



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**CENTRAL AREA PLANNING COMMITTEE
27 SEPTEMBER 2023**

Application Number	23/00667/FUL
Location	43-45 High Street, Maldon, CM0 5PF
Proposal	Installation of condenser units and full internal alterations/refurbishment.
Applicant	Mr Jon Birtles - Loungers UK Limited
Agent	Ms Ali Maskell - Richard Pedlar Architects
Target Decision Date	12 October 2023
Case Officer	Hayley Sadler
Parish	MALDON NORTH
Reason for Referral to the Committee / Council	Member Call In Councillor N R Miller has called in the application for the following policy reasons: LDP policy D1 (Design Quality and Built Environment) & D2 (Climate Change & Environmental Impact of New Development)

1. RECOMMENDATION

REFUSE for the reason as detailed in Section 8 of this report

2. SITE MAP

Please see below.

43-45 High Street - Maldon

23/00724/LBC



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 Maldon District Council 100018588 2014



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Scale:	1:625
Organisation:	Maldon District Council
Department:	Department
Comments:	Central Area Committee
Date:	30/08/2023
MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located on the northern side of the High Street within the settlement boundary of Maldon and within the Maldon Conservation Area. The site is occupied by a three-storey mid terrace Grade II Listed Building, with a mixed use of commercial at ground floor level and residential at first and second floor level.
- 3.1.2 Planning permission is sought for the installation of 4No. condenser units.
- 3.1.3 The proposed condenser units would be located on the side eastern elevation towards the rear of the building within the external yard of the application site.
- 3.1.4 The proposed internal alterations and refurbishment would include the installations of a bar, toilets, a kitchen area as well as the installation of an extraction and ventilation system. The ground floor of 43-45 High Street has been vacant for many years, with a Morrison's Local being the last to occupy the space and previous to that it was a post office. Both of these previous uses would have fallen within Use Class A1 of the Town and Country Planning Use Classes Order 2007 (as amended) prior to September 2020. From 1 September 2020 Use Class A1/2/3 were revoked and replaced with a new Use Class E. Class E combines what were previously retail shops (A1), financial and professional services (A2), and restaurants and cafes (A3). Class E also contains the previous B1 (business) as well as parts of the previous classes of D1 (non-residential institutions), and D2 (assembly and leisure). Planning permission is not required for the change of use between any of these uses.
- 3.1.5 It should be noted that planning permission was granted on 3 June under reference 12/00609/FUL for a 'Change of use of premises from retail use (A1) into a public house (A4). Alterations to existing building, including formation of an internal mezzanine floor to accommodate kitchen; provision of mechanical equipment; new hoist in brick shaft to rear elevation; erection of 2m high fence, application of film to windows as indicated on drawings; infill of 2 no. existing windows to rear elevation; re-opening of arched doorway to front elevation and insertion of timber door in same and various internal alterations as indicated on the drawings. Please note that this permission has now expired.

3.2 Conclusion

- 3.2.1 The proposed external works are acceptable and would not cause harm to the listed building, the character and appearance of the locality or the conservation area, in accordance with policies D1, D3 and H4 of the Local Development Plan (LDP). Chapter 16 of the National Planning Policy Framework (NPPF) and Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. However, it is considered that the proposed condenser units by reason of their proximity to the neighbouring dwellings and due to insufficient information being provided to confirm that the development would not have an unacceptable impact on neighbouring residential dwellings by way of harmful noise levels has not been submitted in order for the application to be assessed appropriately. Therefore, the proposal is contrary to policies D1 of the LDP and the guidance contained within the NPPF.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 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 – 57 Planning conditions and obligations
- 119 – 123 Making effective use of land
- 126 – 136 Achieving well-designed places

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

- S1 Sustainable Development
- D1 Design Quality and Built Environment

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF) (2021)
- Maldon District Design Guide (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD

5. MAIN CONSIDERATIONS

5.1 Design and Impact on the Character, Setting and Fabric of the Listed Building

- 5.1.1 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.
- 5.1.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. Similar support for high quality design and the appropriate layout, scale and detailing of development is required by Policy D1 and H4 of the LDP and is found within the MDDG (2017).
- 5.1.3 A successful development needs to integrate well with the existing streetscene. Visual cues such as rhythm, proportions and alignments taken from adjacent buildings should be used to inform the design of the development.
- 5.1.4 The principle of alterations to mixed commercial and residential premises within conservation areas is generally considered acceptable in line with and subject to compliance with policy D3 of the approved LDP. Nos. 43-45 High Street is a grade II listed building within the Maldon Conservation Area. It was originally built as the Literary and Mechanic's Institute with Corn Exchange to the rear. The building was designed by T. Roger Smith in 1859-60. The Institute occupied the building until 1886 where it held a library of 2000 volumes. The Corn Exchange later became the All Saints Parish Hall and has had various uses since, including the Post Office and, most recently, Morrisons Local. The front elevation is a striking composition in stock brick. It has three storeys of round-arched windows and incorporates short stone columns with carved Corinthian capitals. The centre breaks forward and is topped by

a pediment. The building is listed for its architectural and historic interest as a high-quality architect-designed example of a Victorian Literary and Mechanics Institute. It makes a very positive contribution to the special character of the conservation area.

- 5.1.5 The proposed condenser units would be located on the eastern side elevation of the building within the external yard and would not be visible from within the street scene of the High Street.
- 5.1.6 The proposed condenser units would be located approximately 1.6 metres from the boundary with the rear of 47 High Street, they would be located at ground level and separated by a boundary wall. The condenser units would not be visible to the neighbouring properties to the west as they would be blocked from view by the host building. As such, given the discreet location of the units, there would be no harmful impact on the character and appearance of the host listed building, nor the character and visual amenities of the local area. The proposal in this respect is acceptable having regard to policies D1 and D3 of the LDP

5.2 Impact on Residential Amenity

- 5.2.1 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).
- 5.2.2 The application site is bordered by two three storey mixed use Grade II listed buildings, No.47 (Commercial unit at ground floor) and Flats 1 and 2 (residential properties at first and second floors) to the east and No.41 (Commercial unit at ground floor) and residential flats at first and second floor level to the west.
- 5.2.3 The proposed condenser units would sit on the ground floor. Flats 1 and 2 of the host building occupy the first and second floors above.
- 5.2.4 The Council's Environmental Health Specialist has expressed concerns about noise impacts from the proposed use on the adjoining residential properties. It is further stated that whilst there are no external alterations proposed to the front or rear elevation of the building, the application does seek approval for minor modifications to the eastern elevation to accommodate 4 x external AC condenser units on the ground floor.
- 5.2.5 The application suggests that whilst a mechanical extract ventilation system is proposed, no external alterations are required for its operation as it is intended that the plant will be in an internal plant room and will utilise an existing louvre on the rear elevation. These statements conflict with each other and require clarity in terms of the effects from these proposals on the neighbouring residential properties.
- 5.2.6 A Noise Impact Assessment was requested from the Agent in lieu of these comments to be able to fully assess the impact on the adjacent neighbouring properties. This information has not been received to be able to assess the application further. As such, and in the absence of any further information to alleviate the concerns it is considered that the proposed installation of condenser units would result in an unneighbourly form of development due to the possible noise implications. The proposal is therefore contrary to policy D1 of the LDP.

6. ANY RELEVANT SITE HISTORY

- **MAL/746/79 & LB/MAL/46/79** – Post office, Approved – 8 October 1979
- **MAL/276/80 & LB/MAL/13/80** – Enlargement to car park at rear, Approved – 6 May 1980
- **MAL/526/82** – Alterations to windows, Approved – 26 August 1982
- **93/00331/FULF** - Small first floor extension and minor elevation alterations, Approved – 26 August 1993
- **93/00722/FUL** - Installation of ATM cash dispenser through existing glazed window reduced in height. New security panel surround, Approved – 10 February 1994
- **93/00723/ADV** - Flat internally illuminated machine sign within cash dispenser surround, Approved – 10 February 1994
- **94/00051/LBC** - Installation of ATM cash dispenser through existing glazed window reduced in height. Security panel infill, Grant Listed Building Consent – 10 March 1994
- **07/00426/FUL** - Retail development including rear extension and internal re-organisation/alterations to include new rear first floor and new front doors, Approved – 19 June 2007
- **07/00427/LBC** - Retail development conversion with rear extension and internal alterations including new rear first floor and new front doors, Grant Listed Building Consent – 19 June 2007
- **08/01038/FUL** - Proposed alterations to existing retail area and conversion of ground floor and upper floor to 5 flats, Refused – 13 November 2008
- **08/01061/LBC** - Proposed alterations to existing retail area and conversion of ground and upper floors to 5 flats, Refused – 13 November 2008
- **09/00549/LBC** - Alterations to ground floor retail area, conversion of first and second floors to form 3 flats and small single storey extension to rear, Grant Listed Building Consent – Grant Listed Building Consent – 21 August 2009
- **09/00550/FUL** - Alterations to ground floor retail area, conversion of first and second floors to form 3 flats and small single storey extension to rear, Approved – 21 August 2009
- **12/00609/FUL** - Change of use of premises from retail use (A1) into a public house (A4). Alterations to existing building, including formation of an internal mezzanine floor to accommodate kitchen; provision of mechanical equipment; new hoist in brick shaft to rear elevation; erection of 2m high fence, application of film to windows as indicated on drawings; infill of 2 no. existing windows to rear elevation; re-opening of arched doorway to front elevation and insertion of timber door in same and various internal alterations as indicated on the drawings, Approved – 3 June 2013
- **12/00610/LBC** - Alterations to existing building, including formation of an internal mezzanine floor to accommodate kitchen; provision of mechanical equipment; new hoist in brick shaft to rear elevation; erection of 2m high fence, application of film to windows as indicated on drawings; infill of 2 no. existing windows to rear elevation; re-opening of arched doorway to front elevation and insertion of timber door in same and various internal alterations as indicated on the drawings, Grant Listed Building Consent
- **14/00103/FUL** - Alterations to existing doorways and windows, the removal of the canopy to the rear elevation, insertion of new louvres to rear elevation, and internal alterations, Approved – 17 April 2014
- **14/00104/LBC** - Alterations to existing doorways and windows, the removal of the canopy to the rear elevation, insertion of new louvres to rear elevation, and internal alterations, Grant Listed Building Consent – 17 April 2014
- **14/00468/FUL** - Minor amendments to approved planning application FUL/MAL/14/00103 (Alterations to existing doorways and windows, the removal

of the canopy to the rear elevation, insertion of new louvres to rear elevation, and internal alterations), Approved – 3 July 2014

- **14/00469/LBC** - Minor amendments to approved planning application LBC/MAL/14/00104 (Alterations to existing doorways and windows, the removal of the canopy to the rear elevation, insertion of new louvres to rear elevation, and internal alterations), Grant Listed Building Consent – 3 July 2014
- **14/00492/ADV** - Formed individual lettering fixed to runner bar, internally illuminated. Formed aluminium projection sign with steel gibbet, externally illuminated. Formed aluminium hung sign with steel support bars, non-illuminated. Various internally applied vinyl window graphics, Approved – 21 August 2014
- **14/00822/LBC** - Formed individual lettering fixed to runner bar, internally illuminated. Formed aluminium projection sign with steel gibbet, externally illuminated. Formed aluminium hung sign with steel support bars, non-illuminated. Various internally applied vinyl window graphics, Grant Listed Building Consent – 23 January 2015
- **23/00667/FUL** - Installation of condenser units and full internal alterations/refurbishment., Pending Consideration
- **23/00668/LBC** - Installation of condenser units and full internal alterations/refurbishment., Pending Consideration
- **23/00728/ADV (Undetermined)** - Advertisement consent for 1No. externally illuminated fascia sign, 1No. externally illuminated hanging sign, 1No. internally illuminated menu board and lighting, Pending Consideration (For consideration on this committee agenda)

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Maldon Town Council	Object – unneighbourly form of development likely to result in harm of neighbouring residents. No information of noise mitigation No consultation with residents of the flats	Noted

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Conservation and Heritage Specialist	No objection subject to recommended conditions	Noted

7.3 Representations received from Interested Parties

- 7.3.1 **Eleven** letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Increase in noise from within the	This application is solely for the addition

Objection Comment	Officer Response
premises and those coming and going	of signage to the building
Noise from staff smoking to the rear and lingering outside	
Where are staff going to park as Bull Lane to the rear is a single track road	
The flat owners have not been notified	
There are already a number of licensed premises in the High Street	
Increase in traffic and congestion	
Loss of privacy from tables located on the mezzanine floor internally	
Smell from food waste and preparation	
Position of proposed air con units	
Increased overlooking from large windows	

7.3.2 One letter of support has been received raising the following matters

Supporting Comment	Officer Response
The High Street is coming back to life Complaints about the noise are ridiculous as there are residential properties in the bustling High Street and it is not that far from the Oak House and this would operate no differently from that	Noted

8. PROPOSED REASON FOR REFUSAL

1. Insufficient information has been provided to confirm that the proposed condenser units would not have an unacceptable impact on neighbouring residential dwellings by way of noise levels. The proposal is therefore contrary to policy D1 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.