



**REPORT of
CHIEF EXECUTIVE**

to
CENTRAL AREA PLANNING COMMITTEE
31 May 2017

Application Number	FUL/MAL/17/00067
Location	Millennium Wood, Park Drive, Maldon
Proposal	Place a 20 foot x 10 foot converted metal container in the promenade park for use as a booking in suite, office and storage. Fence off the surrounding area for change of use for outdoor activity centre.
Applicant	Mr Ian Dobney - KI Combat Limited
Agent	-
Target Decision Date	29 May 2017
Case Officer	Hilary Baldwin, TEL: 01621 875730
Parish	MALDON EAST
Reason for Referral to the Committee / Council	Council Owned Land

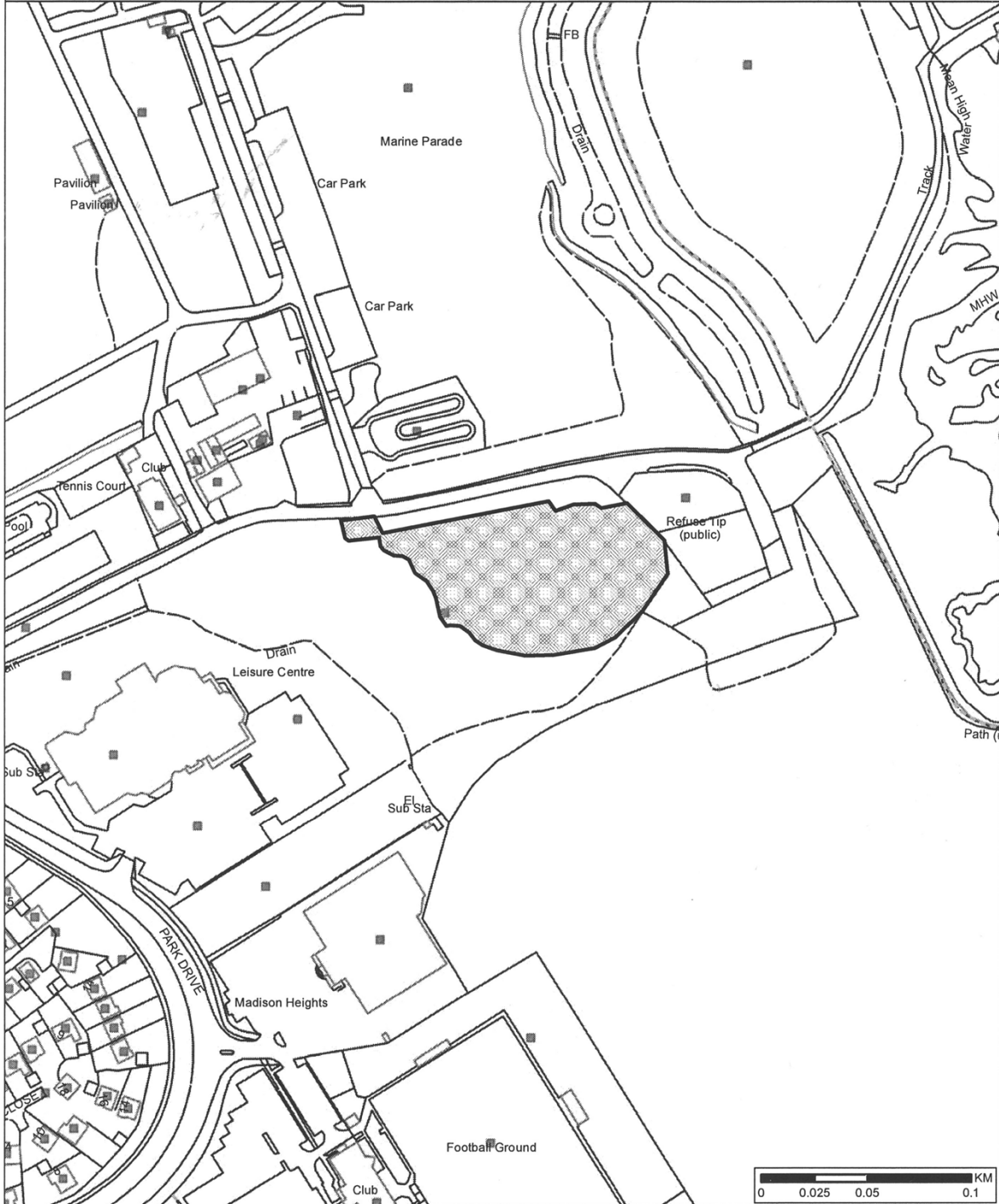
1. RECOMMENDATION

REFUSE subject to the reasons as detailed within Section 8 of this report.

2. SITE MAP

Please see overleaf.

Millennium Wood, Park Drive, Langford
FUL/MAL/17/00067



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 Maldon District Council 100018588 2014



MALDON DISTRICT COUNCIL

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Scale:	1:2,500
Organisation:	Maldon District Council
Department:	Department
Comments:	Central Committee 17/00067
Date:	18/05/2017
MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 The application site is within the wider area of public land adjacent to the south side of Promenade Park. Immediately to the east of the site is the Council recycling centre and to the west is the Blackwater Leisure Centre. To the south of the site is open land.

3.1.2 The 0.8Ha site comprises undulating land and is heavily wooded. Informal footpaths cross the site and it is currently utilized by walkers with footpath access from the south eastern corner and from the north within Park Drive.

3.1.3 The site straddles the settlement boundary of Maldon, is fully within the Central Area Action Plan boundary and the northern section of the site adjacent to Park Drive falls within Flood Zone 3.

3.2 Planning permission is sought for the following:

- enclosure of the site with 1.8m Heras fencing covered in scaffolding safety netting.
- the siting and use of a shipping container for office and booking facility painted in combat pattern and colours,
- the container would be located 8m south of Park Drive with the existing woodland cover removed for the benefit of access to the site
- the siting of numerous moveable combat obstacles in the form of timber pallets and timber “A ”frames, old car tyres bolted together and Base Camp flag markers.
- The change of use of the site for that of the outdoor activity known as “Nerf Wars” and clearance of “scrub and some small trees”

3.3 The submission states that the site would be open as follows:

March - April

- Weekends only 8-30am – 5pm
- (School holidays 8-30am – 5pm daily)

May – June

- Week days 4pm – 8pm
- Weekends 8-30am – 8pm

July – August

- Weekdays 4pm – 8pm
- Weekends 8-30am – 8pm
- (School holidays 8-30am – 8pm daily)

September

- Weekdays 4pm – 6-30pm
- Weekends 8-30am – 6-30pm
- (School holidays 8-30am – 6-30pm daily)

October

- Weekends only 8-30am – 4pm
- (School holidays 8-30am – 4pm daily)

November – February

- Closed
- Parking for the site would be within the Promenade Park with users walking from that location and accessing the site across Park Drive.

3.4 Conclusion

- 3.4.1 The proposed development and change of use for an outdoor activity area within the Millennium Wood is considered to result in significant detrimental visual impact upon this woodland area and the wider park, would result in conflict between vehicle users of the Recycling Centre and pedestrians accessing the site from Promenade Park, would result in detrimental impact upon the ecology and biodiversity of the site. Furthermore the proposal is considered to conflict with the draft Central Area Masterplan.
- 3.4.2 No identified need or commercial requirement for the tourist facility has been submitted in support of the proposal and the submitted Environmental Impact Assessment is not considered to have adequately addressed the potential for harm to either users of the site or nearest noise receptors.
- 3.4.3 In view of the multiple concerns raised by consultees and the identified conflict with adopted and emerging policies and the guidance and provision of the National Planning Policy Framework, it has not been possible to negotiate a way forward with the applicant.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2012 including paragraphs:

- 7, 14, 17, 56, 69, 70, 109 and 126

4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:

- S1 Development Boundaries and New Development
- S2 Development outside Defined Settlement Boundaries
- BE1 Design of New Development and Landscaping
- BE8 Lighting
- CC5 Protection of Wildlife at Risk on Development Sites
- CC6 Landscape Protection
- CC11 Coastal Zone
- CON5 Pollution Prevention
- REC7 Protection of Existing Public and Private Open Space

- T1 Sustainable Transport and Location of New Development
- T2 Transport Infrastructure in New Developments
- T8 Vehicle Parking Standards

4.3 Maldon District Local Development Plan submitted to the Secretary of State for Examination-in-Public on 25 April 2014:

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- E5 Tourism
- H4 Effective Use of Land
- N2 Natural Environment, Geodiversity and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

4.4 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Essex Design Guide
- Car Parking Standards

5. MAIN CONSIDERATIONS

5.1 Relevant Planning History

- 5.1.1 It is considered pertinent to note that the site is within an area known as Millennium Wood and is in the wider area of Promenade Park. It is part of the Maldon Millennium Way, a 22 mile walk created in 1991 in recognition of and celebration of a thousand years since the Battle of Maldon AD991. It forms part of an extension to Promenade Park and is a wildlife area consisting of woodland plantation, natural scrub and rough grassland. A mown informal pathway is maintained through the site and it is an informal recreation area.

5.2 Principle of Development

- 5.2.1 The Council acknowledges that tourism is an important part of the District's economy and will support development which contributes positively to the growth of local tourism in a sustainable manner and which realises opportunities that arise from the District's landscape, heritage and built environment. The aim of the adopted Local Plan is to provide facilities for all in sufficient quantity in the right location. The Plan's aims are to balance the demands for new facilities against the need to identify sustainable locations, protection of the countryside and promotion of environmental quality.

- 5.2.2 The proposal is for the enclosure of a section of Promenade Park for private commercial use as an outdoor activity centre known as Nerf Wars. The site is designated as Public Park within the emerging LDP.
- 5.2.3 Policy E5 of the emerging LPD supports developments which contribute positively to the growth of local tourism in a sustainable manner providing the proposal does not create a detrimental impact on the character and amenity of neighbouring uses of the surrounding area and where there is a demonstrable need for the proposal.
- 5.2.4 Whilst it is acknowledged that the development would provide a new tourism facility that is likely to be used in association with the wider park, it is considered contrary to the policy criterion by way of its lack of sustainable transport and parking facilities, lack of demonstrated need, poor connections with other tourist destinations, detrimental impact upon green infrastructure network and demonstrable impact upon character and amenity of neighbouring uses and on the surrounding areas.
- 5.2.5 Policy E5 also requires that adverse impact on the natural environment is avoided where possible and the proposal must clearly indicate how the adverse impacts will be effectively mitigated to the satisfaction of the Council and relevant statutory agencies. This has not been demonstrated in this submission.
- 5.2.6 Other material planning considerations are discussed below.

5.3 Design and Impact on the Character of the Area

- 5.3.1 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. In order to comply with Policy BE1 of the RLP, the proposal must be compatible with, or improve the surrounding location through its scale, height and choice of external materials. Similarly, the basis of policy D1 of the emerging LDP ensures that development will not have a detrimental impact on its surrounding area and local context and will actively seek opportunities for enhancement in the built environment.
- 5.3.2 In determining an appropriate contextual relationship with surrounding development, factors such as height, scale, massing and siting are material considerations. Details such as architectural style, along with colour texture of materials, are also fundamental in ensuring the appearance of any new development is sympathetic to its surrounding and therefore wholly appropriate in its context.
- 5.3.3 The NPPF states that:
'The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.'

'That permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.'
- 5.3.4 Planning permission is sought for the enclosure of 0.8Ha of the natural woodland for private commercial use for the activity known as Nerf Wars and the siting of a

shipping container and numerous “obstacles” within the woodland for its beneficial use.

- 5.3.5 The shipping container would be sited 8m south of Park Drive with the area in between cleared for pedestrian access. This naturalized woodland is considered to provide significant amenity value to the public park and is the only public woodland area in this location. In the applicants supporting evidence, it is stated that the booking office facility would be clearly visible from the main park to the north for the benefit of visitors. It would therefore be intrinsically highly visible within the public domain and the siting of a shipping container painted with camouflage patterns and colours is considered to result in a discordant and strident structure within this verdant setting.
- 5.3.6 Furthermore, the use of Heras fencing as a perimeter barrier clad in scaffold netting for the entire boundary and the stationing of wooden pallets and rubber tyres in stacks for the use of obstacles throughout the site is considered to result in significant detrimental visual impact upon the soft landscaped area. This type of boundary fencing is considered acceptable for temporary use around development sites for security and safety, but its use across steeply undulating land within a woodland setting would result in significant detrimental visual impact upon the site. In addition, whilst the application states that the “game” would be within the woodland with minimal clearance, by its very nature, the woodland floor would become compacted and worn with limited regeneration of the ecology.
- 5.3.7 Adopted policies BE1, REC1 and REC7 and emerging policies D1, N2 and E5 are clear in their aim to protect such spaces against inappropriate development and loss of public open space. Whilst it is acknowledged that the space would be for outdoor recreation, it would preclude public access and result in significant detrimental visual impact on the character and appearance of the area.

5.4 Effect on amenity of neighbouring occupiers and users of the site

- 5.4.1 The site is adjacent to the Council’s recycling centre, the public park and the Blackwater Leisure Centre. There are no directly adjacent residential occupiers and the use of the site for an outdoor activity is not considered to result in significant detrimental impact upon the users of the recycling centre or the leisure centre. Notwithstanding this, the Council’s Environmental Health Service has commented that there is a holding objection subject to a Noise Impact Assessment.
- 5.4.2 There is concern that the noise of the game equipment in the form of imitation guns will reverberate throughout the woodland and to the residential occupiers within Park Drive to the east. This is particularly relevant as the use of the site would be during evenings when background noise from both the park is quiet and the recycling centre is closed and therefore there is limited ambient noise to mask the noise generated by the equipment and people undertaking the activity on site.
- 5.4.3 There is major concern that such detrimental impact cannot be mitigated against by way of a planning condition, should permission be granted. Whilst there may be limited impact in terms of noise nuisance, it has not been possible to assess this at this time and this element must be addressed prior to any use commencing as post decision, there is limited scope by the Environmental Health Service to overcome this.

- 5.4.4 Therefore, without the relevant information in the form of an appropriate noise assessment, the Council cannot assess the presence of detrimental impact upon adjacent residential occupiers or users of the other park facilities. Furthermore, the submitted land contamination report is not considered to meet the standards of BS:10175 and therefore, further comment on this cannot be made until an appropriate assessment in accordance with UK policy and the Essex Contaminated Land Consortium's Technical Guidance has been submitted.
- 5.4.5 As such the proposal could result in potential impact on the living conditions of the nearest residential properties, impact upon adjacent park users and may impact upon the health and safety of users and workers within the site contrary to adopted policies BE1 and CON5 and emerging policies D1 and D2 of the submitted Local Development Plan and the guidance and provision of the NPPF.

5.5 Access, Parking and Highway Safety

- 5.5.1 The Maldon District Council Supplementary Planning Document (SPD), states that leisure use for outdoor sports requires a maximum of 1 space per 22m² of floor space. The proposal comprises no provision for parking within the application site and it is stated that the parking facility would be within the adjacent park.
- 5.5.2 Without evidence to the contrary, there is no statement to confirm that this parking facility would be available for such use or that the opening times of the park would coincide with the opening times of the site. It should also be noted that this area has not been edged red under the application and is also not in control of the applicant.
- 5.5.3 The Essex County Council highway authority has not raised an objection to the proposal. However, Essex County Council Waste Management Team, have raised serious concern for pedestrians' safety who will be required to cross the service road to the Recycling Centre for Household Waste (RCHW) to access the site. Although this would be limited to a short stretch, it should be noted that there is no pavement along this non-adopted service road, which is used by a significant number of cars and HGVs. Weekends represent peak usage times for the RCHW when it is not unusual for vehicles accessing the RCHW to queue along the access road beyond the proposed development site. The combination of queuing traffic waiting to enter the RCHW and free flowing traffic leaving the Promenade Park, together with the limited road width, presents a potential risk for pedestrians, the majority of whom will be young children, accessing the development.
- 5.5.4 Whilst it is noted that consideration is given to widening the access road to allow for a pedestrianised route to be installed, or entering the proposed development from the Blackwater Leisure Centre site, thereby removing the need for pedestrians to use the service road this does not form any part of the current proposal and the safety of users is not considered to be overcome by way of a planning condition should permission be granted.
- 5.5.5 Therefore, as the proposal does not comprise formal parking arrangements, safe pedestrian access and egress; safe access, egress or facility for cycling and prohibits social inclusion and accessibility, the proposal is considered to contrary to the criteria of adopted LP policy T1 and T2 and emerging policy T1 of the submitted LDP.

5.6 Landscaping, Ecology and Tree Protection

- 5.6.1 As the proposal comprises development and change of use within a wooded landscape, the Council's Coast and Countryside Officer and Tree Officer have been consulted. The submission has been supported by way of Biodiversity and Ecology Report and Arboricultural Report.
- 5.6.2 At the time of writing only a response from the Coast and Countryside Officer has been received.
- 5.6.3 The response raises serious concerns and an objection to the proposal. It is stated that the proposal would enclose a greenspace designated within the existing LP and emerging LDP. It represents one of the few areas of semi-natural habitat within the park. The Ecology Report recognises that the scrub could provide habitat for nesting birds and may also hide badger setts. It is not clear how many users are proposed and due to its use almost continually in daylight hours in summer months, it is considered that detrimental impact upon the ecology of the site would result.
- 5.6.4 Furthermore, features such as this woodland within designated parks and open space should be conserved and enhanced not excluded from public use. Current users of the space will have their own experience seriously restricted or reduced.
- 5.6.5 Proposed LDF Policy N2 - Natural Environment, Geodiversity and Biodiversity states: *'All development should seek to deliver net biodiversity and geodiversity gain...'*
- 5.6.6 In addition, Proposed LDF, Policy N1 - Green Infrastructure Network, identifies that *'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'*. In the judgement of the Council's Coast and Countryside Officer this proposals will cause degradation and fragmentation of Promenade Park, Maldon's flagship greenspace and a vital part of the Green Infrastructure network.
- 5.6.7 The proposed site also adjoins the main part of the park that is recognised as an Historic Park and Garden and seeks to use the Park for parking. The proposal will be used almost continuously throughout the day in summer, generating potentially large amounts of additional vehicles. It is not clear how many users on the site at any one time. Large parts of the Historic Park and Garden are already degraded by intensive summer car-parking for users of the park and this will add to the degradation. The fencing proposed is utilitarian Heras fencing which is usually used as security fencing around development sites on a temporary basis, and is not appropriate for use as permanent fencing in a parkland setting in the middle of Maldon. The use of a container for sales of tickets etc. is also not in keeping with this flagship green space in Maldon. Promenade Park is the premier designed publically accessible greenspace in Maldon District.
- 5.6.8 Proposed LDF Policy D1 Design quality and Built Environment identifies that: 'All development must:
1) *Respect and enhance the character and local context and make a positive contribution...*
3) *Contribute positively towards the public realm and public spaces...*

4) Protect the amenity of surrounding areas...

- 5.6.9 Any response from the Council's Tree Officer will be made available by way of the Members Update
- 5.6.10 The proposal is considered contrary policies BE1, REC1, REC7, CC5 and CC6 of the adopted LP and emerging policies D1, N1, N2 and N3 and the guidance and provision as contained within the NPPF.

5.7 Flood Risk Assessment

- 5.7.1 As the northern section of the site falls within Flood Zone 3, as defined by the Environment Agency, the submission has been supported by way of a Flood Risk Assessment. There is no objection to the proposal, subject to the Council applying the Sequential Test as required by national policy in the form of the NPPF.
- 5.7.2 Subject to an appropriate condition for an Emergency Flood Plan to be displayed within the office container at all times, the proposal is considered to be acceptable in terms of flood risk.

5.8 Other Considerations

- 5.8.1 Numerous Letters of Representation have been submitted in objection to the proposal and include letters from local community groups including the Friends of Prom Park and The Maldon Society. The key issues are considered to be the loss of woodland, the privatisation of the current open access area, impact upon ecology and the integral nature and benefit to the main parkland and loss of amenity for public users. These issues are considered to have been adequately addressed within previous sections of this report.
- 5.8.2 The Council's Senior Urban Design Officer has objected to the proposal and commented on its impact and conflict upon the objectives and projects within the Maldon and Heybridge Central Area Masterplan. There are already conflicts with traffic and parking management within the park that Project 16 of the draft Masterplan is required to manage. This is especially apparent in the vicinity of the application site where cars exiting the park and accessing the recycling centre and yacht club cause traffic congestion.
- 5.8.3 The detrimental visual impact of the proposal does not sit well in the context of what the draft Masterplan strives to achieve in the Leisure Quarter and to support the success of the Central Areas as a whole in terms of movement and connectivity and the cultural significance of the part and its environs

6. ANY RELEVANT SITE HISTORY

- **None relevant to this application**

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	The comments of the Parish Council are noted

7.2 External Consultees (*summarised*)

Name of External Consultee	Comment	Officer Response
ECC Highway Authority	No Objection.	The comments of the Service are noted
ECC Waste and Recycling	Object Impact and conflict between site and road users to the RCHW	The comments of the Service are noted
Environment Agency	No Objection Subject to appropriate Flood Protection Plan	The comments of the Service are noted

7.3 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Environmental Health Service	Holding Objection, subject to submission of appropriate Environmental Impact Assessment and Noise Impact Assessment	The comments of the Environmental Health Service are noted
Senior Urban Design Officer	Object Detrimental impact upon the Central Area Action Plan and contrary to policy S5	The comments of the Senior Urban Design Officer are noted
Coast and Countryside Officer	Object Detrimental impact upon ecology and biodiversity contrary to adopted and emerging policies	The comments of the Coast and Countryside Officer are noted
Tree Officer	No response received	Any comments received will be updated by way of the Members Update

7.4 Representations received from Interested Parties (*summarised*)

7.4.1 Letters were received objecting to the application from the following and the reasons for objection are summarized as set out in the table below:

- Friends Of The Prom, C/O Robert Wyness, 112 Mill Road Maldon Essex CM9 5JA

- Maldon Society, C/o Judith Lea, 12 The Courtyard Spital Road Maldon Essex CM9 6DX
- Ms. S Bates, 22 London Road Maldon Essex CM9 6HD
- Ms. L Beasley, 18 Acacia Drive Maldon Essex CM9 6AP
- Ms. A Brannigan, 17 Cross Road Maldon Essex CM9 5EE
- Mrs. Craig, 110 Mill Road Maldon Essex CM9 5JA
- Mrs. Joanna Doyle, 2 Minster Way Maldon Essex CM9 6YT
- Ms. Laura Epps, 51A Mill Road Maldon Essex CM9 5HY
- S Gilmore, Kestrels Cottage Lodge Road Woodham Mortimer Essex CM9 6SJ
- Mrs. Kathy Goff, 180 Fambridge Road Maldon Essex CM9 6BH
- Mrs. Sarah Green, 24 Mirosa Reach Maldon Essex CM9 6XS
- Miss. Julia Lawrence, 3 D'Arcy Avenue Maldon Essex CM9 5JL
- R Murphy & Family, 4 Bower Gardens Maldon Essex CM9 6HJ
- Ms. Sue Pepper, The Old Manse Manse Chase Maldon Essex CM9 5EA
- Mrs. Josephine Phillips, 47 Spital Road Maldon Essex CM9 6DZ
- Ms. Sarah Simmons, 4 St Giles Close Maldon Essex CM9 6HU
- Mr. C Swain, 4 Mermaid Way Maldon Essex CM9 5LA
- Ms. V Williams, 36 Redshank Drive Heybridge Maldon Essex CM9 4UE
- Miss. Michele Williams, Barge End Cottage 30 The Hythe Maldon Essex CM9 5HN
- Elizabeth & Eric Willsher, 39 Wantz Road Maldon Essex CM9 5DB
- Mr. Simon Wood, 46 Freshwater Crescent Heybridge Maldon Essex CM9 4PA

Objection Comment	Officer Response
<p>Millennium Wood is a valuable asset. Rare to find a wood within a town. Should be safeguarded as natural habitat for all to enjoy. Should not be treated as an extension of recreation ground Totally unsuitable location and destructive of woodland environment. Shipping container gives impression of transit camp. Against spirit of central area action plan. Park at risk of overdevelopment. No further commercialisation of the park. Spoil pleasure for many. Will be expensive and therefore inaccessible for all. Think of majority not the minority. Detrimental impact upon habitat location. Encourages use of guns in the young. Designated wood at risk for sake of small income. Gateway to sea wall and marshes. Already numerous offerings in the park. What happens if it fails?</p>	<p>The comments have been noted and addressed within the report</p>

Objection Comment	Officer Response
Shipping container is an eyesore. Noise and disruption for all. Impact upon dog walkers. Noise impact well beyond the fence. Loss of peaceful area of park. Many species of birds including migrant birds and important feeding and refuge area. Millennium Wood named after a unique event never to be repeated. Contrary to local and national policies.	

8. REASONS FOR REFUSAL

1. The proposed development would result in significant detrimental impact upon the character and appearance of the site by way of visual intrusion including choice of boundary treatment, choice of materials within the site, level of built form and loss of public open amenity space contrary to adopted policies BE1, CC6 and REC7 emerging policies D1 and E5 of the submitted Local Development Plan and the guidance and provision of the National Planning Policy Framework.
2. It has not been demonstrated that the proposal would not result in material harm or detrimental impact upon the enjoyment and safety of adjacent neighbouring occupiers or users and workers within the site contrary to policies BE1, CON5 and CON6 of the adopted Maldon District Replacement Local Plan and emerging policies D1 and D2 of the submitted Local Development Plan and the guidance and provision as contained within the National Planning Policy Framework.
3. Policy E5 of the Local Development Plan supports development for new tourist facilities providing it is demonstrated that there is an identified need for the proposal, there is good connectivity with other tourist sites and green infrastructure networks, there is no significant detrimental impact on the character and amenity of neighbouring uses or the surrounding area and any impact on the natural environment is avoided. The proposal fails to meet these policy criterion and is therefore, contrary to Policy E5 of the Local Development Plan as well as provision as contained within the National Planning Policy Framework.
4. The Ecological Scoping Survey reference 0259.0001 Rev 0 has not fully demonstrated that there will be no detrimental effect on the ecology and biodiversity of the site contrary to adopted policies BE1, CC5 and CC6 of the adopted Maldon District Replacement Local Plan and emerging policies D1, E5, N1 and N2 of the submitted Local Development Plan and the guidance and provision as contained within the National Planning Policy Framework.