



**REPORT of
CHIEF EXECUTIVE**

to
CENTRAL AREA PLANNING COMMITTEE
26 JULY 2017

Application Number	FUL/MAL/17/00647
Location	Car Park, Butt Lane, Maldon
Proposal	Change of use of part of car park to Maldon retail market on a Thursday until 31 August 2019
Applicant	Maldon District Council - Mr Richard Holmes
Agent	-
Target Decision Date	07 August 2017
Case Officer	Hilary Baldwin, TEL: 01621 875730
Parish	MALDON NORTH
Reason for Referral to the Committee / Council	Council Owned Land

1. RECOMMENDATION

APPROVE subject to the conditions as detailed within Section 8 of this report.

This application falls to be considered by the Area Planning Committee, but under its terms of reference if the Committee is minded to refuse permission the application will need to be determined by the Council and the Committee will need to recommend accordingly.

2. SITE MAP

Please see overleaf.



MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located within the development boundary for Maldon, within the Town Centre and the Conservation area as defined in the adopted Maldon District Replacement Local Plan.
- 3.1.2 The application relates to the south-eastern corner of the Butt Lane car park, which is owned by Maldon District Council. The application site covers an area of approximately 605 sq. m. which covers 38 existing car parking spaces, the same area approved under the existing temporary permission on the site. The site is accessed from the car park itself with pedestrian access from Wenlock Way.
- 3.1.3 The proposal seeks approval for the continuation of the change of use of the car park for market stalls one day a week (Thursdays) until 31 August 2019 from 07.30 until 18:00. The current permission uses this area for a market one day a week and expires on 31 August 2017.

3.2 Conclusion

- 3.2.1 As discussed within this report, it is considered that unless harm has been identified, or there is a requirement to maintain monitoring, then the repetitive issue of a temporary consent is contrary to government guidance and good planning practice. It is therefore considered that, albeit the proposal is for a two year period, as no harm has been identified within the lifetime of the extant permission and no concern has been raised by consultees or adjacent neighbouring occupiers that a permanent consent is issued.
- 3.2.2 It is considered that the proposed development is acceptable and compliant with the policies S1, BE1, BE13 and T8 of the adopted Maldon District Replacement Local Plan, emerging policies D1, D3, T1 and T2 of the Local Development Plan and the guidance and provision as contained within the National Planning Policy Framework.

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:

- 17, 7

4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:

- BE1 - Design of New Development and Landscaping
- BE13 - Development in Conservation Areas
- 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
- D3 - Conservation and Heritage Aspects

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 Principle of Development

- 5.1.1 The application site lies within the Town Centre of Maldon as defined in the adopted Maldon District Replacement Local Plan. The market helps to strengthen and maintain the role of Maldon town centre by improving the range of retailing which helps to promote the vitality and viability of the town centre environment. The application is therefore acceptable in principle.

5.2 Relevant Planning History

- 5.2.1 The application site has had planning permission to run the Maldon retail market since 2004. Temporary consent has been granted previously as it is not considered that a grant of permanent planning permission is appropriate. The granting of temporary consent enables the local planning authority to reassess the impact of the development upon the area. Some concerns have been raised in the past regarding hours of operation and breaches of previous planning permissions.
- 5.2.2 In respect of the above, the current application for temporary consent for a two year period would allow further monitoring and assessment. However, these issues appear to have been resolved and it is noted that during the lifetime of the extant temporary consent there were no issues raised in relation to the operation of the market.

5.3 Design and Impact on the Character of the Area

- 5.3.1 Policy BE1 (a) relates to design and seeks to ensure that new development is reflective of its setting in terms of architectural style, scale / bulk / height, materials and visual impact (among other factors).
- 5.3.2 Policy BE13 states that development in conservation areas should protect the character and historic value of the area.
- 5.3.3 Maldon is historically a market town and there is no objection to the continued use of part of the Butt Lane Car Park to hold the Maldon retail market. The proposed

change of use is considered to improve the vitality and viability of the Maldon Town Centre and therefore is considered to promote the overall vitality of the town centre, environment which in turn contributes to the character of the Maldon Conservation Area. As such, the proposal is not considered to have a detrimental impact on the special character of the Maldon Conservation Area.

- 5.3.4 The Conservation Officer has been consulted and there is no objection to the proposal.

5.4 Impact on Residential Amenity

- 5.4.1 The proposed market spaces are located within close proximity to residential properties at Old Mill Close and Wenlock Way. As a result the impact of the market stalls on the residential amenities of these properties has been assessed.

- 5.4.2 The change of use would result in an intensification of the use site and an increase in noise disturbance to the neighbouring residential amenity. However, in considering the temporary nature of the change of use, and the number of days in the year that the markets would be run, on balance, the harm caused is not considered to be demonstrable to the occupiers of adjacent buildings. In addition, the Environmental Health Department has received no known noise complaints from the neighbouring residents which are monitored as part of these temporary consents.

- 5.4.3 Whilst it is noted that the current submission is for a temporary period, albeit for two years, planning guidance recommends that unless there is a valid reason for refusal or harm has been identified which requires monitoring, then repetitively issuing temporary consents is not good practice. It is therefore considered appropriate in this instance to issue permanent consent.

- 5.4.4 Notwithstanding the above, through liaison with the Environmental Health Officer on previous applications, a condition had been imposed to ensure that there is a restriction on amplified music being played on the stalls so as not to disturb the nearby residential properties. The use of the condition is still considered to be applicable and can be appended to any grant of permission.

5.5 Access, Parking and Highway Safety

- 5.5.1 It is acknowledged that the market does result in the loss of car parking spaces on market days. However, this has to be considered in the wider context of the overall number of car parking spaces available within the town centre as a whole, as well as the economic benefits of there being a market within the town centre. There is no evidence to suggest that the use of the site has resulted in any on-street car parking, detrimental to the free flow of traffic or highway safety.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/04/00971** - Change of use of part of car park to Maldon retail market, 2 days per week (Thursday and Saturday). Approved - 09.12.2004.
- **FUL/MAL/06/01022** - Continued use of part of car park as retail market on 2 days per week (Thursday and Saturday). Approved - 28.11.2006.

- **FUL/MAL/07/00469** - Change of use of part of car park to Retail Market for 2 days per week (Thursday and Saturday) until 31st August 2008. Approved - 30.07.2007.
- **FUL/MAL/08/00643** - Use of part of car park for Maldon retail market 2 days per week (Thursday and Saturday) until 31 August 2010. Approved - 29.07.2008.
- **FUL/MAL/10/00401**- Use of part of car park for Maldon retail market 2 days per week (Thursday and Saturday) until 31 August 2012. Approved 10.08.2010.
- **FUL/MAL/11/00344**- Continuation of use of part of car park for Maldon retail market 2 days per week (Thursday and Saturday) until 31 August 2013. Approved 23.06.2011.
- **FUL/MAL/13/00448** - Change of use for Market stalls 2 days a week. Approved 26.06.2013.
- **FUL/MAL/15/00809** - Change of use of part of car park to Maldon retail market 2 days a week (Thursdays and Saturdays) until 31 August 2016. Approved 8 September 2016.
- **FUL/MAL/16/00664** - Change of use of part of Butt Lane car park to Maldon Retail Market 1 day a week (Saturdays) until 31st August 2017. Approved 25 August 2016.
- **FUL/MAL/16/00665** - Change of Use of part of Butt Lane car park to Maldon Retail Market 1 day a week (Thursdays) until 31st August 2017. Approved 25 August 2016.

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Maldon Town Council	Support	The comments of the Town Council are noted.

7.2 **Internal Consultees (*summarised*)**

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	No Objection	The comments of the Conservation Officer are noted
Environmental Health Service	No Comment	The comments of the EHO are noted

7.3 Statutory Consultees and Other Organisations (*summarised*)

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Highways	No objection	The comments of the Highway Authority are Noted

7.4 Representations received from Interested Parties (*summarised*)

7.4.1 No letters of representation have been received.

8. **PROPOSED CONDITIONS**

- 1 The development hereby permitted shall be carried out in complete accordance with the approved Location Plan specifically referenced on this decision notice as well as the submitted detailed specifications.
REASON: To ensure that the development is carried out in accordance with the details as approved in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan, the National Planning Policy Framework and policy D1 of the submitted Maldon District Local Development Plan.
- 2 The Maldon retail market hereby permitted shall operate only between the hours 07:30 to 18:00 on Thursdays only with no setting up of any stall prior to 07:00. All stalls and related equipment shall be removed from the site prior to 19:00 hours on each day.
REASON: To ensure the use is appropriate to the locality in accordance with policy BE1 (a) (vii) of the adopted Maldon District Replacement Local Plan.
- 3 There shall be no amplified sound used within the site edged in red on the Location Plan.
REASON: To ensure the use is appropriate to the locality in accordance with policy BE1 (a) (vii) of the adopted Maldon District Replacement Local Plan.