**

- 3.2.1 It is considered that the proposed development would support the rural economy in terms of creating some employment opportunities whilst also providing an attraction that would promote rural tourism and leisure development that benefit businesses in rural areas, local communities and visitors.

- 3.2.2 However, the proposed development would have a negative visual impact as a result of the proposal representing the sprawl of built form into the undeveloped countryside and the erection of a large building. Furthermore, it is considered that insufficient evidence has been provided to demonstrate that this site is the most suitable location for the proposed development having regard to the designated employment land of the district and the accessibility of the site.
- 3.2.3 The proposal would be served by adequate parking and access and would not have an unduly harmful impact on ecology interests near the site or the amenities of neighbouring residents.
- 3.2.4 In this context it is considered necessary to make a balanced judgement and, in this instance, it is considered that the benefits of supporting the local economy and an existing business of the Maldon District do not outweigh the harm that has been identified and it is therefore recommended that the application be refused.

#### **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:**

- 7-14 Achieving sustainable development
- 20 -23 Strategic Policies
- 38 Decision-making
- 39-45 Pre-application engagement and frontloading
- 80-84 Building a strong, competitive economy
- 102-104 Promoting sustainable transport
- 108-111 Considering development proposals
- 117-118 Making effective use of land
- 124-131 Achieving well-designed places
- 170-182 Conserving and enhancing the natural environment

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

- Policy S1 Sustainable Development
- Policy S8 Settlement Boundaries and the Countryside
- Policy D1 Design Quality and Built Environment
- Policy D2 Climate Change & Environmental Impact of New Development
- Policy E1 Employment
- Policy E5 Tourism
- Policy N2 Natural Environment and Biodiversity
- Policy T2 Accessibility

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

- Car Parking Standards

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Design Guide (MDDG)

## **5. MAIN CONSIDERATIONS**

### **5.1 Principle of Development**

- 5.1.1 The Council is required to determine planning applications in accordance with its adopted Development Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990)).
- 5.1.2 Policy S8 of the LDP defines the settlements of the Maldon District within which residential development is to be generally directed. The policy goes on to state that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. 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 that the development falls within one of thirteen specific, defined categories (Policy S8: a-m). This list of acceptable development includes criterion (b) ‘Employment generating proposals (in accordance with Policy E1)’.
- 5.1.3 Policy E1 of the LDP states that *‘New proposals for employment uses will generally be directed to the designated employment areas prior to considering other sites within the District’*. As the application is located outside the designated employment areas as listed under this policy, the policy goes on to state that *‘new provision for high quality employment space or the expansion of existing employment areas will be considered favourably subject to design, environment, and infrastructure consideration’*. As part of the application submission, the Applicant has provided justification in support of the proposal, which will be disused below.
- 5.1.4 Other issues to consider when determining this application are the design of development, its impact on the character and appearance of the area, highway safety, and effect on residential amenity.
- 5.1.5 Justification of proposed development
- 5.1.5.1 As set out above, there are policies within the Local Development Plan and the NPPF which provide support for developments that promote local economic growth, in the appropriate locations.
- 5.1.5.2 The applicant’s submissions highlight the following key points to support their case:
- This proposal supports the established business Maldon Oysters and enables them to continue to improve their product and consequently their profile in the industry.

- The processing centre for Maldon Oysters has already been established at Birchwood Farm and this proposal seeks to extend that development to accommodate the growth of this successful business.
- The main reason the additional space is needed is the growth of the business and the increased throughput of oysters. The current grading, depuration and packing facility is at capacity.
- The use is established on site and this development offers the opportunity to improve and streamline the purification process which already occurs on site. It is not proposed that there will be any material increase in movements to and from the site given the level of employment already located on the site.

5.1.5.3 As set out above, policy E1 directs employment development towards allocated sites within the Maldon District. This proposal would have the potential to undermine the delivery of the designated employment sites as it would create additional employment space which would preferably be located within the designated locations. Further, no information with regards to identifying alternative sites that are designated for employment use has been forthcoming. However, it is noted that the applicant is an existing business which operates out of Birchwood Farm. The local and national planning policies emphasise the importance of supporting local business and these factors should be given weight in the assessment of the proposal.

5.1.5.4 Overall, it is considered that a balanced judgement is required to be made in respect of the principle of development. The proposed development would represent development in the countryside and therefore would erode the character and openness of the countryside, as will be discussed below, and therefore is contrary to policy S8 of the LDP. Further, it is noted that the applicants own the larger site at Birchwood Farm and it is considered that there is space within the existing and established employment area at Birchwood Farm to accommodate the proposal, no justification for the sprawl into the undeveloped countryside has been forthcoming. Furthermore, the proposal is contrary to policy E1 in the terms that the proposal conflicts with the aspect of the policy that allows for high quality new employment space to be erected outside of employment areas. In support of the proposal, it is noted that the proposal would support an existing local business currently operating out of the Birchwood Farm. Having weighed the benefits of the proposal against the negative aspects of the proposal and the conflict with policies that has been identified, it is considered that the proposal should not be supported in principle.

## **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:

5.2.3 *“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”.*

5.2.4 *“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”.*

5.2.5 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.

5.2.6 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).

5.2.7 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.

5.2.8 The application site is currently undeveloped, grassed land that is enclosed by hedges. The site is within a rural location, outside of the settlement boundaries of the District and as such the proposal is considered to constitute development on the fringe of the settlement. The proposal would therefore have the potential to have a substantial visual impact on the character and openness of the countryside, particularly by representing the sprawl of built form beyond the existing employment uses and into undeveloped land.

5.2.9 The building would be sited in close proximity to the eastern boundary of the site, with parking provision located to the south of the building. Additional landscaping is proposed to the south of the building to mitigate views from Chimney Pot Lane. To a limited extent, the development of this site would appear as an extension of the commercial yard at Birchwood Farm which is immediately to the south of the application site. However, it is noted that there would be a separation distance in excess of 50 metres between the proposed and existing building to the south and as

such the building would appear detached and isolated. Further, the site is located beyond the existing employment uses and into open and undeveloped countryside.

- 5.2.10 It is considered that the development would represent the sprawl of built form into the countryside and in the context of this site it is considered that the level of harm that would be caused would be significant. Further, the building appears removed from the existing buildings located on the site. As set out above, any policy basis for supporting the proposal is subject to environmental considerations, which includes the visual impact of development. As such it is considered that the visual impact of the development and the harm that has been identified should be given substantial weight when assessing the overall planning balance.
- 5.2.11 Screen planting is indicatively shown on the submitted block plan and it is considered that this will help to mitigate the visual impact of the proposed development. However, the amount of planting proposed would not be sufficient to wholly mitigate the impact of the development.
- 5.2.12 As stated above, the proposed building would be a steel portal frame, with green metal profile cladding. It would be a significant scale at 34m by 16m and with a ridge height of 7m. A canopy to the east of the building is proposed, it would extend 6m from the side elevation of the building. The building contains 20 rooflights, several low level windows, five doors and three roller shutter doors.
- 5.2.13 Taken into account the existing agricultural style buildings in close proximity to this site at Birchwood Farm, it is considered that the overall appearance cannot be generally objected to. However, in terms of size and scale, the proposed building would have a larger than the existing buildings in the adjacent yard which is considered to exacerbate the impact and the harm.
- 5.2.14 Therefore, given the above assessment, it is considered that the proposed building would by reason of its siting, scale and the intensification of the existing use would demonstrably alter the character and appearance of the area contrary to policy D1 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. This is supported by section C07 of the MDDG (2017).
- 5.3.2 The building would be located on the edge of the village settlement boundary of Cock Clarks, to the north of Birchwood Farm where the site is used for purposes falling within Use Class B2 as demonstrated by certificate of lawfulness applications: LDP/MAL/03/00035 and LDE/MAL/17/01056. This provides a level of background noise and disturbance that is considered to be relevant to the assessment of this application.
- 5.3.3 It is noted that the building at the site would be located approximately 85 metres from the closest neighbouring dwelling and therefore, despite its scale and visual impact which is discussed elsewhere in this report, the proposal would not have a harmful



impact on the light that is afforded to neighbouring residents. Moreover, the proposed development would not cause a loss of privacy within neighbouring properties.

- 5.3.4 Letters of representation were received and raised concerns relating to the noise of the operations and the potential smell produced. Further, the Environmental Health department have raised concerns with regards to the intensification of the use of the rural site and the impact this may have on residents within the vicinity of the site. No information with regards to these issues has been submitted as part of this application. However, given the separation distance between the proposed building and residential dwellings, it is considered that these issues could be dealt with via a condition to ensure details of the impact and mitigation measures are assessed and approved prior to the commencement of the use of the building, should the application be approved.
- 5.3.5 For these reasons, whilst regard has been had to the concerns that have been raised by neighbouring residents and Environmental Health, it is considered that the impact of the proposed development would not be such that the application should be refused on the grounds of the impact on neighbouring residents.

#### **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 The proposed access to the site would be taken from the existing access point from Birchwood Road onto Birchwood Farm and an access track leading through Birchwood Farm would be extended to allow access to the building. Although County Highways are yet to respond it is considered unlikely that they would raise an objection.

- 5.4.4 In terms of car parking provision, fifteen car parking spaces to the south of the building are proposed. There is a requirement, as detailed within the Vehicle Parking Standards, of eleven car parking spaces for a development of this nature and scale. Therefore, no concerns are raised in this respect.

## **5.5 Other Material Considerations**

- 5.5.1 The Environmental Health team have raised concerns in relation to the foul and surface water drainage at the site. It is noted that there are no mains drainage within Cock Clarks and therefore the development would be reliant on a private drainage system. Limited information regarding the surface and foul drainage schemes has been submitted with the application, it states within the Design and Access statement that *'The site and the surrounding land in the ownership of the applicant has the ability to incorporate a soft landscaping sustainable drainage scheme to accommodate any surface water drainage form the proposed development. Full details of the drainage scheme can be required as a pre-commencement condition.'* Therefore, it is considered that these issues could be dealt with via a condition for assessment and approval by the LPA and it would be unreasonable refuse the application on this basis.

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

- 6.1 There is no relevant planning history on the site as outlined in red. The below planning history relates to the whole of Birchwood Farm:
- **LDE/MAL/01/00526** - Lawful Development Certificate in respect of the use of the yard and buildings for the servicing, repair, modification and renovation of agricultural plant and machinery, lorries and other vehicles. - Approved
  - **OUT/MAL/01/00808** - Residential development in lieu of existing industrial land and buildings - Refused
  - **OUT/MAL/01/01175** - Residential development in lieu of existing industrial land and buildings - Refused
  - **FUL/MAL/02/00243** - Retention of planning permission MAL/8/82 without compliance with condition 10 (sole benefit R Emans) - Allowed on Appeal
  - **FUL/MAL/02/00243** - Retention of planning permission MAL/8/82 without compliance with condition 5 (sole benefit R Emans) - Allowed on Appeal
  - **LDP/MAL/03/00035** - Lawful Development Certificate in respect of the use of the site for B2 (General Industrial) use. - Granted
  - **FUL/MAL/03/00579** - Proposed building to accommodate an oyster hatchery, nursery, holding, grading, depuration & packing facility and hardstanding - Approved
  - **FUL/MAL/05/00444** - New workshop and storage shed for repair of oyster plant and harvesting machinery, storage oyster packaging - Approved
  - **LDE/MAL/17/01056** - Claim for lawful development certificate for existing continued B2 general industrial use. - Approved
  - **FUL/MAL/18/00966** - Erection of building with associated parking and access to be used as a brewery for Maldon Brewing Company - Granted

- **FUL/MAL/19/00154** - Erection of building for oyster purification and ancillary aquaculture storage – 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>
Purleigh	My Council believes the above application does not conflict with the Approved Local Development Plan 2014 - 2029 or general guidance contained within the National Planning Policy Framework.	Noted.

### 7.2 **Internal Consultees**

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	Concerns raised in relation to foul and surface water drainage and intensification of the use of the site and the impact on the residents within the vicinity of the site.	Noted and discussed within sections 5.3 and of this report.

### 7.3 **Representations received from Interested Parties**

- 7.3.1 1 letter was received **commenting** on the application and summarised as set out in the table below:

<b>Comment</b>	<b>Officer Response</b>
<p>I have no objection in principle to the application for the erection of a building for oyster purification.</p> <p>I would, however, object most strongly if no assurances can be made that there will be no externally audible noise from plant, equipment, operations or other factors from within the new building or from the existing associated buildings as part of the business expansion.</p> <p>I am unable to ascertain, from the submitted plans, the level of sound insulation proposed in the buildings</p>	<p>Noted and discussed with section 5.3 and 5.5 of this report.</p>

**8. REASON FOR REFUSAL**

- 1 The proposed development would involve development on land that is outside the settlement boundaries and employment areas of the Maldon District and would represent the sprawl of built form into the countryside with the associated visual impact. It has been assessed that the benefits of the proposal which relate to supporting an existing business which currently operates at Birchwood Farm are not outweighed by the harm caused to the character and appearance of the countryside. The proposal is therefore considered to be unacceptable and contrary to policies S1, S8, E1 and D1 of the Maldon District Local Development Plan and the National Planning Policy Framework.