



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
SOUTH EASTERN AREA PLANNING COMMITTEE
14 April 2021

Application Number	21/00088/FUL
Location	Burnham Yacht Harbour, Foundry Lane, Burnham-on-Crouch
Proposal	Temporary permission for a single mobile home for security staff accommodation for a period of 18 months.
Applicant	Mr Richard Lingard – Burnham Yacht Harbour
Agent	Mr John James – John James Associates
Target Decision Date	16 April 2021
Case Officer	Hannah Dungate
Parish	BURNHAM SOUTH
Reason for Referral to the Committee / Council	Member Call In by Cllr V J Bell citing Policies RI.3 and RI.4 of the Burnham Development Plan

1. RECOMMENDATION

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

2. SITE MAP

Please see below.

Burnham Yacht Harbour Foundry Lane Burnham-On-Crouch
21/00088/FUL



Copyright
For reference purposes only.
No further copies may be made.
This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright.
Unauthorized reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
Maldon District Council 100018588 2014


MALDON DISTRICT COUNCIL

www.maldon.gov.uk

Scale:	1:5,000
Organisation:	Maldon District Council
Department:	Department
Comments:	Not Set
Date:	26/03/2021
MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site lies outside of the defined settlement boundary of Burnham-on-Crouch and is located north of an established marina. At the harbour there is a boat workshop, admin offices, restaurant, chandlery and storage yard. The site is located on the north bank of the River Crouch in Flood Zone 1 and is located west of an existing Country Park. Access to the site is taken from Foundry Lane, within the settlement boundary of Burnham, and there are public footpaths located south and north of the yacht harbour buildings.
- 3.1.2 The application is retrospective in nature and it proposes to regularise the use of one mobile home for security staff accommodation for a period of 18 months. This application follows a previously refused application for the regularisation of two mobile homes located at the site to both be used as staff accommodation (application ref. 20/00918/FUL). As part of the current application, the application has advised that the second mobile home would not be included for consideration as part of the current application and would be removed from the site. However, it is understood that this mobile home has not yet been removed and remains in situ next to the mobile home subject of this planning application. Both mobile homes are located north of the existing marina offices, at the rear of an existing storage yard.
- 3.1.3 The planning statement that has been submitted with the application states that due to the ongoing Covid-19 pandemic, a mobile home is required for temporary habitable accommodation for a permanent member for staff to remain on site for security purposes. It is stated that due to the pandemic, the existing security arrangements at the yacht harbour has deteriorated as staff that used to work in the restaurant, and would provide security at the site, are no longer working.

3.2 Conclusion

- 3.2.1 Having taken all material planning considerations into account, an objection is raised to the principle of the proposed development by reason of its location outside the defined settlement boundary, which would result in material harm to the character of the area. The evidence supplied is also not considered adequate to sufficiently justify that there is an essential or functional need for a security person to live on site, and that there are not suitable dwellings available in the locality of the site to accommodate the worker, or that the scale and nature of the development is related to the needs of the business. Furthermore, the development would have an impact on the amenity of the future occupiers of the mobile home as a result of lack of amenity space within a working storage yard. In light of the above, it is considered that the development would be contrary to the policies of the development plan to an extent that cannot be outweighed by the arguments in favour of the proposal that have been set out by the applicant.

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
- 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
- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D5 Flood Risk and Coastal Change
- E5 Tourism
- N2 Natural Environment and Biodiversity.
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 The application seeks to regularise the siting of one mobile home to be used for security staff accommodation at the site on a temporary basis of 18 months. The site lies just outside the defined settlement boundary of Burnham-on-Crouch which is considered to be a Main Settlement, within the Maldon District Local Development Plan (MDLDP), which has a range of services and good public transport links. Although it is acknowledged that the Council cannot demonstrate a 5 Year Housing Land Supply (5YHLS) at present, and therefore settlement boundaries are given less weight, given the temporary nature of this application is not considered a material consideration in this case.

5.1.2 Policy S1 of the Local Development Plan (LDP) states that “When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF) and will apply, inter alia, the following key principles in policy and decision making:

- 2) Deliver a sustainable level of housing growth that will meet local needs and deliver a wide choice of high quality homes in the most sustainable locations;
- 3) Promote the effective use of land and prioritise development on previously developed land and planned growth at the Garden Suburbs and Strategic Allocations;
- 4) Support growth within the environmental limits of the District;
- 5) Emphasise the importance of high quality design in all developments;
- 6) Create sustainable communities by retaining and delivering local services and facilities;
- 12) Maintain the rural character of the District without compromising the identity of its individual settlements;
- 13) Minimise the need to travel and where travel is necessary, prioritise sustainable modes of transport and improve access for all in the community”

5.1.3 The requirement to focus strategic growth to the District’s main settlements is also reiterated in Policy S2. The reason for that is that these areas constitute the most suitable and accessible locations in the District. It is also noted that “Strategic growth in the rural villages will be related to the settlement hierarchy, reflect the size, function and physical capacity of the settlement and will not result in unsustainable spatial patterns to the detriment of the wider area.”

5.1.4 Policies S1 and S2, Policy S8 of the approved MDLDP seek to support sustainable developments within the defined settlement boundaries. This is to ensure that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. It is clearly stated that outside of the defined settlement boundaries, Garden Suburbs and Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon.

5.1.5 The abovementioned policies are in compliance with the NPPF which in order to promote sustainable development in rural areas, suggests that housing should be located where it will enhance or maintain the vitality of rural communities. It is also stated that local authorities should avoid new isolated residential developments in the countryside, unless special circumstances indicate otherwise, such as in case there is an essential need for a rural worker to live in the countryside. This is supported by policy S8 which seeks to support housing within settlement boundaries.

5.1.6 Although Policy H7 of the MDLDP has been mainly designed to assess proposals for agricultural and essential workers accommodation in the countryside, given that the proposal relates to a business outside of the defined settlement boundary and it seeks to regularise the use of one mobile home for residential purposes, it is considered that the thrust of the policy is largely relevant to the current proposal.

5.1.7 Policy H7 requires “Permanent or temporary accommodation in the countryside related to and located in the immediate vicinity of a rural enterprise, will only be permitted where:

- 1) Evidence has been submitted to the satisfaction of the Council that there is an existing agricultural, forestry, fishery or other commercial equine business-related functional need for a full-time worker in that location;
- 2) There are no suitable alternative dwellings available, or which could be made available in the area to serve the identified functional need;
- 3) It can be demonstrated that the enterprise is, or will be in the case of new businesses, a viable business with secure future prospects;
- 4) The size and nature of the proposed structure is commensurate with the needs of the enterprise concerned; and
- 5) The development is not intrusive to the countryside, is designed to minimise adverse impact upon the character and appearance of the area and is acceptable when considered against other planning requirements.”

5.1.8 The information submitted with the application suggests that the proposed development for the use of the mobile home for security staff accommodation is necessary due to the ongoing Covid-19 pandemic to provide additional security. It has been stated that habitable accommodation is necessary for a permanent member of staff to live on site to deal with issues and emergencies at any time of the day or night. The applicant has advised that the need for security staff accommodation has arisen due to the fact that existing members of staff at the Swallowtails restaurant, including cleaners are no longer working on site, due to the pandemic.

5.1.9 Although officers are satisfied that the site hosts an established harbour-related function, as per the following assessment, it is not considered that the evidence submitted has suitably demonstrated the essential need for a workers' dwelling in this location.

5.1.10 Whilst acknowledging that a security guard may sometimes be required on site, it has not been demonstrated that there is an essential need for a workers' dwelling on site on a permanent basis. The planning statement submitted with the application states that the existing security function at the site is undertaken by members of staff at the Swallowtail restaurant and Chandlery. These staff members work up to midnight and then cleaners arrive on site at 6am every morning. From the details provided, this would mean that there is no existing need for security staff to be present at the Harbour overnight, or indeed for 24 hours a day, as is proposed for the current application. As there does not appear to be a need for a security member to be on site overnight, there is no reason to suggest that a member of staff cannot carry out their duties on a shift basis and then return to their residential properties after this. Similar to the situation with other employees, there can be a designated space for staff to reside within the existing buildings on site, and then return to residential properties after that shift without the need for a member of staff to reside on site on a 24/7 basis.

5.1.11 As it is considered that other security measures could be put in place that would not require a person to live on site. In a recent appeal decision for the provision of a temporary security caravan at Carbuncle Farm, Maldon Road, Burnham-on-Crouch

(APP/X1545/W/20/3253807 refers), the Inspector noted that “I am not convinced that there is an essential need for a rural worker to live on the site given the availability of other options to the appellant to deter and prevent thefts from the site, such as installing gates and other security measures or storing valuable equipment elsewhere.” As it has not been evidenced that any other security measures have been taken at the site, it is not considered that there is basis to accept that the erection of a dwelling at this location is a proportionate means of addressing these concerns.

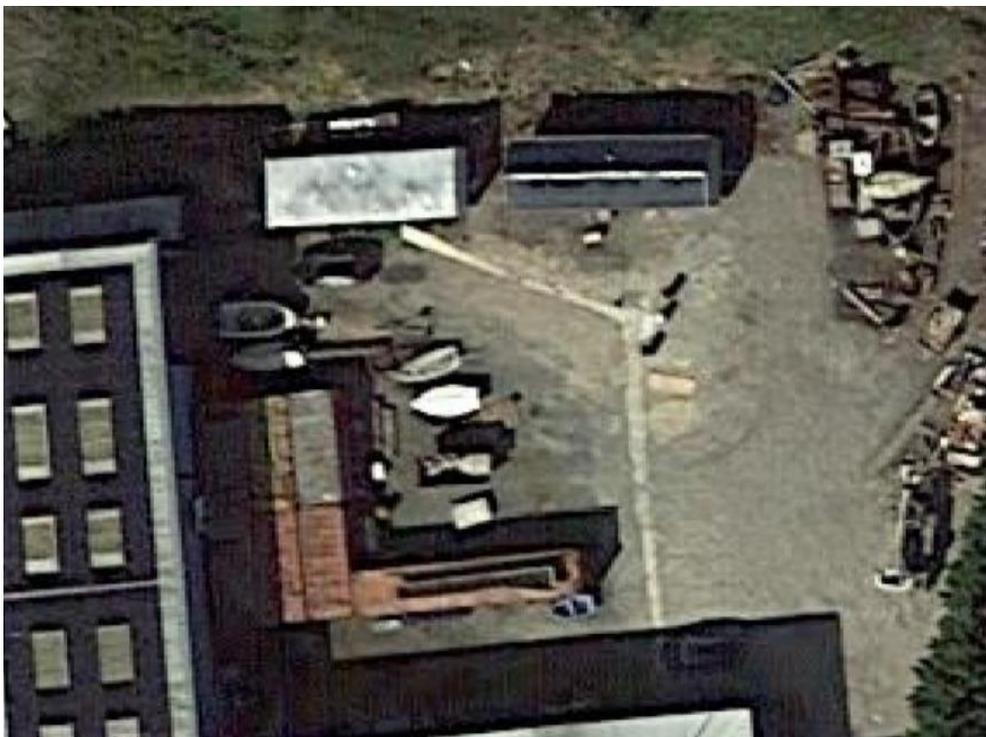
- 5.1.12 Although the proposal no longer includes the siting of the second mobile home for future accommodation of staff, this mobile home remains on site. Nevertheless, given that the application relates to the siting of one mobile home, instead of two, it must be considered on this basis. The application form states that the proposed increase of employees at the site would be one. As it is considered that the needs of the business do not justify the siting of a mobile home on site, and that this employee could make use of the existing facilities on site, whilst on shift, it cannot be the case that the siting of a mobile home at the site, which could reasonably accommodate more than one person, would be commensurate to the identified needs of the enterprise concerned. As such, the development would be contrary to criteria 1 and 4 of policy H7.
- 5.1.13 In relation to criterion 2 of policy H7, as part of both the current and previous application, no evidence has been submitted with the application demonstrating that there are no other available dwellings in the wider area which could be made available to the member of staff. For the reasons discussed above, the mobile home is not therefore considered necessary to be located in the immediate vicinity of the site. With regard to criterion 3, no objection is raised that Burnham Yacht Harbour is an established business.
- 5.1.14 For the reasons discussed in detail above, it is considered that the need of the mobile home to be used as staff accommodation on a year-round basis has not been justified and would not therefore accord with Policy H7 of the MDLDP. The preamble of policy H7 advises that “The application must demonstrate that new residential accommodation on that site is essential, rather than convenient, for the enterprise” and it is not considered that this has been demonstrated.
- 5.1.15 Within the Burnham Development Plan, Policies RI.3 and RI.4 relate to Retention of Primary River Related Employment Uses and Secondary River Related Employment Uses. Policy RI.3 states that ‘*buildings in primary or directly related river employment uses (and as shown in figure 8 and Appendix 1) will be safeguarded.*’ One of the buildings listed in figure 8 is the Burnham Yacht Harbour. Although the mobile home would be used for staff accommodation in association with Burnham Yacht Harbour, it is not considered, as per the above assessment, to have a functional or essential need for the business. Therefore, it is not considered a structure worthy of retention in this instance. It should be noted that this policy also goes on to state that ‘*Insofar as planning permission is required their conversion to residential use will not be supported.*’ Although the mobile homes do not comprise part of the primary existing buildings at the Yacht Harbour, and have been sited there

as unauthorised development, it is still considered that, in principle, a residential use in this location is not appropriate and will not be supported.

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. These principles have been incorporated in policy D1 of the LDP and the Maldon District Design Guide (MDDG) (2017).

5.2.2 As can be seen from the aerial photograph below, the area north of the Yacht Harbour buildings has been used for storage purposes and a number of metal storage containers located on site are considered immune from enforcement due to the passing of time. Despite this, the area is largely open, and the addition of a mobile home with associated residential paraphernalia within this space would intensify the use of this site. Although the application site accommodates existing storage containers, the addition of the residential caravan increases the amount of structures at the site which are inappropriate and harmful to the rural area. It is noted that, since the previously refused application, the applicants' intentions to remove the second mobile home from the site has not yet been achieved; there is an ongoing enforcement case in relation to this second mobile home and the subject mobile home (the latter has been suspended pending the outcome of this application) outside of this application process.



5.2.3 It is important to note that in a recent appeal decision for the provision of a temporary security caravan at Carbuncle Farm, Maldon Road, Burnham-on-Crouch (APP/X1545/W/20/3253807 refers), the Inspector noted that “the caravan is already

in position and sited against the side of a large agricultural building. Its position against a large, conventionally designed, agricultural building increases this prominence and emphasizes the discordant nature in this countryside location...its presence harms the character and appearance of the area.” The location of the mobile home as part of this application is similar due to the fact that it is sited next to and in front of existing workshop buildings at the harbour and can therefore be considered in a similar vein. Furthermore, whilst it is noted that there is a hedge located along the northern boundary of the site, this does not provide full screening of the site and therefore does not sufficiently mitigate against the harm identified. Therefore, the development is considered to be harmful to the character and appearance of the countryside contrary to the stipulations of policies S1, S8, H7 and 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 Due to the remote location of the mobile home away from any nearby properties, it would not cause harm to the amenities of any neighbouring residents.
- 5.3.3 Whilst the occupier of the mobile home would be subject to some noise disturbance from the neighbouring boat workshops during the day, given the nature of the proposal to be used in association with the harbour practices, it would not be reasonable to object to the proposal on these grounds.

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 proposal would utilise an existing access and, on balance, any increased activity due to the increased vehicle movement would be limited considering the overall scale of the harbour park.
- 5.4.3 According to the Vehicle Parking Standards Supplementary Planning Document (VPS SPD), one parking space is required per residential staff caravan. No plans have been submitted to show the provision of vehicle parking spaces at the site and it is therefore not known where the car parking spaces would be located. However, it is noted that there is sufficient hardstanding and a Yacht Harbour car park located east of the site which could accommodate the required number of spaces. Although the hard standing is located outside of the application site, it is on land that is within

the applicant's ownership. Therefore, taking a reasonable and pragmatic stance, it is considered that there would be sufficient parking within the wider site to provide parking for two vehicles.

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.
- 5.5.2 In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.
- 5.5.3 There is no amenity space provision to be used in association with the mobile home at the site. The applicant has argued that as the mobile home is to be located at the site on a temporary basis, and that there is suitable amenity space at the nearby Country Park such that private amenity space is not required for the occupier of the mobile home. Although it is acknowledged that the proposal would be on a temporary basis of 18 months, it is also proposed that a person would be living at the unit on a permanent basis, 24/7, for those 18 months. Given that the living conditions of this member of staff are paramount in considering the acceptability of the scheme, it is considered that the development, in its current form, does not make sufficient provision for private amenity space which is detrimental for the living conditions of the current and future occupiers of the unit, contrary to policy D1 and guidance contained within the MDDG 2017.

5.6 Flood Risk

- 5.6.1 The application site is located within Flood Zone 1 just outside of Flood Zone 3a, defined by Planning Practice Guidance (PPG) as having a high probability of flooding. Policy D5 of the LDP, in line with national policy, provides local flood risk considerations and seeks to direct development to the lower risk flood zones.
- 5.6.2 A Flood Risk Assessment (FRA) has been submitted with the application, which states that the caravans are located a minimum of 600mm above external levels. Although the development is considered to be highly vulnerable it is considered that it would operate with minimal risk from flooding and would not increase flood risk elsewhere.

5.7 Ecology regarding development within the zone of influence (Zoi) for the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS)

- 5.7.1 The application site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. Based on the plans submitted, Natural England (NE) have provided a consultation response advising that the proposed development will not have a significant impact on statutorily protected nature conservation sites or landscapes. As a result of this, it is

considered that mitigation, in the form of a financial contribution is not therefore necessary in this instance.

6. **ANY RELEVANT SITE HISTORY**

- **20/00918/FUL** – Temporary permission for two mobile homes for staff accommodation for a period of 18 months. Refused 19/01/2021 for the following reasons:
 1. The development has resulted in the provision of residential units outside of any settlement boundary and has a significant detrimental impact upon the character and appearance of the surrounding countryside due to its design, siting and layout. The evidence supplied is not considered adequate to sufficiently justify that there is a functional need for workers to live on site, that there are not suitable dwellings available in the locality of the site to accommodate the workers or that the scale and nature of the development is related to the needs of the business. It is considered that the harm identified is not outweighed by other material planning considerations. Insufficient information has been submitted to demonstrate the essential need for workers' accommodation in this location. Therefore, the development would be unacceptable and contrary to policies S1, S2, S8, E1 and H4, H7 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2019).
 2. The siting of the proposed mobile home within the middle of the working storage yard and adjacent to existing workshop buildings would mean that no usable private amenity space would be provided, which would not be acceptable for properties of this size and would be to the detriment of the living conditions of the future occupier. The proposed development is not therefore in accordance with policies D1 and H4 of the approved LDP.
 3. In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, and I1 of the Maldon District Local Development Plan and the NPPF.

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Burnham Town Council	Support this application	Noted

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Environment Agency	No response received	Noted
Natural England	No objection	Noted
County Highways	From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority.	Noted

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objections to the proposal but highlight the fact that the applicant will require a licence under the provisions of the Caravan Sites and Control of Development Act 1960 for the caravan if permission is granted.	Noted. Should permission be granted for the proposal an informative would be attached to this effect.

7.4 Representations received from Interested Parties

7.4.1 **Two** letters were received **in support** of the application and the reasons for support are summarised as set out in the table below:

Supporting Comment	Officer Response
Security arrangements, including 24-hour measures are welcomed.	Noted.
Proposal will enhance security at the Harbour during pandemic and as lockdown eases	Noted.

8. REASONS FOR REFUSAL

- The development has resulted in the provision of residential units outside of any settlement boundary and has a significant detrimental impact upon the character and appearance of the surrounding countryside due to its design, siting and layout. The evidence supplied is not considered adequate to sufficiently justify that there is a functional need for workers to live on site, that there are not suitable dwellings available in the locality of the site to accommodate the workers or that the scale and nature of the development is

related to the needs of the business. It is considered that the harm identified is not outweighed by other material planning considerations. Therefore, the development would be unacceptable and contrary to policies S1, S2, S8, E1 and H4, H7 of the Maldon District Local Development Plan (2017) and Government advice contained within the National Planning Policy Framework (2019).

- 2 The siting of the mobile home within the middle of the working storage yard and adjacent to existing workshop buildings would mean that no usable private amenity space would be provided, which would not be acceptable for properties of this size and would be to the detriment of the living conditions of the existing and future occupiers. The proposed development is not therefore in accordance with policies D1 and H4 of the approved LDP.

INFORMATIVES

- 1 The development is retrospective in nature and does not benefit from planning permission. The Council is therefore aware of the unauthorised development on site. You are reminded of the Local Planning Authority's power to consider taking enforcement action against the unauthorised development.