



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**CENTRAL AREA PLANNING COMMITTEE**  
**12 JUNE 2020**

<b>Application Number</b>	<b>20/00322/FUL</b>
<b>Location</b>	Deed House, 21 London Road, Maldon, Essex
<b>Proposal</b>	Replacement windows
<b>Applicant</b>	Ms Anne Shields – Maldon Housing Association
<b>Agent</b>	N/A
<b>Target Decision Date</b>	22.05.2020
<b>Case Officer</b>	Annie Keen
<b>Parish</b>	<b>MALDON NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillor Mayes Reason - D1 and D3

**1. RECOMMENDATION**


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

**2. SITE MAP**

Please see overleaf.

**Deed House, 21 London Road, Maldon**  
**20/00322/FUL**



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	<b>Organisation:</b> Maldon District Council	<b>Department:</b> Department
	<b>Comments:</b> Central Area Committee	<b>Date:</b> 04/05/2020
	<b>MSA Number:</b> 100018588	

### **3. SUMMARY**

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

- 3.1.1 The application site occupies a prominent corner plot on the southern side of London Road and to the west of Washington Road. The site is located within the settlement boundary of Maldon and within the Maldon Conservation Area.
- 3.1.2 The building on-site is a two storey Victorian building constructed in the 19th century. It is finished in a light-coloured brick with white painted wooden window frames. The building is currently used as a residential home. The surrounding area to the north, south and west is residential in nature with buildings of traditional character. The subject site adjoins The Old Court House on the western side which is a grade II listed building and now used as a residential dwelling. The site to the east is the Tai Chi Society Community Centre which is of uncharacteristic design compared to nearby and adjoining properties within this locality.
- 3.1.3 Planning permission is sought for the replacement of 14 sash windows of various sizes to the eastern and southern elevations of the building. The windows would be of a heritage design from the Roseview Ultimate range and the proposed windows would be of white uPVC.
- 3.1.4 This application is a resubmission of previously refused application 19/00662/FUL for the following reason:

*1 The proposed replacement windows, due to the use of unsympathetic materials, would result in detrimental harm to the character and appearance of the building, the streetscene, the adjacent listed building and the surrounding conservation area. Furthermore, insufficient information has been submitted with the application by way of a Heritage Statement, which is required by paragraph 189 of the NPPF to be submitted for all applications affecting a heritage asset. The proposal would therefore be contrary to policies D1, D3 and H4 of the approved Maldon District Local Development Plan and the guidance provisions as contained within the NPPF.*

- 3.1.5 The applicant has sought to address the reason for the previous refusal by confirming that the window would be of a heritage style; however, these would be still be constructed of uPVC. It should be noted that the use of uPVC was the reason for the previous refusal and not the design. The current application similarly proposes the use of uPVC windows for Conservation Areas as per the previous application.

#### **3.2 Conclusion**

- 3.2.1 The proposed replacement windows, due to their design and proposed materials (uPVC), are considered to detrimentally impact upon the character and appearance of the host building, the adjoining grade II listed building, the streetscene and the surrounding Conservation Area. It is therefore considered, the proposed windows would be contrary to policies D1, D3 and H4 of the Maldon District Local Development Plan (MDLDP), Section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* and the guidance contained within the Maldon District Design Guide (MDDG) and the National Planning Policy Framework (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
- 124 – 132 Achieving well-designed places
- 184 – 202 Conserving and enhancing the historic environment
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##### **4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:**

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D3 Conservation and Heritage Assets
- H4 Effective Use of Land
- T1 Sustainable Transport
- T2 Accessibility

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

- Planning Practice Guidance (PPG)
- Maldon District Design Guide SPD (MDDG)
- Maldon District Vehicle Parking Standards SPD (VPS)

#### **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 principle of external alterations to an existing building is considered acceptable in line with policies S1 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”.*

- 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;

- 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 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.

- 5.2.6 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 (MDLDP) states that development proposals that affect a heritage assets must preserve or enhance its special character, appearance, setting and any features and fabric of architectural or historic interest. Where a proposed development would cause less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.

- 5.2.7 This application is a resubmission of the application 19/00662/FUL which was refused due to the proposed removal of the existing timber windows which were to be replaced with uPVC windows. Due to the building being within a conservation area it was considered the proposed materials (uPVC) would cause detrimental harm to the character and appearance of the building and the conservation area. It is worth noting that any proposal within a Conservation Area should preserve or enhance the special character and appearance of the area. If a development does not do so the application should be refused unless there are other material considerations that weigh in favour of the development.
- 5.2.8 The Local Planning Authority (LPA) should take into account the desirability of new development and consider how they make a positive contribution to the distinctive character of the historic environment. The special character and appearance of a conservation area is formed from a variety of different aspects including, design, materials, layout and density. However, it is often the smaller, more human scaled points, that provide the real character. This can be the boundary treatments, a lack of car parking provision and fenestration that underline and reinforce the special character and appearance of the area.
- 5.2.9 The application site is situated within a prominent position within London Road and the surrounding Conservation Area, with many buildings opposite and The Old Court House adjoining the application site, being grade II listed. The dwellings surrounding the application site are traditional in character with white painted timber windows and the only building impacting upon the locality, due to its uncharacteristic appearance, being the ‘Taoist Tai Chi Society’ at No.19 London Road.
- 5.2.10 The application proposes to replace the existing white painted wooden framed windows with white uPVC sash style windows. This proposal is similar to the previously refused application 19/00662/FUL as the proposed use of uPVC remains. The current timber windows are reflective of the traditional character of the host building and the surrounding Conservation Area with the glazing bars forming part of the window. The introduction of uPVC windows would be unsympathetic to the historic nature of the site and the surrounding area and would therefore not be considered to preserve or enhance the character or appearance of the site or surrounding Conservation Area. Furthermore, it is noted that the adjoining building to the west is a grade II listed building and therefore the proposed use of uPVC would impact upon the setting of this listed building, thereby harming its historic character. Whilst the Heritage Statement considers the ease of use of the proposed windows and increased security would compensate for the harm caused by the loss of heritage assets, the proposal would detrimentally impact not only upon the appearance of the host building but on the streetscene, the neighbouring grade II listed building and the surrounding Conservation Area.
- 5.2.11 A consultation response from the Council’s Specialist in Heritage and Conservation states there is no objection to the principle of replacing the late 20th century windows with painted sash timber windows incorporating discrete double glazing. However, the proposed use of uPVC is considered to harm the appearance of the conservation area and the building. The proposed stuck-on glazing bars, trickle vents, the greater depth of the window frames, and above all the plastic surface-finish would appear discordant’ within the Conservation Area, eroding the traditional character and

appearance of the building. Furthermore, the detail of the windows, particularly the 'horns', are completely different to the existing windows. It is considered, the proposed windows would erode the traditional architectural character of one the best-preserved parts of the Conservation Area and therefore the resultant harm must be weighed against public benefits, which in this case are insufficient to justify the harm which would be caused. Section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. It is considered this application would conflict with this requirement.

5.2.12 Previous appeal decisions have been shown to support the view that the replacement of timber windows for uPVC in a Conservation Area would cause harm to the character and appearance of the Conservation Area. In the case of Flat 2, 28 St Annes Road East, Lytham St Annes, Lancashire FY8 1UR (APP/M2325/A/14/2217398) it was found that uPVC frames would have a flat appearance and lack the level of detailing found in timber windows. Furthermore, the appeal against the refusal of uPVC windows at 17 Kings Farm Meadow, Vicarage Lane, Tillingham (APP/X1545/D/15/3139783) and Burnham Museum, Coronation Road, Burnham-on-Crouch (APP/X1545/W/18/3208253) were dismissed as it was considered the use of uPVC windows would materially detract from the character and appearance of the buildings and the Conservation Areas. Additionally, whilst the applicant has submitted further comments in regard to the use of uPVC on an adjacent building, it was considered in the case of the Burnham Museum, the use of uPVC on neighbouring buildings did not justify the harm that would be caused.

5.2.13 Due to the above, it is considered the proposed development is contrary to policies D1, D3 and H4 of the LDP, Section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*, the guidance contained within the MDDG and the NPPF.

### **5.3 Impact on Residential Amenity**

5.3.1 The basis of policy D1 in 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 proposed development refers to replacement windows. Due to there being existing windows within the eastern and southern elevations it is considered the proposed windows would not impact upon the private amenity of the neighbouring occupiers to the east or south of the development site by way of overlooking or overshadowing.

## 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. The Council's adopted Vehicle Parking Standards SPD contains the parking standards which are expressed as minimum 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 proposed windows will not impact upon the existing car parking arrangements and therefore would be in accordance with the Maldon District Vehicle Parking Standards and policies D1 and T2 of the LDP.

## 5.5 Private Amenity Space and Landscaping

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG advises a suitable garden size for each type of dwellinghouse, namely 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms, 50m<sup>2</sup> for smaller dwellings and 25m<sup>2</sup> for flats.
- 5.5.2 The proposed replacement windows would not impact upon the level of private amenity space and therefore the development would be in accordance with policy D1 of the LDP.

## 6. ANY RELEVANT SITE HISTORY

The relevant planning history is outlined in the table below:

Application Number	Description	Decision
93/00473/FULA	Internal alterations and extension to no.23 to form eleven self- contained elderly persons flats with link to no.21. Amended plans revised elevations	Approved
93/00473/FULF	Internal alterations and extension to no.23 to form eleven self-contained elderly	Approved
93/00474/LBC	Internal alterations and extension to no.23 to form eleven self-contained elderly	Grant Listed Building Consent
93/00474/LBCDU	Internal alterations and extension to no.23 to form eleven self-contained elderly persons flats with link to no.21	Grant Listed Building Consent
94/00801/FUL	Internal alterations and rear addition	Approved
97/00166/FUL	New pitched roof to replace existing flat roof	Approved
99/00817/FUL	Proposed new lift and external	Approved



<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
	enclosure	
<b>16/01407/ADV</b>	Application for advertisement consent for new name plate	Refused
<b>19/00662/FUL</b>	Replacement of 14 windows which look out on Wellington Road, where it meets the site address, 21 London Road.	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>
Maldon Town Council	The Town Council recommends approval of this application, subject to the views of the Conservation Officer and with the recommendation that recycled UPVC frames are used.	Noted

### **7.2 Internal Consultees**

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Specialist – Heritage and Conservation	<p>The replacement of the existing painted-timber windows with plastic windows would erode the traditional character and appearance of this prominent building, to the detriment of this part of the conservation area.</p> <p>The proposed windows would appear discernibly different in appearance to the traditional painted-timber windows which currently characterise this building and the area. The stuck-on glazing bars, trickle vents, the greater depth of the window frames and above all the plastic surface-finish would appear discordant in this situation. The profile of the ‘horns’ is completely different to the horns found on the 19th-century windows.</p> <p>The 19th-century windows should be repaired and retained. If the existing secondary glazing is difficult to operate, then perhaps an improved system of secondary glazing is required.</p> <p>There is no objection in principle to the replacement of the late-20th century</p>	Comments noted

Name of Internal Consultee	Comment	Officer Response
	<p>windows with painted timber sash windows incorporating discreet double glazing. Because of the sensitive context, the detailing of the windows would need to be carefully designed. There are several local joiners capable of doing this. It is recognised that this approach will probably prove more expensive than factory-made plastic windows, but this does not seem adequate justification to harm the character of the building and the conservation area.</p> <p>This proposal will cause notable ‘harm’ to the ‘significance’ of the Maldon Conservation Area, eroding the traditional architectural character of one the best-preserved parts of the conservation area. This harm must be weighed against the public benefits of the proposal, which are insufficient to justify the harm in this instance.</p>	

### 7.3 Representations received from Interested Parties

#### 7.3.1 Representations commenting on the application.

Comment	Officer Response
<p>The applicant has submitted comments in relation to the consultation response from the Specialist in Heritage and Conservation:</p> <p>Much research has gone into selecting the framing system. The drawings show the comparison between the visible sections and profiles of the existing timber and the chosen replacement windows, there is no noticeable difference.</p> <p>The glazing bars have a double-glazed unit edge profile dividing the glazing into separate panes and an internal applied bar. Whilst this does not employ a traditional integral bar, the bars are profiled and sit flush with the surround framing just as an integral bar. Traditional timber frames also have exposed edge profiles at the glazing bars. It is very difficult to notice a difference, particularly from a distance.</p> <p>For these reasons and those stated in the application documents, we disagree with the Conservation Officer’s understanding of ‘harm’ accepting that the perception and definition is very subjective.</p> <p>NPPF paragraph 196: ‘Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.’ Therefore, the economic and functionality factors dismissed in</p>	<p>Comments noted, however additional information regarding previous appeal decisions have been submitted which support the view of the Specialist in Heritage and Conservation.</p>

the comments need to be taken into account. The windows on the Wellington Road elevation have been unsympathetically adapted in the past and need significant repair and replacement, timber sashes are subject to seasonal movement which we are keen to avoid.	
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**8. REASON FOR REFUSAL**

- 1 The proposed replacement windows, due to the use of unsympathetic materials (uPVC) and design would result in detrimental harm to the character and appearance of the building, the streetscene, the adjoining grade II listed building and the surrounding Conservation Area. The proposal would therefore be contrary to policies D1, D3 and H4 of the approved Maldon District Local Development Plan, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the guidance contained within the Maldon District Design Guide and within the NPPF.