



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**CENTRAL AREA PLANNING COMMITTEE
5 JULY 2023**

Application Number	23/00490/FUL
Location	The Kings Head Centre, 38 High Street, Maldon, Essex
Proposal	Proposed change of use from (Class E(e)) Osteopath treatment rooms to (Sui Generis) short term holiday let accommodation
Applicant	Mr James Mann
Agent	Tim Farley – Copesticks Ltd.
Target Decision Date	07.07.2023
Case Officer	Kathryn Mathews
Parish	MALDON NORTH
Reason for Referral to the Committee / Council	Member call-in request by Councillor N R Miller for the following reasons: S1, D3, E5, E3,T2 and D1 of the LDP.

1. RECOMMENDATION


REFUSE for the reasons as detailed in Section 8.

2. SITE MAP

Please see below.

The Kings Head Centre, 38 High Street, Maldon
23.00490/COU



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Central Area Committee
	Date:	12/06/2023
	MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The Kings Head Centre forms a collection of buildings extending between the High Street and White Horse Lane to the south. A pedestrian walkway with some commercial units fronting extends between the two streets. The application relates to part of the first-floor accommodation which “fronts” White Horse Lane and comprises part of a modern element which is three storeys in height. There is a public car park on the opposite side of White Horse Lane and commercial units either side. To the west is a rear access to a small car park for a bank. The site is within the Maldon Conservation Area and the Kings Head Centre is a grade II listed building.
- 3.1.2 The current, lawful use of the first floor has treatment rooms and offices with a pedestrian entrance within the central courtyard, with a second entrance, again off the courtyard, to the first and second floors.
- 3.1.3 Planning permission is sought for the change of use of a suite of treatment rooms to a one bedroom short term holiday let in part of the first-floor level fronting White Horse Lane. It was stated as part of a previous proposal to convert the same rooms to a one bedroom residential flat, that the treatment rooms were used as a clinic by registered osteopaths.
- 3.1.4 The application relates to around 63sq.m of floorspace. The proposal requires very little change to the existing layout, only the blocking up of an existing corridor doorway and introduction of new entrance door. The rear treatment room would become a lounge, the reception area a dining area and kitchen, with the front treatment room becoming the bedroom with en-suite. The existing windows of the proposed en-suite are part etched glass – these windows would become fully etched to make them obscure.
- 3.1.5 The application is accompanied by a Noise Survey and Assessment (April 2023) which concludes that satisfactory noise levels within the holiday unit could be provided subject to sound proofing works including secondary glazing, air condenser units (for heating and cooling to avoid the need for occupiers to open external windows) and two internal air conditioning units.
- 3.1.6 It is noted that, in dismissing the previous appeal (application reference 21/01268/FUL) for a change of use of the unit as a one bedroom residential flat, the Inspector commented as follows:

I noted that the first floor space has been converted into a one-bedroom flat and is already occupied. There are some differences between the proposed plan (drawing 49B) and what exists on site. For example, the hall is not L-shaped as shown on the plans but has a cupboard door next to the door to the dining area, while the lounge and dining area are more open plan than separate rooms.

Therefore, they dealt with the appeal as a proposed (rather than existing) development. It is understood that the premises are still in use as a one-bedroom flat and that this matter is the subject of a current enforcement investigation.

3.2 Conclusion

- 3.2.1 It is considered that the proposal is not acceptable in principle and the amended proposal along with the additional information submitted as part of the current

application has not fully overcome the reasons why the previous appeal was dismissed.

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
- 55-58 Planning conditions and obligations
- 60-80 Delivering a sufficient supply of homes
- 81-85 Building a strong, competitive economy
- 104-109 Promoting sustainable transport
- 119-123 Making effective use of land
- 124-125 Achieving appropriate densities
- 126-135 Achieving well-designed places
- 174-188 Conserving and enhancing the natural environment
- 189-208 Conserving and enhancing the historic environment

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

- Policy S1 – Sustainable Development
- Policy S5 – Maldon and Heybridge Central Area
- Policy S8 – Settlement Boundaries and the Countryside
- Policy H2 – Housing Mix
- Policy H4 – Effective Use of Land
- Policy D1 – Design Quality and Built Environment
- Policy D2 – Climate Change & Environmental Impact of New Development
- Policy D3 – Conservation and Heritage Assets
- Policy E1 – Employment
- Policy E3 – Community Services and Facilities
- Policy E5 – Tourism
- Policy N1 – Green Infrastructure Network
- Policy N2 – Natural Environment, Geodiversity and Biodiversity
- Policy T1 – Sustainable Transport
- Policy T2 – Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Car Parking Standards
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon and Heybridge Central Area Masterplan SPD

5. MAIN CONSIDERATIONS

- 5.1 The main issues which require consideration as part of the determination of this application are the principle of the development, the impact of the development on the character and appearance of the area, the impact on heritage assets, any impact on the amenity of the occupiers of existing residential properties, the quality of life for occupiers of the proposed holiday home, parking and nature conservation.

5.2 Principle of Development

- 5.2.1 Policy S1 refers to the NPPF's presumption in favour of sustainable development and makes specific reference to the local economy, housing growth, effective use of land, prioritising development on previously developed land, design, the environment, sustainable communities, the effects of climate change, avoiding unjustified development in flood risk areas, the historic environment, local infrastructure and services, the character and appearance of development, and minimising the need to travel.
- 5.2.2 Policy S5 states that proposals for retail, office, housing, community, leisure uses and other town centre uses will be supported where they contribute to the regeneration and diversification of Maldon Town Centre.
- 5.2.3 Policy E2, in relation to Town Centre Areas, states that proposals for the development of retail, office, tourism, cultural, community, residential and other main town centre uses, as defined by national planning policy, will be permitted within defined Town Centre Areas where: 1) The scale and type of development proposed is directly related to the role and function of the centre and its catchment; and 2) There would be no significantly adverse impact on the vitality and viability of the centre or other centres.
- 5.2.4 Policy E3 states that the Council will seek to retain and enhance the provision of community services and facilities within the District, particularly where they are essential to the local community. The Policy goes on to require that, where a proposal will result in the loss of community services or facilities, an application will be required to demonstrate to the Council's satisfaction that:
- The existing business/service is not and cannot be made viable; and
 - Effective marketing has been undertaken to demonstrate that there is no viable and appropriate alternative community service based use.
- 5.2.5 Policy E5 states that the Council will support developments which contribute positively to the growth of local tourism in a sustainable manner and realise opportunities that arise from the District's landscape, heritage and built environment. Development for new tourist attractions, facilities and accommodation will be supported across the District where it can be demonstrated that:
- 1) There is an identified need for the provision proposed;
 - 2) Where possible, there are good connections with other tourist destinations, the green infrastructure network and local services, preferably by walking, cycling or other sustainable modes of transport;
 - 3) There will not be any significant detrimental impact on the character, appearance of the area and the quality of life of local people; and
 - 4) Any adverse impact on the natural and historic environment should be avoided wherever possible. Where an adverse impact is unavoidable, the proposal should clearly indicate how the adverse impacts will be effectively mitigated to the satisfaction of the Council and relevant statutory agencies. Where a development

is deemed relevant to internationally designated sites, the Council will need to be satisfied that a project level HRA has been undertaken and that no potential significant adverse impact has been identified.

- 5.2.6 The proposal is for a short-term holiday let in a town centre, therefore, Policies S5, E2 and E5 are relevant to the assessment of the proposal. It is considered that the use proposed in the town centre, given its nature and scale, would not conflict with Policies S5 and E2.
- 5.2.7 Furthermore, the site is within the settlement of Maldon which is classified as a 'main settlement' within the District, as detailed within policy S8 of the Local Development Plan (LDP). The main settlements are those with a range of services and opportunities for employment, retail and education. They serve a wide catchment area and contain good public transport links. The occupiers of the site would have access to a good range of services and facilities by means other than the private car. The site is located within the town centre and walking distance of the Leisure Quarter of the Maldon Central Area (which includes Promenade Park) and there are bus stops within the vicinity of the site. This good level of accessibility weighs in favour of the proposal.
- 5.2.8 With respect to the criteria within Policy E5, it is not considered that the proposal conflicts with criterion 2) or 3) i.e there are good connections with other tourist destinations, the green infrastructure network and local services, by walking, cycling or other sustainable modes of transport and there will not be any significant detrimental impact on the character, appearance of the area and the quality of life of local people. However, as part of the application, no supporting information has been provided to demonstrate that there is an identified need for the provision proposed (criterion 1). The Council has commissioned a Visitor Accommodation Study, the initial results of which support the provision of additional holiday accommodation within the District but mainly for hotel and self-catering accommodation in the rural area unlike the development the subject of the current application.
- 5.2.9 With respect to criterion 4, the adverse impact on nature conservation could be effectively mitigated provided that a financial contribution towards the Recreational disturbance Avoidance and Mitigation Strategy (RAMS) is secured. Whilst no Unilateral Undertaking (UU) has been submitted as part of the application, any resolution to grant planning permission could be subject to all interested parties first entering into a Section 106 Agreement to secure the payment (see below).
- 5.2.10 The Kings Head Centre is a mixed-use development of commercial and residential uses. Whilst there is no objection to the provision of additional holiday lets in Maldon town centre, the proposal would result in the loss of the existing osteopath treatment rooms, albeit a limited amount of floorspace.
- 5.2.11 The most recent lawful use of the premises is a medical use, which is a type of community facility, and therefore the requirements of Policy E3 apply. The application is not supported by any information which would demonstrate that the lawful use of the site as a medical service is not and cannot be made viable. In fact, the former osteopath business has relocated nearby, which indicates that it was not an unviable business or service. As part of the application, within a letter from Key Mann Residential and Commercial Lettings Ltd. (May 2023), it is stated that the property has been marketed since November 2020 and reference is made to the premises being advertised within their office on an 'all enquiries' basis (i.e for unspecified uses, subject to planning) for rent as well as on their website and on onthemarket.com, Facebook and Instagram. They suggest that this extent of marketing was appropriate for this 'small, constrained unit' that would only be of local interest. It is stated that the

advertisements generated very little interest and no firm offers. It is also suggested that, due to the pandemic, demand for offices has diminished. However, based on the information provided, it is considered that it has not been demonstrated that the existing, lawful use of the premises is not or could not be made viable. Specifically, the summary of the results of the marketing provided only relate to two unspecified 7-day periods (one in 2021 and one in 2023) and, based on the advertisement currently on their website, only around 25sq.m. of the 63sq.m. of floorspace the subject of the current application, has been advertised for rent. There is also no evidence that the rent sought (£5340pa) is reasonable. As a result, it is not considered that the requirements of criterion 1 of Policy E3 have been satisfied.

5.2.12 Policy E1 of the LDP states that proposals which will cause any loss of existing employment uses will only be considered under certain circumstances, as follows:

- The present use and activity on site significantly harms the character and amenity of the adjacent area; or
- The site would have a greater benefit to the local community if an alternative use were permitted; or
- The site has been marketed effectively at a rate which is comparable to local market value for its existing use, or as redevelopment opportunity for other Class B Uses or Sui Generis Uses of an employment nature, and it can be demonstrated that the continuous use of the site for employment purposes is no longer viable, taking into account the site's existing and potential long-term market demand for an employment use.

5.2.13 However, on the basis that the use proposed would be a commercial one, whilst no information has been provided regarding the employment the use could generate, it is reasonable to assume that the use of the premises as a holiday let would generate a level of employment. It is, therefore, considered that the current proposal, unlike that the subject of the previous appeal, is not contrary to Policy E1.

5.2.14 Based on the above, the principle of change of use proposed would not be acceptable in principle as it would conflict with Policies E3 and E5 of the LDP as the development would have an unacceptable effect on the provision of community facilities and it has not been demonstrated that there is an identified need for the tourist provision proposed.

5.2.15 It is considered that this conclusion is consistent with the conclusions of the Inspector who dismissed the previous appeal (application reference 21/01268/FUL) for a change of use of the unit to a one bedroom residential flat particularly as the marketing information submitted in support of the current application is not materially different. Whilst it has been concluded that the proposal the subject of the current application does not contravene Policy E1, the following conclusions of the Inspector in relation to Policy E3 are relevant to the assessment of the current application:

Employment uses and community facilities

9. The Kings Head Centre comprises a group of buildings between the High Street and White Horse Lane in Maldon Town Centre. On the ground floor, there is a café and a series of smaller shop units. At first and second floor, there is a mixture of offices, treatment rooms and apartments.

10. The Appeal ... site is located within a modern detached building next to White Horse Lane. The existing first floor layout plan (drawing 49B) shows a reception and office/treatment rooms within the eastern side of the building. However, the osteopath business that occupied this space has moved to new premises on the

opposite side of the High Street. The current room layout does not reflect what is shown on the proposed first floor layout plan (drawing 49B).....

12. Policy E1 of the Maldon District Local Development Plan 2017 (LDP) seeks to encourage employment generating developments. The loss of existing employment uses, whether the sites are designated or undesignated, will only be considered if one of three criteria apply. The first relates to the present use or activity on site significantly harming the character and amenity of the area; the second refers to the site having a greater benefit to the local community if an alternative use were permitted; and the third refers to effective marketing at a rate comparable to local market value for its existing use, or as a redevelopment opportunity other Class B or sui generis uses of an employment nature, and it can be demonstrated that the continuous use of the site for employment purposes is no longer viable, taking into account the site's existing and potential long-term market demand for an employment use.

13. Policy E3 seeks to retain and enhance the provision of community services and facilities within the district, with two criteria that need to be demonstrated where a proposal would result in the loss of such provision. The first is that the existing business/service is not and cannot be made viable; and the second is that effective marketing has been undertaken to demonstrate that there is no viable or appropriate alternative community service based use. The supporting text requires evidence of a marketing strategy to show reasonable and appropriate marketing of the site for community use over a sustained period along with the level of interest in the site.

14. While LDP Policy E1 contains references to uses within Class B (as was) of the Use Classes Order 1987 (UCO), the supporting text notes that non-traditional employment can be found in sectors such as education, health, retail and tourism. Amendments to the UCO in 2020 merged the previous use classes A1 (shops), A2 (financial and professional services), B1 (business) and elements of D1 (non-residential institutions) including medical or health services into a new Class E (commercial, business and service) along with other previous use classes. Therefore, I consider that LDP Policy E1 is relevant as [it involves].... employment facilities, while LDP Policy E3 is also relevant ...as it also concerns community facilities in the form of healthcare provision.

15. While the former occupants of the appeal site... have relocated within the district with no apparent reduction of jobs,if approved [the proposal] would result in a loss of employment floorspace as well as community floorspace Therefore, it is necessary to consider the criteria in LDP Policies E1 and E3.

16. There is no evidence to show that the present use or activity at the appeal site... significantly harms the local area, either in [its]... vacant form or most recent use as ... treatment rooms. While conversion to residential provides additional accommodation, it has not been demonstrated that this would present a greater benefit to the local community than treatment rooms. Therefore, ... the Appeal... scheme would [not] meet the first two criteria of LDP Policy E1.

17. Turning to the third criterion of this policy, evidence provided by the appellant in the form of one page letters from a local estate agent state that the Appeal ... site has been marketed since November 2020 The letter... say[s] the marketing has taken place online with very little interest received [and is] ... accompanied by screenshots showing the advertised annual rental prices and the performance records.

18. However, I have little information that the marketing rates were comparable to the local market value for the existing use, or that they were marketed as a redevelopment opportunity for other uses of an employment nature. I am aware that other High Street properties have been on the market for long periods, but I have insufficient detail that the continuous use of [the] .. site for employment purposes is no longer viable. Therefore, [the] ... appeal scheme would [not] meet the third criterion of LDP Policy E1.

19. With regard to LDP Policy E3 ..., the existing osteopath business has relocated nearby, which indicates that it was not an unviable business or service. As with LDP Policy E1, the marketing information is insufficient to show that it was reasonable and appropriate and so it has not been demonstrated that there is no viable and appropriate alternative community based service. Therefore, the Appeal .. scheme would not meet the criteria in LDP Policy E3 either.....

21., the loss would be contrary to the development plan and diminish the provision of employment uses and community facilities within the district.

22. Concluding on this main issue, the development ... would have an unacceptable effect on the provision of employment uses and community facilities. Therefore, the development ... would conflict with LDP Policy E1....[and] Policy E3.

5.3 Design and Impact on the Character of the Area

- 5.3.1 Policy D1 of the LDP is applicable to the consideration of design. This Policy, coupled with the NPPF, aims to ensure good design taking into account matters including architectural style, layout, materials, visual impact and height, scale and bulk. The NPPF is clear that good design is indivisible from good planning and development of a poor design should be refused. Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.3.2 In addition, the application site is located within the Maldon Conservation Area. Policy D3 states that the Council will give great weight to the heritage asset's conservation and that any harm or loss will require clear and convincing justification. 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.
- 5.3.3 The proposal is for a change of use only and there would be no changes to the external appearance of the building except for an increase in the obscurity of the windows serving the proposed en-suite and the addition of two air conditioning units on the southern elevation.
- 5.3.4 The Specialist – Conservation and Heritage raises no objections to the proposal. The current proposal includes the addition of two air conditioning units on the southern elevation of the building although limited details relating to their position and appearance have been provided. These units are likely to detract from the appearance of the building but not to such an extent to warrant a refusal of planning permission and further details, including screening, could be required by condition if planning permission were to be granted. As a result, it is considered that the proposal would not have any impact on the character or appearance of the Conservation Area within which the site is located, in compliance with Policies D1 and D3 of the LDP.

5.4 Impact on the Listed Building

- 5.4.1 Policy D3 of the LDP states that the Council will give great weight to the heritage asset's conservation and that any harm or loss will require clear and convincing justification. Development that affects a heritage asset will be required to 'preserve or enhance its special character, appearance, setting and any features and fabric of architectural or historic interest'.
- 5.4.2 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Council must have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

- 5.4.3 The Kings Head Centre is a Grade II listed building, but the proposal is for a change of use of a modern part of the building and there would be limited change to the external appearance or internal layout of the building.
- 5.4.4 The Specialist – Conservation and Heritage raises no objections to the proposal. The current proposal includes the addition of two air conditioning units on the southern elevation of the building although limited details relating to their position and appearance have been provided. These units are likely to detract from the appearance of the building but not to such an extent as to warrant a refusal of planning permission and further details, including screening, could be required by condition if planning permission were to be granted.
- 5.4.5 As a result, it is considered that the proposal would not have an adverse impact on the integrity of the listed building, in compliance with Policy D3 of the LDP.

5.5 Impact on Residential Amenity

- 5.5.1 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).
- 5.5.2 One of the requirements of Policy D2 is to minimise all forms of possible pollution including air, land, water, odour, noise and light. The Policy states that 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.
- 5.5.3 The level of floorspace, at around 70sq.m., proposed is considered to be sufficient for a one-bedroom holiday let unit and all of the habitable rooms proposed would be provided with an adequate level of natural ventilation, daylight and outlook.
- 5.5.4 The application is supported by a Noise Survey and Assessment which concludes that satisfactory noise levels within the holiday unit could be provided subject to sound proofing works including secondary glazing, air condenser units (for heating and cooling to avoid the need for occupiers to open external windows) and two internal air conditioning units.
- 5.5.5 The Specialist – Environmental Health has no comments to make on the proposal.
- 5.5.6 Taking this advice into account, it is considered that the occupiers of the proposed holiday let would not be exposed to a level of noise disturbance which would be harmful to their quality of life.

5.6 Access, Parking and Highway Safety

- 5.6.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.6.2 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 encourages the reduction in the reliance on the car and promotes methods of sustainable transport.

- 5.6.3 No off-street parking would be provided for the occupiers of the proposed holiday let. However, in this part of Maldon town centre there is little scope for any lawful on-street parking. In these circumstances, even if the future occupiers of the development were to have a car, it seems unlikely that it could be parked on-street anywhere in the vicinity, other than for occasional purposes such as loading and unloading. Given the restrictions in force, any parking or waiting for those kinds of purposes would of necessity be likely to be brief, and any inconvenience would thus be temporary and limited. There is no evidence that this type of usage would be likely to cause any significant problems or add noticeably to any that already exist. There is also a public car park directly opposite the property.
- 5.6.4 Furthermore, the existing lawful use of the building is likely to generate at least some vehicular traffic in any event and the location is one where car use would not be essential. Most of the town's facilities are within walking distance. Public transport is available close by. A condition could be imposed if planning permission were to be granted requiring a bicycle store. Therefore, it is considered that a refusal of permission on this ground is not justified.

5.7 Nature Conservation

- 5.7.1 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.
- 5.7.2 Policy S8 states that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty.
- 5.7.3 Policy D1 requires that, amongst other things, all development must respect and enhance the character and local context and make a positive contribution in terms of the natural environment particularly in relation to designated and non-designated sites of biodiversity/geodiversity value (criterion f).
- 5.7.4 Policy N1 states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure.
- 5.7.5 Policy N2 states that, any development which could have an adverse impact 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. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.
- 5.7.6 As a result of the location of the site and the nature of the development proposed, the proposal would have off-site impacts on nature conservation. Natural England (NE) has produced interim advice with reference to the emerging strategic approach relating to Essex Coast RAMS, to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within Maldon District Council (MDC) are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary Special Protection Area (SPA) and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar

site. The combined recreational 'Zones of Influence' (Zol) of these sites cover the whole of the Maldon District.

- 5.7.7 NE anticipate that, in the context of the Local Planning Authority's (LPA) duty as competent authority under the provisions of the Habitat Regulations, new residential development within these Zol constitute a likely significant effect on the sensitive interest features of these designated site through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), Houses in Multiple Occupation (HMOs), student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots. Prior to the RAMS being adopted, NE advise that these recreational impacts should be considered through a project-level Habitats Regulations Assessment (HRA) – NE has provided an HRA record template for use where recreational disturbance is the only HRA issue.
- 5.7.8 The application site falls within the Zol for one or more of the European designated sites scoped into the emerging Essex Coast RAMS. This means that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure. As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, NE does not provide bespoke advice. However, NE's general advice is that an HRA should be undertaken and a 'proportionate financial contribution should be secured' from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site's resilience to recreational pressure and in line with the aspirations of emerging RAMS.
- 5.7.9 To accord with NE's requirements, an Essex Coast RAMS HRA Record would need to be completed by the LPA to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance.
- 5.7.10 To accord with NE's requirements and to accord with their consultation response along with the advice from Essex County Council (ECC) Ecology, an Essex Coast RAMS HRA Record has been completed to assess if the development would constitute an LSE to a European site in terms of increased recreational disturbance, as follows:

HRA Stage 1: Screening Assessment – Test 1 - the significance test

Is the development within the zone of influence (Zol) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the specified development types? Yes

HRA Stage 2: Appropriate Assessment- Test 2 – the integrity test

Is the proposal for 100 houses + (or equivalent)? No

Is the proposal within or directly adjacent to one of the above European designated sites? No.

Summary of Appropriate Assessment - as a competent authority, the Local Planning Authority concludes that the project will have a likely significant effect on the sensitive

interest features of the European designated sites due to the nature, scale and location of the development proposed. Based on this and taking into account NE's advice, it is considered that mitigation, in the form of a financial contribution, is necessary, in this case.

- 5.7.11 The application has not been accompanied by a Unilateral Undertaking to secure the necessary financial contribution (£156.76 per dwelling). Therefore, the off-site impacts of the development on nature conservation will not be adequately mitigated.

5.8 Planning Balance

- 5.8.1 The proposal would provide a holiday let which may benefit tourism within the District. However, this benefit would be limited as only one holiday let is proposed and the requirements of Policy E5 of the LDP has not been fully met, as explained above and would be outweighed by the harm the development would cause as a result of the loss of existing, lawful community use of the unit, contrary to Policy E3 of the LDP. Furthermore, the off-site impacts of the development on nature conservation would not be adequately mitigated, contrary to Policies N1, N2, D1, D2 and I2 of the LDP.
- 5.8.2 However, no objection to the proposal is raised in relation to the quality of life for the occupiers of the proposed accommodation or the absence of off-street parking provision, in this case.
- 5.8.3 The development proposed would, therefore, not be sustainable, and is recommended for refusal below.

6. ANY RELEVANT SITE HISTORY

- **22/01215/FUL** Proposed part change of use of units 16 and 17 from retail use (Class E) to a Deli / Bar and takeaway (Sui Generis). Approved 14.02.2023
- **22/01147/LBC** Partial demolition of existing chimney stack above flat 3 to pitch line of roof and rebuild a lower height chimney stack. Approved 05.01.2023
- **22/00483/FUL** Proposed change of use of units 11 and 12-14a from retail use to a Deli / Bar and takeaway with external seating. Approved 08.07.2022
- **21/01268/FUL** Change of use from suite of treatment rooms to a 1 bedroom residential flat at part first floor level fronting White Horse Lane. Appeal dismissed 10.02.2023
- **21/01266/FUL 21/01267/LBC** Change of use from 2no offices and existing additional kitchen to adjoining flat into a 1 bedroom flat at part first floor level fronting the High Street. Appeal dismissed 10.02.2023
- **21/00633/COU** Proposed change of use from suite of treatment rooms to a 1 bedroom residential flat at part first floor level fronting White Horse Lane. Refused 11.10.2021
- **21/00634/FUL 21/00635/LBC** Section 73A application for the completion of the change of use from offices to a 1 bedroom flat, incorporating the additional kitchen from the adjoining flat as its bedroom at part first floor level fronting the High Street. Planning permission refused 14.10.2021. Listed building consent granted 14.10.2021
- **18/00275/FUL** Change of use of first floor office from use class B1 to use class D1 to be used in conjunction with existing osteopathy clinic at offices numbered 2 and 4. Approved 24.04.18
- **16/00925/FUL** Change of use from offices to residential, including a single and double bedsit at Suite 5, second floor, 11-14 Kings Head Centre. The proposals are alterations to the existing staircase and the introduction of studwork partitions

to form the separation between the bedsit's and form the single bedsit bathroom / kitchenette. The double bedsit will retain the existing bathroom / kitchenette. Previously to the Office use was Residential. Approved 03.11.16

- **16/01421/FUL 16/01422/LBC** Rear three storey extension The proposals are to bring forward the existing facade so it exactly matches the existing section of the building so it lines through with the existing adjoining two storey extension, including the brick plinth course, oak timber frame, weatherboarding and render, shop fronts, windows and overhanging balcony window at second floor level, all with slate roof over. The 3 storey Extension will form a new retail shop at ground level, an additional treatment room at first floor and enlarging single bedsit to a double at second floor level. Approved 30.01.17
- **15/01054/FUL** Changing the use from residential to business, no changes to any of the structure. Approved 07.12.15
- **14/00561/FUL** Change of use from office to a 1 bedroom flat. Approved 31.10.14
- **10/00485/FUL** Change of use from office to consulting room. Approved 16.08.10
- **06/01305/FUL** Change of use of part first floor to Osteopathic Clinic. Approved 10.01.07

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Maldon Town Council	Recommends approval	Noted.

7.2 **Internal Consultees**

Name of Internal Consultee	Comment	Officer Response
Specialist – Environmental Health	No adverse comments.	Noted – refer to section 5.5 of report.
Specialist – Heritage and Conservation	No objections.	Noted - refer to sections 5.3 and 5.4 of report.

7.3 **Representations received from Interested Parties**

- 7.3.1 **One** letter was received **supporting** the application and the reasons for support are summarised as set out in the table below:

Objection Comment	Officer Response
As a District Councillor for Maldon North, wishes to support the application. Will ensure that an important heritage site within the town that is currently experiencing difficulties with changes in working practices, can adapt and meet the needs of holiday let accommodation within the town. They are a firm believer of supporting the high street and new business, and that includes tourism. The application is in compliance to S1 and D3 of the local development plan and helps to keep heritage buildings relevant and maintained to a high standard whilst	Noted.

Objection Comment	Officer Response
adding to the local economy. Policy E5 of the LDP supports developments which contribute positively to the growth of local tourism, this application will provide exactly that.	

8. **PROPOSED REASONS FOR REFUSAL**

1. Policy E3 of the Maldon District Local Development Plan seeks to retain and enhance the provision of community services and facilities within the District. The proposal does not comply with this Policy as it has not been demonstrated that the existing business/service is not and cannot be made viable and that effective marketing has been undertaken to demonstrate that there is no viable or appropriate alternative community service-based use. Therefore, the development would diminish the provision of community facilities within the District, contrary to Policy E3 and the NPPF.

2. 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. The development is, therefore, contrary to Policies N1, N2, D1, D2 and I1 of the approved Maldon District Local Development Plan and the NPPF.