



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

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE  
2 SEPTEMBER 2019**

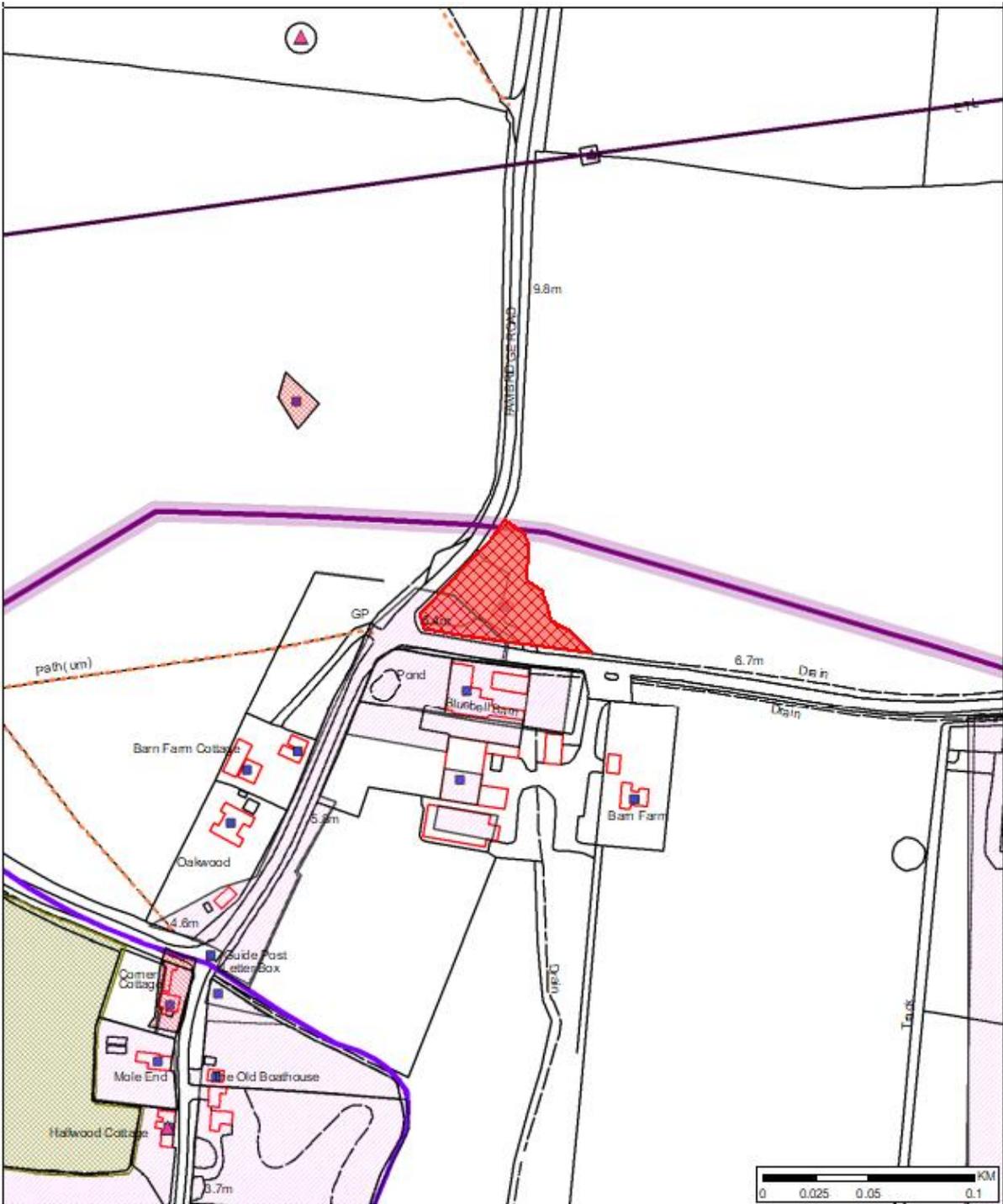
<b>Application Number</b>	<b>FUL/MAL/19/00728</b>
<b>Location</b>	Land Opposite Bluebell Barn, Lower Burnham Road, Latchingdon
<b>Proposal</b>	Development of a farm shop incorporating a seafood counter and removal of existing building
<b>Applicant</b>	Mr M Lancaster
<b>Agent</b>	Mrs Elizabeth Milne - Whirledge And Nott
<b>Target Decision Date</b>	23.08.2019
<b>Case Officer</b>	Hannah Bowles
<b>Parish</b>	Cold Norton
<b>Reason for Referral to the Committee / Council</b>	Member call in by Councillor Miss S White due to public interest (prominent location).

1. **RECOMMENDATION**

**APPROVE** subject to the conditions (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 is a corner plot, located on the east side of Fambridge Road and the south side of Lower Burnham Road. The site is occupied by a dilapidated storage shed used in association with a mobile sea food unit, which operates from the site on a Friday – Sunday.
- 3.1.2 The application site measures 0.23 hectares and is the corner of larger field within the applicant's ownership. It is surfaced with unbound gravel hardstanding which is used for car parking in association with the mobile sea food business. It is located outside of the settlements of the district.
- 3.1.3 Planning permission is sought for the removal of the dilapidated shed and the construction of a food shop measuring 16m in length, 5m in width, with a front projection which measures 3m in depth and 4m wide. The height to the top of the ridge would be 5m. The proposed materials would be black boarding and black corrugated profile sheeting. A bin store to the north of the shop is proposed and would measure 2.4m by 5m.
- 3.1.4 There are two existing accesses to the site, one from Fambridge Road and one from Lower Burnham Road, which would be retained for the proposed development. The car parking provision the front of the building would be retained and utilised for the proposed shop.
- 3.1.5 The proposal states that the proposed development would be a farm shop. However, it is noted that the proposed shop would not fall within the definition of a farm shop (a shop which sells produce from a farm directly to the public). An example of the produce proposed to be sold would be fruit, vegetables, ready made meals, ice-cream, meat, eggs, locally produced wine and beer, dairy products etc. and the shop would incorporate a sea-food counter.

#### **3.2 Conclusion**

- 3.2.1 The proposed shop would expand and replace an existing business which has been present on the site since around 1998, therefore, it is supported in principle. The proposed building would replace an existing dilapidated storage shed of a similar size and is considered to have an acceptable visual impact. The Highway Authority has been consulted and raised no concerns in respect of highway safety and adequate car parking provision in accordance with the Council Vehicle Parking Standards, is provided. Therefore, it is considered that the proposed development complies with the policies contained within the LDP and the NPPF.

### **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

- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47 – 50 Determining applications
- 54 – 57 Planning conditions and obligations
- 80 – 84 Building a strong, competitive economy
- 124 – 132 Achieving well-designed places
- 148 – 169 Meeting the challenge of climate change, flooding and coastal change
- 170 – 183 Conserving and enhancing the natural environment

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

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change & Environmental Impact of New Development
- E2 Retail Provision
- E4 Agricultural and Rural Diversification
- T1 Sustainable Transport
- T2 Accessibility

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

- Car Parking Standards
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Maldon District Design Guide SPD (MDDG)

## **5. MAIN CONSIDERATIONS**

### **5.1 Principle of Development**

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.

5.1.2 The application site lies outside of any defined development boundary where policies of restriction apply. However, the NPPF urges local planning authorities (LPAs) to support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings. Further, policy S8 of the LDP states 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. This list of acceptable development includes, under stipulation (f) *'Rural diversification, recreation and tourism (including equestrian and related activities) proposals (in accordance with Policies E4 and E5)'*

- 5.1.3 It is not considered that policy E5 *'Tourism'* is directly applicable to the proposed development. However, it is considered that policy E4 *'Agricultural and Rural Diversification'* is, the policy states:

*"The Council will support the development of new buildings or activities associated with agriculture and other land-based rural businesses where:*

- 1) There is a justifiable and functional need for the building/activity;*
- 2) The function of the proposed building/activity is directly linked, and ancillary to, the existing use; and*
- 3) The building / activity could not reasonably be located in existing towns, villages or allocated employment areas."*

- 5.1.4 With regard to criterion (1), the proposed building would be used in association with the expansion of an existing and established business 'Seafood King' a mobile fish stall, which has been operating out of the application site since around 1998. The proposed food shop which incorporates a sea food counter, would negate the need for the existing business. Therefore, given the present of the long-established business, it is considered that the proposed shop has a justifiable and functional need.

- 5.1.5 Criterion (2) is met, given the existing business on the site, which the proposed shop would replace.

- 5.1.6 In relation to criterion (3), given that the business is established and would replace the mobile fish stall 'Seafood King' which has an established client base in this location; it would be considered unreasonable to insist the proposal is re-located to within the settlement boundary.

- 5.1.7 Whilst it is noted that policy E2, Retail Provision, states *'Additional retail need should be accommodated in town centres, in line with the sequential test. Only where it is proven that there is no town centre site that is available, suitable and viable, should edge-of centre or out-of-centre sites be considered.'* In this instance given the existing use of the site an objection on this ground would be difficult to justify. Further, it is considered that the development would meet all the criteria of policy E4 of the LDP.

- 5.1.8 On this basis, the principle of the development is acceptable. Other material planning considerations will be discussed in the following sections of the report.

## **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 Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”.*

*“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”.*

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

- 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 The proposed building would replace an existing dilapidated shed, used for storage in association with the ‘Seafood King’ and the mobile fish stall, which operates out the site Friday-Sunday. The existing building measures 6m by 7.5m and is 3.2m in height. The proposed building would be sited in a similar position and is larger at 16m by 5m (including canopy) with a front projection measuring 4m by 3m. It would be constructed of black weatherboarding with black corrugated profile sheeting to the roof.

5.2.7 The design of the building, which has an appearance similar to a barn, is typical for a rural area and does not detract from the character and appearance of the site or the locality. The increased scale is not considered to detrimentally impact the site or surrounding area, particularly given the proposed landscaping, which would mitigate the visual impact from certain vistas. The removal of the existing building and the mobile fish stall and its replacement with a more visually pleasing building, is considered to enhance the site. Therefore, it is considered that the proposal is in compliance with the policies contained within the LDP and the guidance contained within the NPPF.

### **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. Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.

5.3.2 The closest neighbouring property 'Bluebell Barn' is located in excess of 40m from proposed shop, on the opposite side of the road. Given the distance it is not considered that the proposal would result in overlooking, a loss of light or domination to the detriment of the neighbouring occupiers.

5.3.3 The intensification of the use of the site particularly Monday to Thursday would result in more vehicular movements to and from the site, however, the opening hours of the proposed shop would be conditioned. Therefore, this is not considered to result in a detrimental impact to the neighbouring occupiers.

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

5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. 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 are 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 Maldon District Vehicle Parking Standards specify that an A1 shop located outside of a town centre, should provide 1 space per 20m<sup>2</sup>. The retail space provided (labelled farm shop and seafood shop on the proposed floor plan) measures around 60m<sup>2</sup>, therefore there is requirement of three car parking spaces to be provided. The proposed site plan shows ten car parking spaces, to the front of the proposed building. Therefore, no concerns in respect of car parking provision are raised.
- 5.4.4 The proposed development would utilise the existing accesses from the Fambridge Road and Lower Burnham Road. The highway authority has been consulted and raised no objection in terms of highway safety. Therefore, there are no concerns to raise in this respect.

## **5.5 Other Material Considerations**

- 5.5.1 The Environmental Health Department have been consulted however, a response has not been received at the time of writing this report. It is expected that conditions will be suggested. These will be relayed via the members update.
- 5.5.2 It is noted that the applicants have suggested that the opening hours be 9am – 5pm, however considering the existing opening hours, the location of the shop and the passing trade and the existing customers it is considered appropriated to implement a condition allowing the shop to open from 8am to 7pm.
- 5.5.3 As stated above, whilst the shop does not fall within the definition of a farm shop, given the rural locality of the proposed shop it is considered appropriate to condition the building to be sell only food and drink and restrict the permitted change of use.

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

- **FUL/MAL/00/00574** - Continued siting of mobile fish stall – Approved.
- **FUL/MAL/99/00023** - Retention of consent ref: FUL/MAL/98/0196 without compliance with condition 5 to allow opening times of fish stall to include Friday afternoons – Approved.
- **FUL/MAL/98/00196** - Siting of mobile fish stall between March and October for weekend and bank holidays only (retrospective application) – Approved.

## **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>
Cold Norton Parish Council	No objections, subject to the conditions required by ECC Highways being complied with, to ensure highway safety during development and also following completion of works.	Noted.

## 7.2 Statutory Consultees and Other Organisations

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
County Highways	No objection, subject to conditions.	Noted and conditions should be implemented should the application be approved.
National Grid	Due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works.	Noted and informative will be added should the application be approved.

## 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) The Town & Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:18/52/01, 18/52/02, 18/52/03.  
REASON: To ensure that the development is carried out in accordance with the details as approved.
- 3 The external materials to be used in the construction of the building hereby permitted shall be as specified within the application.  
REASON: In the interests of the character and appearance of the rural area, in accordance with Policies D1, S1, S8 of the Maldon District Approved Local Development Plan, and the NPPF.
- 4 The use hereby permitted shall only be undertaken between the hours of 08:00 – 19:00 Monday to Sundays and Public Holidays.

- REASON: In the interests of the amenity of the occupiers of neighbouring residential properties, in accordance with Policies D1 and D2 of the Maldon District Approved Local Development Plan.
- 5 Deliveries to and collections from the site shall only be undertaken between 0800 hours and 1800 hours on weekdays and between 0800 hours and 1700 hours on Saturdays and not at any time on Sundays and Public Holidays.  
REASON: In the interests of the amenity of the occupiers of neighbouring residential properties, in accordance with Policies D1 and D2 of the Maldon District Approved Local Development Plan.
- 6 The premises shall only be used as a shop, which sells only food and drink, and for no other purpose including any purpose as defined within Class A1 of the Schedule to the Town & Country Planning Use Classes (Amendment) Order 2005 (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) and for no other purpose.  
REASON: The site lies in an isolated rural location any other retail outlet would be unacceptable in this location, given the rural location of the development in accordance with policies E2 and E4 of the Maldon District Local Development Plan.
- 7 There shall be no discharge of surface water from the development onto the Highway.  
REASON: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety in accordance with policy T2 of the LDP.
- 8 No unbound material shall be used in the surface treatment of the car parking areas.  
REASON: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy T2 of the LDP.
- 9 All loading / unloading / reception and storage of building materials and the manoeuvring of all vehicles, including construction traffic shall be undertaken within the application site, clear of the public highway.  
REASON: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy T2 of the LDP.
- 10 Prior to the first use of the shop hereby permitted the existing business ‘Sea Food King’ shall cease operating out of the site and all associated paraphernalia shall be removed from the site.  
REASON: To ensure the proposed development is undertaken in accordance with the approved proposals, to avoid the net increase of businesses at the site in accordance with policies S8, E4 & H4 of the Maldon District Local Development Plan.

## **INFORMATIVES**

1. Due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works.

2. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: SMO2 - Essex Highways, Springfield Highways Depot, Colchester Road, Chelmsford, CM2 5PU.