



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE  
10 AUGUST 2022**

<b>Application Number</b>	<b>22/00643/FUL</b>
<b>Location</b>	Claremont Garden Centre Bryants Lane Woodham Mortimer Essex CM9 6TF
<b>Proposal</b>	Construction of a building to be used as a cafe, office and staff room, greenhouse, new walkway, extended car park, improved internal vehicle access, new substation, relocated polytunnel, and associated landscaping.
<b>Applicant</b>	Claremont Garden Centre
<b>Agent</b>	Mrs Lisa Skinner - Phase 2 Planning
<b>Target Decision Date</b>	16 August 2022
<b>Case Officer</b>	Hannah Dungate
<b>Parish</b>	<b>WOODHAM MORTIMER</b>
<b>Reason for Referral to the Committee / Council</b>	Major application Member Call-in by Councillor M F L Durham for the following reason: <i>"Although this is additional development in a rural setting, this application accords with the policies supporting employment in the district"</i>

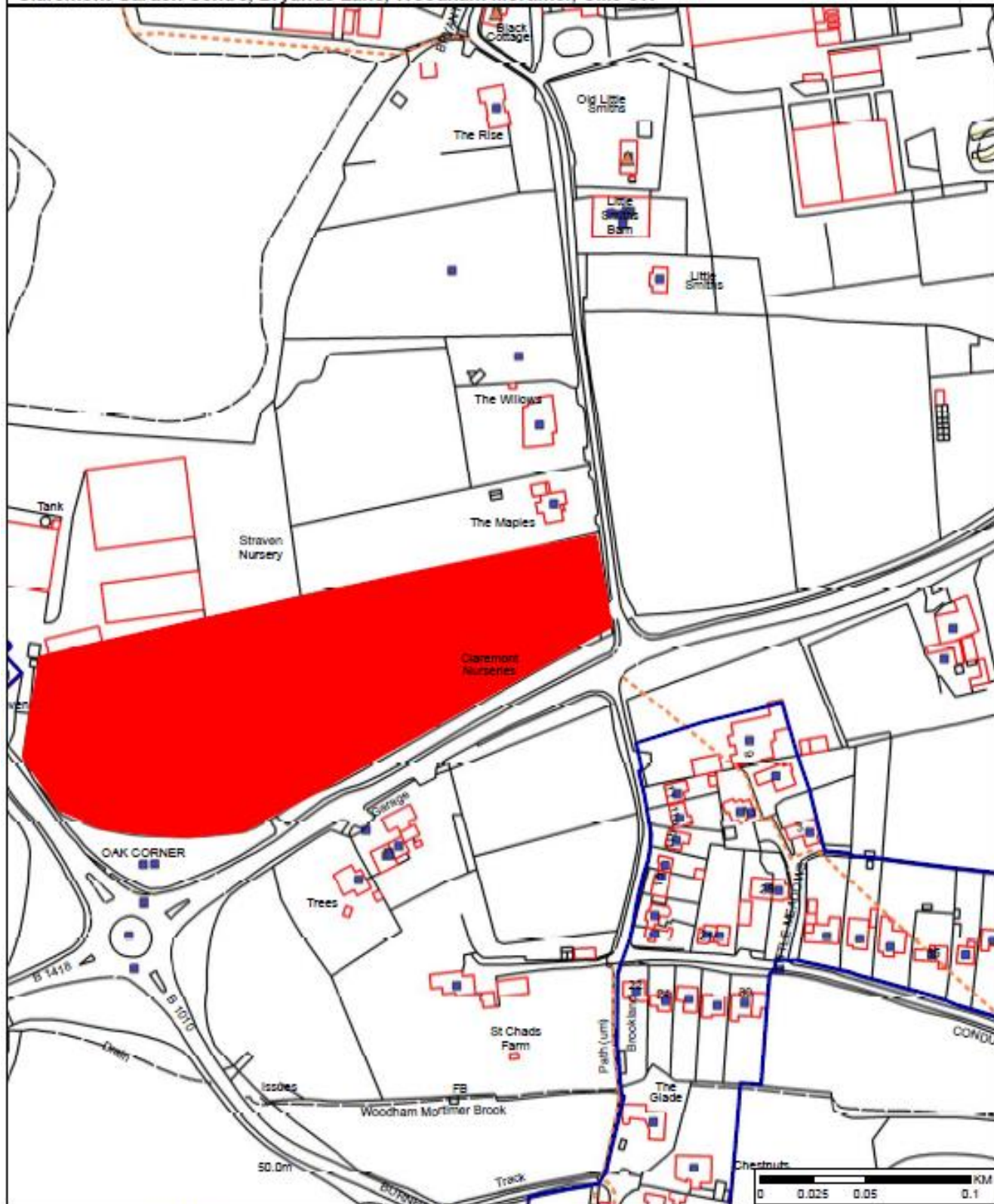
**1. RECOMMENDATION**

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

**2. SITE MAP**

Please see below.

**22/00643/FUL - The Maldon Garden Centre Ltd**  
 Claremont Garden Centre, Bryands Lane, Woodham Mortimer, CM9 6TF



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 Maldon District Council 100018588 2014



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Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: North Western Area

Date: 01/08/2022

MSA Number: 100018588

### **3. SUMMARY**

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

- 3.1.1 The application site is located on a corner plot adjacent to the north of Maldon Road (A414) and to the west of Bryants Lane. The area is locally known as 'Oak Corner'. The site is located within the countryside outside of the defined settlement of Woodham Mortimer.
- 3.1.2 The application site comprises a garden centre building, as well as external sale and storage areas. There is an unmarked area for the parking of cars to the south eastern part of the site and there is a polytunnel located on western half of the site as well as an informal area for the overflow parking of cars. The remainder of the site to the west is undeveloped overgrown grassland.
- 3.1.3 Access and egress to the site is principally taken from Bryants Lane to the east of the site via a gated entrance, although an unused secondary access also exists midway along the southern boundary to the west of an existing bus stop on Maldon Road.
- 3.1.4 There is a slight embankment from Maldon Road (A414) down into the site. The embankment is landscaped, laid to grass with trees and hedgerows. Beyond the trees and hedgerows is steel palisade fencing which encloses the site along the south western boundary.
- 3.1.5 Planning permission was granted in 2017 for the extension of the existing garden centre incorporating a new coffee shop, external storage area and formalisation of the parking at the site (Reference 17/00599/FUL). The extension consolidated the existing garden centre by infilling the space to the front of the building as well as providing an extension at the rear. The extension at the rear comprised the proposed café, toilets and storage area. This café measured 206sqm in area and contained a servery, kitchen and store area. The application expired on 13 November 2020; the Council has no evidence that the development was ever commenced. Notwithstanding this, the Applicant has stated that the new access to the site, approved as part of this application, was implemented. It therefore, would appear, that the Applicant considers that the permission is extant.
- 3.1.6 The current proposal seeks to construct a separate building to the garden centre which is proposed to be used as a café, office, and staff room. The building would be located in the western part of the site, in the position of the existing polytunnels, and would be located 82.7m away from the existing garden centre building. The polytunnels would be re-located further west, to the rear of the café building, as a result of the proposed development. To the front of the proposed café would be a courtyard garden. A covered pergola walkway is also proposed to connect the car park area and garden centre with the proposed building. The proposed building would have a total area of 505.6sqm.
- 3.1.7 The new building would be single storey and would have a pitched roof design. It would have a Z-shaped layout comprising an entrance lobby, bar area, large open plan seating and dining area, a kitchen area, a lounge area, a staff room, an office, and water closets. The main body of the building would measure 6.2m in height, 2.8m in eaves height, 5.8m in depth and 24.9m in width. To the north of the building would be a lean-to roof element which would measure 5m in height, 2.3m in eaves height, 18m in depth and 6.4m in width. This element would attach onto a pitched roof front projection at the building which would measure 4.2m in height, 2.3m in

eaves height, 7m in depth and 6.8m in width. To the rear of the building would be a pitched roof projection measuring 5m in height, 2.3m in eaves height, 9m in depth and 7.5m in width.

- 3.1.8 Also proposed is a new greenhouse structure located adjacent to the café building, a substation located at the entrance of the site and an extended car park. The car park would comprise 117 car parking spaces and 30 disabled parking spaces.
- 3.1.9 As part of the submission an overlay drawing has been submitted, to show the extent of extensions at the garden centre approved under planning application 17/00599/FUL. However, no floor plan or elevation drawings have been submitted as part of this application. Furthermore, there is no mention of these works in the applicant's description of development on the application form. Therefore, these extensions to the existing garden centre buildings are not considered to have been included as part of the proposal and therefore are not assessed as part of this application.

### **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 the building or that it would have an ancillary relationship with the existing garden centre business. Furthermore, insufficient parking provision would be available at the site. 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 or off-set by the benefits of supporting an existing agricultural enterprise. Therefore, it is considered that the development is contrary to policies S1, S8, E4 and D1 of the Maldon District Local Development Plan.

## **4. MAIN RELEVANT POLICIES**

Members' attention is drawn to the list of background papers attached to the agenda.

### **4.1 National Planning Policy Framework 2021 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
- 54-58 Planning Conditions and Obligations
- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 174-188 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
- E1 Employment
- E4 Agricultural and Rural Diversification
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

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

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

### **5. MAIN CONSIDERATIONS**

#### **5.1 Principle of Development**

- 5.1.1 The Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the National Planning Policy Framework (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 Local Development Plan (LDP).
- 5.1.2 Within the NPPF there is a presumption in favour of sustainable development (the 'presumption') which is central to the policy approach in the Framework, as it sets out the Government's changes to the planning system and emphasizes the need to plan positively for appropriate new development. The NPPF replaces Local Plan policies that do not comply with the requirements of the NPPF.
- 5.1.3 It is necessary to assess whether the proposed development is 'sustainable development' with regard to three dimensions defined in the NPPF, which are an economic, social and environmental role. If the site is considered sustainable then the NPPF's 'presumption in favour of sustainable development' applies.
- 5.1.4 Section 6 of the NPPF seeks to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. This support includes the sustainable growth and expansion of all types of businesses and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings; the support of sustainable rural tourism and leisure development which respect the character of the countryside and the development and diversification of agricultural and other land-based rural businesses.
- 5.1.5 The NPPF should be read in conjunction with policies E1, and E4 where they are relevant to economic development and growth in rural areas. Policy E1 of the LDP recognises that the District's economy comprises employment in high quality manufacturing, construction, business, and light and general industry, as well as non-traditional employment in sectors such as education, health, retail and tourism. The

Council will encourage employment generating developments and investment in the District and this will be achieved through the regeneration, modernisation and expansion of existing employment sites.

- 5.1.6 Policy E4 of the LDP goes on to say that the Council will support the development of new buildings or activities associated with agriculture and other land-based rural businesses subject to certain criteria which require that there is a justifiable and functional need for the building/activity and the function of the proposed building / activity is directly linked, and ancillary to, the existing use.
- 5.1.7 The proposal relates to the construction of a café / restaurant building which would serve breakfast, lunch and afternoon tea and would operate during the same opening hours as the existing garden centre. The proposal would introduce a food and drink (Use Class E(b)) use to the site.
- 5.1.8 Application 17/00599/FUL included the provision of a café. This café was attached to the rear of the existing garden centre building and was considered to be ancillary to the existing use of the site, in size and operation. The Applicant, within their supporting documents, has opined that this is a material consideration of significant weight in the determination of this current application.
- 5.1.9 The following section of Policy E4 is considered to be of relevance:
- '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.'*
- 5.1.10 Very limited information has been submitted with the application to demonstrate that there is a justifiable need for a café / restaurant in this rural area, other than stating that permission for a café has previously been approved on site and that the proposed development would be part of the garden centre use.
- 5.1.11 The supporting statement relies heavily on the fact that the café / restaurant is ancillary to the wider use of the garden centre. However, it is stated as part of the supporting documents for the application that the proposed café building would have the same opening hours as the existing garden centre. A letter of representation from the owner of the garden centre has also requested that the closing hours be restricted to 5.30pm to ensure the same trading hours for both uses. However, during the life of the application, the agent for the application has written to advise that *"The nursery opening hours are unrestricted at present and the hours of use are generally 8am to 8pm"* and the suggested opening hours by Environmental Health are *"not considered to be reasonable in the light of the current operating hours for the nursery"*.
- 5.1.12 Due to the operating hours suggested by the agent, it would appear that the café would function as a separate restaurant rather than an ancillary use to the existing garden centre. In this respect, it is highly unlikely that a not insignificant number of those visiting the site would be doing so in order to visit the garden centre and thus the café / restaurant would appear to function as a separate restaurant rather than an ancillary use to the garden centre. The proposed operating hours, therefore, taken together with the size and scale of the building would further substantiate the view

that the proposed café building would become the main use at the site (or at the very least an equally attracting use) with the garden centre potentially becoming the ancillary element of the site as opposed to the primary use as required by policy E4.

- 5.1.13 The proposed development has a noticeable degree of separation and detachment from the existing building being used as the garden centre. In addition to its size, scale, number of covers, and hours proposed, the proposed café can be accessed independently of the garden centre (the planning statement refers to a gate to provide a walkway between the external sales area and the cafe). As such, visitors could access the café without visiting the garden centre at all. Furthermore, it is also noted that the proposed café would be run as a separate business to the garden centre, which is noted within the Design and Access Statement submitted with the application. This is in contrast to the previously approved scheme where the café was an integral part of the garden centre building and could only be accessed through it. As such, it is considered that the proposed development would function as an independent commercial entity and would not have functional or ancillary link to the existing garden centre,
- 5.1.14 As part of the application the Applicant has attempted to justify the size of the building by stating that the proposed seating numbers would be less in the proposed café building, at 88 seats, as opposed to the 96 seating spaces in the previously approved café. However, it is noted that there is no limitation to the number of seats that could be provided within the previous application, only a limitation of the total area to which seating could be provided, and as such there is no way to control or enforce the number of seats available within the proposed café. Although 139.75sqm has been shown in yellow for the proposed café seating, there is the opportunity for the whole area of 217.9sqm, comprising the lounge and the dining area, to be used for seating. Within the previously approved café, an area measuring 169.5sqm was available for seating in comparison to the area of 294.1sqm as part of the current application. Notwithstanding the fact the building will not be part of the garden centre and would appear remote and separate it is not considered appropriate or reasonable to rely on the number of seats within the café granted as part of the 2017 application as a fallback position for the current scale of the proposed café/restaurant.
- 5.1.15 This is further exacerbated by the proposed staff numbers for the proposed development. It is noted that at present there are 15 full-time members of staff on the site. As a result of the proposal this would be increased by an additional 15 full-time staff members and 25 part-time, equating to 23 members of staff at the proposed café / restaurant. Given the number of staff proposed, as well as the scale of the building, in comparison to the previously approved café, the new building would give the impression of being the primary use at the site, instead of the existing garden centre.
- 5.1.16 It has also been argued that the existing café approved as part of the previous application would be re-instated to retail use so that there would not be two food premises on site. However, the 2017 application is required to be undertaken in accordance with the approved plans and therefore, this would be a breach of planning control if the space allocated to a café was used for any other use. Furthermore, as the Applicant for the current application is different to the Applicant and person in charge of the garden centre, this cannot be considered to be a reasonable assumption. Therefore, taking in to account the planning history of the site if the application, as submitted, was approved there is the real possibility that the site could end up with two separate café / restaurants functioning on site.

- 5.1.17 Therefore, taking in to account the above concerns regarding the provision of a single independent café / restaurant on site, and that it has not been demonstrated that there is a justified need for a separate building at the site, this potential conflict between the previous permission and any approval of this application would further compound the harm highlighted above.
- 5.1.18 Restaurants are considered under the NPPF as a main town centre use and without an ancillary link to the garden centre the café / restaurant is considered as an independent facility. Policy E4 also requires it to be demonstrated that the building / activity could not be located in existing towns, villages, or allocated employment areas. Very limited information has been submitted with the application to demonstrate that there is a justifiable need for a café / restaurant in this rural area, other than stating that it is a usual occurrence for there to be this type of facility at garden centres. However, this is not considered to be sufficient in demonstrating a functional need for the business particularly when taking in to account the reasons highlighted above.
- 5.1.19 Having regard to the above, the restaurant / café proposed as part of this application, due to the reasons highlighted above, is not considered ancillary to the wider garden centre use and would therefore, result in a new and separate use being located on site. Furthermore, it has not been demonstrated that there is a justified need for the development or that it could not be located in existing towns, villages, or employment areas.

## **5.2 Impact on Character and Appearance of the Area**

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development.
- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:

*“The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.*

*“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.*

- 5.2.3 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 Maldon District Design Guide (2017).
- 5.2.5 Although the proposed café / restaurant building would be single storey in height and would therefore be relatively low level, it would be located in an area within the countryside which is largely undeveloped. Its separation from the main garden centre buildings, and its associated paraphernalia would mean the further encroachment of built form within the countryside which has not been adequately justified. The spread of the development would be exacerbated by the large parking area which would spread across almost three quarters of the frontage of the site which would completely dominate the site and result in unacceptable urbanisation of the site. Although the current nursery buildings are not particularly high quality or of architectural merit, they represent structures that would usually be found within countryside locations.
- 5.2.6 Given that the building, and associated parking area, would be urban in appearance and would be sited in an area which is currently open and free from built form, it would have an urbanizing impact on the countryside due to the urban sprawl of development across the site and increase in built form, into an open area of grassland. Although the building would be relatively low level in scale, due to its single storey form, it would have a large width and depth.
- 5.2.7 Although it is acknowledged that the site is at a lower level to the main road, and the building would be set back within the site, which would mitigate some of the harm from the building's urbanizing elements, the building would still be visible in views across the site from Maldon Road. The landscaping along Maldon Road, as well as the proposed wildflower garden, would not be sufficient to screen the development from the road, in part as it cannot be relied upon as a permanent means of screening, and in any case would not provide a sufficient justification to mitigate harmful development. The visibility of the proposed building from the main thoroughfare between Maldon and Danbury, particularly on approach from the east, would worsen its intrusive visual impact on the surrounding rural area.
- 5.2.8 The application fails to justify the substantial increase in built form, and as such, the development is considered to have a detrimental impact on the appearance and intrinsic character of the countryside. Due to the proposed siting and large scale of the building, on an area of open grassland, as well as the increase in urban car parking within a countryside location, it would have a detrimental impact on the character and appearance of the site and surrounding area, which has not been off-set or justified by the benefits of supporting existing agricultural practices at the site. Therefore, the proposal is contrary to Policy D1 of Local Development Plan.

### **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 Maldon District Design Guide (2017)

- 5.3.2 The application site is bordered by a residential dwelling, The Maples, to the north, as well as a residential property, Straven, to the west. These neighbours would sit between approximately 90 and 130 metres from the proposed development and due to this significant degree of separation, it is not considered to represent an unneighbourly form of development in relation to overshadowing or domination.
- 5.3.3 Whilst the occupier of the nearby properties could be subject to some noise disturbance from the proposed development it must be noted that there would already be noise generated from the ongoing operations at the garden centre during the day. This must also be balanced against the, apparent, likelihood that the café / restaurant would be open later than the garden centre currently is and that this would extend in to the evenings when residents have a reasonable expectation and right to enjoy their properties. It is also acknowledged that if the application were to be approved, conditions including restrictions to hours of use, as well as external illumination would be imposed so as not to increase the level of noise disturbance and light pollution to these properties.

#### **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 Council's adopted vehicle parking standards state that outside of town centres A3 uses, which are now referred to as E(b) uses under the updated Use Class Order, should provide one parking space per 5m<sup>2</sup> of gross floor area. Likewise, it is stated that retail uses, which would represent the existing garden centre would need to provide one space per 20m<sup>2</sup> of gross floor space. Based on the submitted block plan it would appear that there would be 2,410m<sup>2</sup> of gross floor space in relation to the retail use and approximately 506m<sup>2</sup> of E(b)use. There would, therefore, be a requirement for 222 car parking spaces.
- 5.4.4 It would appear from the block plan proposed that the reconfiguration of the site would result in approximately 117 car parking spaces and 30 disabled car parking

spaces to be provided for both staff and visitors. There would therefore be a substantial shortfall of 75 car parking spaces in parking provision as shown on the provided block plan. Although there is a bus stop located outside of the site, it is unreasonable to expect that visitors of the garden centre, who might purchase large heavy items from the site, would use public transport to visit the site. Furthermore, the proposed café / restaurant is considered to be a separate use from the existing garden centre and is therefore likely to result in more vehicle movements to and from the site, by additional visitors, than if it were ancillary to the existing garden centre.

- 5.4.5 It is noted that the application benefits from a transport statement, which states that the number of vehicle movements from the site would be minor. However, the statement has only assessed the impact of the proposed additional retail space at the garden centre (as a result of the loss of the previously proposed café) instead of the impact of the proposed building. Therefore, it is not considered that this transport statement is reliable in justifying the low level of car parking provision at the site which could result in inadequate off-street parking provision. This could lead to indiscriminate parking, which can not only affect the amenity and convenience of existing residents but may also prejudice the safety of users of the highway or the passage of utility and emergency vehicles along this busy thoroughfare and junction between two existing settlements.
- 5.4.6 The proposal would utilise the access proposed as part of the previous permission 17/00599/FUL. Despite the discrepancies with the Transport Statement, as identified above, the Highways Authority has been consulted and raised no objection to the proposal in terms of the proposed access or the impact on the local highway network capacity in terms of the moderate increase in peak hour trips compared to its existing use. Although concerns have been raised by residents about the use of an alternative access onto Maldon Road instead of Bryants Lane, this does not form part of the proposal and is not supported by the Highways Authority; it would not therefore be reasonable to require this by condition.

## **5.5 Ecology**

- 5.5.1 Paragraph 170 of the NPPF states that '*Planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity*'.
- 5.5.2 Strategic LDP policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.
- 5.5.3 Policy N2 of the LDP which states that '*All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance*'.
- 5.5.4 A Preliminary Ecological Appraisal (PEA) has been submitted which has identified enhancements to the site. The Council's Ecological Advisor has been consulted and advised that no objection is raised to the proposal and the methodology, conclusion and recommendations within the PEA are acceptable. Subject to appropriate conditions it is therefore considered that appropriate mitigation measures that could be put in place to mitigate the likely harm the proposal would cause. The proposal is therefore considered to comply with Policy N2.

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

- **17/00599/FUL** –Extension to garden centre incorporating new coffee shop, external storage area and rationalization of parking and outbuildings. Approved 13.11.2017.
- **03/01253/FUL** – Extension of retail area of garden centre. Approved 03/02/2004.
- **01/00786/FUL** – Proposed open sided forward extension of the existing glasshouse/retail shop. Approved 22.10.2001.
- **99/00016/FUL** – Proposed erection of 4 poly tunnels. Approved 12.04.1999.
- **98/00887/FUL** – Variation of condition 5 of ref: FUL/MAL/94/0691 to allow the sale of horticultural items produced on the site and imported goods ancillary to the operation of a retail garden centre. Approved 04.01.1999.
- **94/00691/FUL** – Use of land for garden centre incorporating an aquatics centre. Approved 15.11.1994.

## 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>
Woodham Mortimer and Hazeleigh Parish Council	<p>Recommend refusal of planning permission for the following reasons:</p> <ul style="list-style-type: none"><li>• Expansion of site would result in further traffic problems at existing access on Bryants Lane.</li><li>• Drainage provision and sewage treatment should be considered.</li><li>• No opening times could mean the establishment is open late leading to light and noise pollution to neighbouring residential properties.</li><li>• Impact of café on established hospitality businesses in area.</li></ul>	Noted

### 7.2 **Statutory Consultees and Other Organisations** (*summarised*)

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
County Highways	<p>The proposal will utilise the existing access which was extended under planning permission ref 17/00599/FUL.</p> <p>The combined impact of the permitted development under planning application ref: 17/00599/FUL and the proposed development is likely to generate a modest increase in peak hour trips</p>	Noted

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
	<p>compared to its existing use and permitted use. However, the impact on the local highway network capacity is expected to be limited and in no way severe, which is the requirement to recommend refusal on highways grounds under NPPF guidance.</p> <p>The proposal as submitted is therefore not considered detrimental to highway safety, capacity or efficiency, consequently:</p> <p>From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority, subject to relevant conditions.</p>	

### 7.3 Internal Consultees (*summarised*)

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	<p>Having reviewed the submission, it would appear hours of use for the proposal are considered irrelevant as detailed within the application form submitted. This matter was raised by Environmental Health on a previous application of similar nature. To protect the amenity of the close by residential properties, I would recommend that hours of use are appropriately conditioned should the application be successful.</p> <p>No objections subject to conditions relating to hours of use, scheme of ventilation, drainage, external illumination, and refuse storage.</p>	Noted
Ecology – Countryside and Coast	No objection subject to conditions.	Noted
Strategy Team	Supportive of the proposal and the investment into a successful and established local businesses that provide a significant amount of employment in the area. Whilst not an allocated site under Policy E1, the Garden Centre land use is established, and the proposed development is enhancing and utilising land within the existing footprint with the probability of increased employment.	Noted

#### 7.4 Representations received from Interested Parties (*summarised*)

- 7.4.1 **One** letter was received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Transport Statement has deficiencies as it does not account for lorry traffic which will be increased by proposal.	Noted
Existing access not sufficient for articulated lorries. Use alternative entrance on Maldon Road instead.	Noted
Concerns about traffic use of rural lane.	Noted

- 7.4.2 **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
The introduction of a cafe, and expansion of garden centre which supports the local community will improve the facilities available to the local residents of Woodham Mortimer.	Noted.
Increased usage of turning will not have significant adverse impact given that it is located off the main road and there is space for waiting vehicles.	Noted
Design should protect rural feel of Woodham Mortimer and trees and bushes should remain adjacent to Oak roundabout.	Noted

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

Comment	Officer Response
Current garden centre leaves lights on all night, and café expansion will result in an increase in light pollution.	Noted
No opening hours are listed for the stand along café building. There are therefore concerns that the building may operate as a restaurant outside of the opening hours of the garden centre.	Noted
Existing access not wide enough for the passing of two cars.	Noted
Current users of site do not give way to vehicles along Bryants Lane.	Noted
Delivery lorries block Bryans Lane and park along A414 which causes visibility issues and safety concerns for pedestrians and highway users.	Noted
Objection to location of substation due to health concerns.	Noted

## **8. REASONS FOR REFUSAL**

- 1      The development is for a café / restaurant, which is classed as a 'town centre use' outside of an existing town, village or located employment area, which due to its, size and separation from the existing garden centre, together with its operating hours, is not considered ancillary to the wider garden centre use operating at the site. Furthermore, it has not been demonstrated to the satisfaction of the Local Planning Authority that there is a justifiable and functional need for the activity within this rural location and that that it could not have been reasonably located in existing towns, villages or allocated employment areas. Therefore, the development would be contrary to core planning principles and guidance contained in the National Planning Policy Framework, the National Planning Practice Guidance and Policy E4 of the Maldon District Local Development Plan.
- 2      The development, by virtue of its urban design and appearance, and location within the open countryside, would cause substantial harm to the rural character of the site and the surrounding area. The need for the development, particularly in this location, has not been adequately justified as to outweigh the harm on the character and appearance of the area. The development would therefore be unacceptable and contrary to policies S1, S8 and D1 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.
- 3      The proposed development would fail to provide an adequate level of on-site car parking provision. The submitted transport statement is not considered to justify such a significant shortfall in onsite car parking provision. It, therefore, has not been appropriately evidence that the development, would not result in additional on-street parking to the detriment of the free flow of traffic and highway safety, contrary to the adopted Vehicle Parking Standards, policies D1 and T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.