



**REPORT of
CHIEF EXECUTIVE**

to
**CENTRAL AREA PLANNING COMMITTEE
13 DECEMBER 2017**

Application Number	FUL/MAL/17/01161
Location	Workshop Former Hunters Garage, The Square, Heybridge, Essex
Proposal	Erection of 9 No. dwellings and two commercial units (Class A2) and layout parking to rear.
Applicant	Salmar Properties Ltd
Agent	Mr Phillip McIntosh - Melville Dunbar Associates
Target Decision Date	07.12.2017
Case Officer	Yee Cheung, TEL: 01621 876220
Parish	HEYBRIDGE WEST
Reason for Referral to the Committee / Council	Member Call In

1. **RECOMMENDATION**

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

2. **SITE MAP**

Please see overleaf.

Workshop - Former Hunters Garage - The Square
Heybridge FUL/MAL/17/01161



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 Maldon District Council 100018588 2014



MALDON DISTRICT COUNCIL

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Scale: 1:1,250

Organisation: Maldon District Council

Department: Planning Services

Comments: Central Committee

Date: 04/12/2017

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 The application site is located in a prominent position at the junction of The Causeway and Anchor Lane, adjacent to The Square. It is currently used for the open display and sale of motor cars together with a vehicle repair workshop housed in a building to the rear and a hand car wash operation. To the front is a wide footway and verge where vehicles are often parked and occasionally displayed for sale.

3.1.2 The site has two prominent frontages, due to its position on a corner plot. The main frontage measures approximately 36 metres in length and is adjacent to the mini roundabout that serves three highways - The Causeway, The Square and The Street. The secondary frontage onto Anchor Lane measures approximately 37 metres in length. The total site area is 0.09 hectares. At present vehicular access is primarily achieved from The Causeway to the display area, while an access is also available to the workshop at the rear from a driveway which also serves five residential properties.

3.1.3 Anchor Lane is a narrow access road which serves the aforementioned five residential properties and further ten properties, together with access to Heybridge Mill House, a Grade II listed building. The entrance to The Anchor Public House car park is immediately to the north of the application site, while immediately to the south is an area of unkempt overgrown land containing a number of trees, forming the bank to the River Blackwater and sluice beneath The Causeway. Besides the existing residential properties at Anchor Lane and immediately to the north, other buildings in the vicinity of the application site are industrial and commercial warehouses that vary in size.

3.1.4 The application site is located within Flood Zone 3a in an area of flood risk.

3.1.5 This application is a resubmission following the recent refusal of planning application FUL/MAL/17/00273 dated 15 May 2017 for the construction of nine dwellings and commercial unit (Class A2) and layout parking to rear. The reasons for refusal are listed below:-

- 1. The proposed development would, as a result of its design, appearance, siting, height and bulk, result in a contrived, cramped and incongruous form of development in this prominent location and would fail to harmonise with and sit comfortably within the existing street scene and the immediate surroundings, contrary to policy BE1 of the adopted Maldon District Replacement Local Plan, policies S1, S8, D1 and H4 of the Maldon District Local Development Plan, and Government advice contained in the National Planning Policy Framework.*

2. *The proposed layby / drop off / visitor parking facilities on The Causeway is likely to lead to confusing slowing and turning manoeuvres in the immediacy of the roundabout. In addition, the development fails to provide a footway onto Anchor Lane of an adequate width to enable two pedestrians to pass unopposed which is likely to lead to pedestrians either stepping off the footway into the paths of oncoming vehicles or wheelchairs or mobility scooters running off the footway also into the paths of oncoming vehicles, contrary to highway safety and policy T2 of the Maldon District Replacement Local Plan and policy T2 of the Maldon District Local Development Plan.*
 3. *The proposed residential development would result in an unacceptable level of harm to the living conditions of future occupiers as a consequence of the poor quality of private amenity space through noise and disturbance resulting from The Street, The Causeway and The Square. Furthermore, inadequate information has been submitted to demonstrate that the proposed use at ground floor can operate without resulting in material harm to the amenity of neighbouring occupiers through noise and disturbance. The proposed development would therefore be contrary to The National Planning Policy Framework, policies BE1 and CON5 of the adopted Maldon District Replacement Local Plan, policy D1 of the submitted Maldon District Local Development Plan and advice contained in the Essex Design Guide.*
- 3.1.6 The current application seeks to address the above reasons for refusal by amending the design of the development, improving the residential amenity of the future occupiers of the site, and on highway safety.
 - 3.1.7 Planning permission is sought for the demolition of the workshop and ancillary buildings at Hunters Garage and to construct a mixed use development which would provide a commercial use (Use Class A2 - i.e. banks, building societies, estate agents and employment agencies) for professional services at ground floor and self-contained flats above. The floor area proposed for A2 use would total to 200sqm (Unit 1 = 80m² and Unit 2 = 120m²).
 - 3.1.8 With regard to the residential element of the development, it is proposed to provide nine, one bedroom flats. The flats would be accessed via a balcony access to the rear of the building. Only Flat 5 would have a private balcony area. The other flats would have access to a communal amenity balcony.
 - 3.1.9 It is proposed that the building would be constructed using external materials such as render, brick, timber and plain tiles to reflect the surrounding urban form.
 - 3.1.10 Access and egress would be to the rear of the site via Anchor Lane. Sixteen off-street parking spaces for both residential and business would be located to the rear of the building.
 - 3.1.11 The scheme also proposes the removal of an existing vehicular access points from The Causeway and reinstatement to footway to improve road safety; the provision of a 2 metre wide footway along Anchor Lane to improve pedestrian access and safety; and to create a new access point to the north western corner of the site to prevent conflict with existing users at No. 2, 3, 4, 5, 6, 7 and 8 Anchor Lane.

3.1.12 A communal bin store area and two cycle store areas are proposed to the rear of the site (to the rear of Unit 1 and to the rear of unit 2).

3.2 Conclusion

3.2.1 The proposed development would result in an unacceptable level of harm to the living conditions of future occupiers as a consequence of noise and disturbance resulting from traffic on The Street, The Causeway and The Square. Furthermore, inadequate information has been submitted to demonstrate that the proposed use at ground floor can operate without resulting in material harm to the amenity of neighbouring occupiers through noise and disturbance.

3.2.2 The development proposal, for the reasons as set out above, is considered to be contrary to the requirements of the Maldon District Local Development Plan (LDP) and Government guidance contained within the National Planning Policy Framework (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 2012 including paragraphs:

- 7, 8, 9, 14, 17, 20, 21, 39, 50, 56, 57, 61, 100, 101, 139, 141

4.2 Maldon District Local Development Plan as approved by the Secretary of State on 21 July 2017:

- Policy S1 – Sustainable Development
- Policy S2 – Strategic Growth
- Policy S5 – Maldon and Heybridge Central Area
- Policy S8 – Settlement and the Countryside
- Policy D1 – Design of Development
- Policy D2 – Climate Change and Environmental Impact on New Development
- Policy D5 – Flood Risk and Coastal Management
- Policy E1 – Employment
- Policy E2 – Retail Provision
- Policy H4 – Effective Use of Land
- Policy T1 – Sustainable Transport
- Policy T2 – Transport and Infrastructure

4.3 Relevant Planning Guidance / Documents:

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

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The Council is now in a position where it can demonstrate an up to date deliverable supply of housing land for a period in excess of five years. This is a material consideration and means that any application for new development must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.1.2 There are three dimensions to sustainable development as defined in the NPPF) They are the economic, social and environmental roles. The Local Development Plan through the preamble to Policy S1 reiterates the requirements of the NPPF.
- 5.1.3 The application site is within the Heybridge settlement boundary as set out in Policy S8 and identified by the Policies Map. Sustainable development in the settlement boundary is supported by the LDP.
- 5.1.4 The site lies within the Causeway Regeneration Area (covered by Policy S5) and Heybridge Town Centre (Policy E2): The Central Area Masterplan covers this area. Together, the policy framework promotes the provision of offices, modern workspaces for small and medium sized enterprises, start-up units and mixed use development. Proposals which maintain and encourage walking and cycling across the area through an improved public realm are also supported. Positive traffic management and effective car parking are requirements for new development.
- 5.1.5 The proposal provides for a mixed-use development, which aims to enhance the quality of the public realm and promote an improved environment for pedestrians and cyclists. To be consistent with Policy S5 and Policy T2 a view will need to be taken to determine whether the car parking provision is acceptable for a development of this type and scale.
- 5.1.6 Policy S2 of the LDP identifies the Council's housing supply to 2029. Although the Council's five Year Housing Land Supply report (September 2017) demonstrates that there is a deliverable housing supply equivalent to 6.28 years, the development of this site would contribute to the Council's windfall allowance (once completed) and would be supported by Policy S2.
- 5.1.7 Other material considerations would also include the impact on the character and appearance of the area, impact on the amenity of the neighbouring residential properties, highway safety, and if the development would put the future occupiers at risk of flooding. These material considerations would be discussed below.

5.2 Impact on Employment

- 5.2.1 Policy E1 of the LDP states that proposals to develop vacant employment sites and buildings, or to modernise or redevelop existing employment sites and buildings will be viewed favourably, especially where this supports the retention of existing businesses and/or provides employment space that meets the current needs of local businesses in the District.

5.2.2 The Council will support improvements to the quality of all employment sites and will work with partners to maintain their viability by encouraging the provision of adequate infrastructure and supporting facilities. Proposals which will cause any loss of existing employment uses, whether the sites are designated or undesignated, will only be considered if:-

- 1) The present use and activity on site significantly harms the character and amenity of the adjacent area; or
- 2) The site would have a greater benefit to the local community if an alternative use were permitted; or
- 3) 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.

5.2.3 Where appropriate and viable, proposals which will result in loss of significant employment space will be expected to provide mitigation measures in the form of contributions to local employment training and small business growth programmes supported by the Council.

5.2.4 The proposal would, if allowed, result in a loss of a workshop / garage. The existing floor space is 129m² and will be replaced by commercial use (A2) with a floor space of 200m², an increase of 71m². Class A2 Use would be primarily for professional and financial services.

5.2.5 At present, the use of the site for the open display of motor vehicles for sale is not considered to be particularly attractive for such a prominent location and, with the workshop located in close proximity to the residential properties immediately to the rear, the cessation of the current activities would represent an improvement to the amenities for the occupants of those properties and therefore the proposal would be beneficial and in compliance with Policy E1 (1) and E1 (2) of the LDP.

5.2.6 Having considered the proposed use and the variety of business activities in the vicinity of the application site, it is considered that B1(a) (Offices other than in a use within Class A2) is considered acceptable and beneficial in terms of economic development to the area. Also such class use can be carried out in residential areas without detriment to the amenity of that area. Therefore, although B1(a) use is not what has been applied for, a condition could be imposed to allow B1(a) as well as A2 use should the application be approved. Further, by allowing B1(a) on this site would give the Applicant a greater degree of flexibility thus encouraging economic growth within the Maldon District.

5.3 Housing Mix

5.3.1 Policy H2 of the LDP makes reference to housing mix. Further, in the NPPF it states that the mix of housing and the range of tenures should reflect local need as set out in the Strategic Housing Market Assessment (SHMA). The evidence base from the SHMA identifies that the District has a high number of large dwellings of three or more bedrooms and for one and two bedroom units there is a less than half the

national average which has led to an imbalance in the overall position. The NPPF at paragraph 50 identifies that local planning authorities should deliver a wide choice of high quality homes and plan for a mix of housing based on current and future demographic trends, market trends and the needs of communities. Moreover, the NPPF identifies that the type, tenure and range of housing should reflect local demand. This is reflected in Policy H2 of the LDP.

- 5.3.2 The provision of nine, one-bed units would provide smaller units in accordance to the SHMA. This is considered acceptable in accordance with Policy H2 of the LDP and guidance within the NPPF.

5.4 Design and Impact on the Character of the Area

- 5.4.1 National planning policy places great importance on the design of the built environment and states that high quality design should ensure that new development is visually attractive, responsive to local character, helps to promote healthy communities, and creates buildings which are durable, adaptable, and function well within the surrounding area to create a safe and accessible environment. Good design should enable and encourage people to live healthy lifestyles, reduce the risk of crime, create accessible environments which are inclusive for all sectors of society and increase opportunities for social interaction.
- 5.4.2 Policy D1 of the Local Development Plan (LDP) states that all development must, amongst other things, respect and enhance the character and local context and make a positive contribution in terms of: (a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate.
- 5.4.3 The scale of buildings within the locality are predominately 2 storeys although it is noted there is a 3 storey building south of the site along The Causeway and north of the site in The Square. At the eastern end of The Street there is a 4 storey building which is positioned adjacent to the Blackwater and is particularly prominent in the streetscene.
- 5.4.4 The application site occupies an extremely prominent location within the street scene. Although not actually within a Conservation Area, it is located in very close proximity to a number of Listed Buildings while the Chelmer & Blackwater Navigation Conservation Area boundary is situated within 25 metres of the application site. The junction of The Square, The Street and The Causeway results in the site being particularly conspicuous and acting as a fulcrum to the entire surrounding area. Longer distance views along The Causeway and the open aspect immediately to the south of the site in the location of the bridge and sluice will result in the development being particularly apparent from a southerly aspect.
- 5.4.5 The scheme proposes a hybrid of design styles which vary from modest two storey units fronting Anchor Lane to a more imposing three storey element at the southern end of the site. This form of development takes reference from the surrounding properties or the local vernacular of building styles. In the last planning application FUL/MAL/17/00273, it was noted that the development was of limited architectural merit and contained a number of unresolved design features. The level of projections, roof designs and pitches has resulted in an overall development that would have been

large, bulky, contrived, and result in a cramped appearance in the street scene. The range of designs that had been incorporated into the building, when read in conjunction with the overall scale of the building, was considered excessive and inappropriate to its setting hence the application was refused on design grounds.

- 5.4.6 Since the last submission, the Applicant has been liaising with the Urban Design Officer to improving the design and appearance of the proposed scheme. The appearance of the proposal has changed in that, following design advice; the Applicant has related the appearance of the proposal to the village of Heybridge at the Anchor Lane end and acknowledged The Causeway at the other end with a small increase in height but has tempered this in response to the scale of the trees lining the sides of the river Blackwater. It is noted that the design of the proposal to respond to the character of 'old Heybridge' and the continuous street frontages where different building heights, roof forms and elevational design add variety to the frontage. The appearance of the building has broken up the massing of the previous proposal and introduced an asymmetrical appearance rather than a regimented symmetrical appearance.
- 5.4.7 Further, it is noted that in this current application the development shows the distinct difference between the commercial and residential elements with larger commercial glazing to the ground floor where previously the scheme appeared more domestic in appearance due to the design, position and size of the windows and glazing when viewed in the street frontage. Open stair cases have been enclosed and amenity balconies provided at the rear.
- 5.4.8 Having considered the above and the amendments made between the previous and the current scheme, it is considered the design of development is acceptable in this prominent location in accordance with Policies S1, D1 and H4 of the LDP. Further, the development would accord with Policies S5 and E1 where the Council supports to regenerate, modernise or redevelopment of existing employment sites.

5.5 Impact on Residential Amenity

- 5.5.1 Policy D1 of the Local Development Plan (LDP) states that all development must, amongst other things, respect and enhance the character and local context and make a positive contribution in terms of: (4) Protect the amenity of surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. The impact on residential amenities is also reflected in Policy H4 of the LDP.
- 5.5.2 The development is of considerable scale when compared to the existing building on the site. Having regard to the improvement to the character of the area with the removal of the commercial activities, the loss of outlook and some loss of light will be offset by the visual gains and improvement to the general amenity.
- 5.5.3 While it is noted that there would be access on the first and second floor and on the northern elevation of the development onto amenity balconies, it is not considered that the development would result in direct overlooking or loss of privacy to the existing neighbouring residential properties at Anchor Lane due to the position (between 18 metres and 21 metres away from the front elevation residential properties

at Anchor Lane) of the and the orientation of the built form. In this respect, the proposal would accord with Policies D1 and H4 of the Local Development Plan.

5.6 Private Amenity Area / Communal Area

- 5.6.1 The proposal would provide nine, one-bed flats. Policy D1 of the LDP together with the criteria contained within the Essex Design Guide (EDG) which has been adopted as Supplementary Planning Guidance, expects any residential development to incorporate appropriate levels of private amenity space. In respect of any scheme incorporating flats, 25sqm of communal area should be provided. A balcony area over 5sqm will count towards the total garden provision for flats. As nine units are proposed, an area of 225sqm should be provided. In this instance, the development proposal would fail to provide this for the future occupiers of the site as the total area of the amenity balcony (first and second floor) would be approximately 187sqm. 182sqm would be shared by the future occupiers at Flats 1, 2, 3, 4, 6, 7, 8 and 9 where Flat 5 benefits from a private balcony with an area of 5sqm. However, it must also be noted that some of this space also provides access to flats.
- 5.6.2 The deficiency in such provision is heightened by the complete lack of any public amenity space in the vicinity of the application site. There are no parks, play facilities or other recreational space available in the locality. While this is the case, the EDG recognises that residents of such flats may be happy to forego this amenity if there are other benefits such as living in town centre / urban locations. However, it must be noted that the development is for one bedroom dwellings and therefore would not be considered as family accommodation. As the site is located within the Causeway Regeneration Area (Policy S5) and Heybridge Town Centre (Policy E2), it is considered that, on balance, the benefit of regenerating the area would positively contribute to the Central Area Masterplan in accordance with Policy D1 of the LDP and the amenity standards would not be so poor that this outweighs the benefit of the development.

5.7 Contamination

- 5.7.1 From the historic maps the site is a former Garage and adjacent to a coal yard. As such, there is a reasonable potential of a risk of harm from land contamination arising from the change of use. The Environmental Health Services (EHS) was consulted and had requested a phase 1 risk assessment to identify any potential pollutant linkages.
- 5.7.2 In support of the planning application, a Phase 1 Desk Top Study Report by Herts and Essex Site Investigations dated February 2017 was submitted. The report states that there are potential risks to future users and surface (River Blackwater) and groundwater (secondary aquifer). It also states that there are records of the removal of previous underground fuel storage tanks and the potential for a waste oil tank to remain. There are no records of any previous ground investigations.
- 5.7.3 The report recommends an intrusive investigation which is agreed with Environmental Health Services (EHS). It must be noted that at the time that the report was drafted it describes that proposed development for the site as "unknown" although there is reference to an earlier refused planning application for residential development. Any subsequent risk assessments must make reference to the proposed application that this information supports.

5.7.4 Therefore, if the site is regarded as suitable for its proposed use, EHS has advised that the standard conditions relating to site an investigation, remediation and verification should be imposed should the application be approved.

5.8 Noise Impact

5.8.1 The Applicant has submitted an Environmental Noise Assessment by Loven Acoustics date 10 October 2017 for the proposed use (reference: LA/1539/02aR/ML). The use will include dwellings above a proposed A2 use. The site is located on a roundabout on a busy route into and out of Maldon. A noise survey was undertaken over a representative 24 hour period.

5.8.2 As with a previous and similar application to this site FUL/MAL/17/00273, the report states that a scheme of glazing and ventilation can be designed so that the internal noise levels can meet the criteria in BS8233:2-14. This recommends noise levels above which affects health or harm can occur namely 35dB LAeq for living rooms, 30dB LAeq in bedrooms and 55dB LAeq in external amenity areas. The above criteria are thresholds specifically designed to protect people living in busy urban areas and therefore would not expect people to be placed in a position in the Maldon District where there is a risk of this in accordance with Policy D2 of the LDP.

5.8.3 The report states that the noise levels in living rooms and bedrooms is calculated to be 35 dB(A) 29dB(A) respectively suitable glazing and ventilation is provided. This infers that these will be fixed windows or that occupants will not be able to open windows. This prevents occupants from sleeping with bedroom windows open. The report also states that the external noise criteria is exceeded by over 10 dB(A). The noise is dominated by traffic.

5.8.4 Environmental Health Services (EHS) has serious concerns over the outcomes of the report as the noise levels that future occupants have to endure are likely to be exposed to would neither desirable or healthy as considered by World Health Organisation (WHO). The report states that windows and alternative ventilation should be relied upon which is not desirable for residents and there is no justification why this location is suitably desirable or essential for residential development in planning terms. Even if it was so the report suggests that more will be required to provide adequate protection against internal noise because those calculated match the WHO criteria so there is no room for error in the measurements. The external areas have been calculated to be over 10 dB(A) above the threshold.

5.8.5 The EHS has raised concerns regarding the calculations in the report. The survey data has been gathered over a "representative 24-hour weekday period". In order to be representative at a statistical level, measurements over a far longer period would be required in order to rule out outliers and to show suitable modal periods or noise levels that may be then presented as representative.

5.8.6 The proposed nine flats would be above an A2 use. EHS has also raised concerns regarding the noise impact and potential conflict between the commercial use at ground floor and the residential properties at first and second floor. Based on the information submitted, the Applicant claims that *"The A2 commercial space on the ground floor will be separated from the residential units above by a concrete floor structure. As of writing the details of the floor construction have not been finalised*

but are thought to be of either an in-situ slab or more likely pre-cast planks and suspended ceiling". Until such detail has been submitted, EHS advises that it would be difficult to design insulation to protect against such noise. Permitted changes in use classes for premises are inevitable as the Government seeks greater flexibility to ensure premises do not become vacant, for example from A2 to A1. As this is a new development, planning conditions could be imposed to restrict the use of the premises and the hours of operation to reduce noise and disturbance to the future occupiers of the site.

- 5.8.7 Although EHS will investigate complaints of nuisance arising from commercial and industrial premises these premises will have a defence of best practicable means. This could effectively mean that only a percentage of noise or other disturbances could be remedied should complaints arise once the development is completed and occupied. Additionally the current character of the area would need to be considered when investigating nuisance and the industrial area would influence this. Similarly the NPPF also suggests that existing businesses should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.
- 5.8.8 Therefore from the information provided, EHS do not consider that the site would be suitable for a sensitive end use because of exposure to road traffic noise and would be more suited to a full commercial use as the development would be contrary to Policy D2 of the LDP.

5.9 Access / Highway

- 5.9.1 In the previous application FUL/MAL/17/00273, the Highway Authority had objected to the scheme as a proposed layby / drop off / visitor parking facilities was proposed to the front of the building next to The Causeway. It was considered that the parking area was likely to lead to confusing slowing and turning manoeuvres in the immediacy of the roundabout contrary to highway safety and Policy T2 of the LDP.
- 5.9.2 In addition to the above, the proposed footway onto Anchor Lane was insufficient in width to enable two pedestrians to pass unopposed which is likely to lead to pedestrians either stepping off the footway into the paths of oncoming vehicles or wheelchairs or mobility scooters running off the footway also into the paths of oncoming vehicles contrary to highway safety and Policy T2 of the LDP.
- 5.9.3 In this application, the submitted plans show that the Applicant has addressed the Highway Authority's concerns by omitting the layby / drop off / visitor parking facilities to the front of the building and increased the width of the pedestrian footway along Anchor Lane. Also as part of the resubmission, a new vehicular access point introduced to the north western corner of the site to allow the parking of cars and the storage of bicycles.
- 5.9.4 The Highway Authority assessed the application and has raised no objection to the proposal subject to conditions and informative to be imposed should the application be approved. The proposal would now accord with Policy T2 of the LDP and Government advice contained in the NPPF.

5.10 Parking

- 5.10.1 In terms of car parking, the Ground Floor Site Plan (Drawing No: 1515 PL 101 dated 29.06.2017) shows that each unit would benefit from one car parking space. This would meet the requirement contained within the Maldon Vehicle Parking Standards (MVPS) and Policy T2 of the LDP.
- 5.10.2 For Class A2 use (financial and professional services), the MVPS states that adequate provision shall be made for the parking and turning of service vehicles delivering goods to the premises and, where appropriate, delivery vehicles operating from the premises. It is advised that a maximum of 1 space per 20m² would be required. While it is noted that there would be a shortfall of three parking spaces, the proposal is located in a sustainable location where it could easily be reached by public transport as there are bus stops along The Causeway and The Street and are within walking distances. In this respect, the proposal would accord with Policy T2 of the LDP.

5.11 Flood Risk

- 5.11.1 The application site lies within fluvial and tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for nine dwellings and a commercial unit, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance.
- 5.11.2 The NPPG identifies that the Sequential Test aims to steer new development to areas with the lowest probability of flooding, with the aim to steer development towards Flood Zone 1. LPAs are required to take into account the vulnerability of land uses and consider reasonably available sites where possible in Flood Zone 2. It is only when there is no reasonably available land within Flood Zone 1 or 2 that sites can be considered in Flood Zone 3, taking into account the vulnerability of the land use and applying the exceptions tests (where required).
- 5.11.3 In addition the Exceptions Test is also applicable and is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. This is a two part test requiring evidence to be submitted to show that the benefits of the development would outweigh the risk of flooding and that the development will be safe for its lifetime. This aspect of the test requires the submission of a Flood Risk Assessment (FRA).
- 5.11.4 In terms of the Sequential Test, as part of the FRA (referenced 1744/RE/01-17/01 and dated January 2017), the Applicant has stated that the Sequential Test has been undertaken using the Maldon District 2014 Strategic Housing Land Availability Assessment (SHLAA) and it can be concluded that the site passes the Sequential Test as there is no other 'reasonably available' sites within the Causeway Regeneration Area. The Applicant goes on to say that there are no other sites which can be considered reasonably available with a lower probability of flooding. The Council disagrees with the Applicant's statement and interpretation of the Sequential Test. While it is noted that details of other reasonable sites have not been provided as part of the submission, the Council considers that it is appropriate to take a pragmatic approach to the application of the Sequential Test, as although the site includes land

within Flood Zone 3a, the development scheme proposed would be mixed-use scheme within the Causeway Regeneration Area (Policy S5) and has been designed to place less vulnerable development at ground floor level (A2 use) and with a more vulnerable development where in this instance, residential, at first floor and above. It is therefore considered, on balance, that the proposal has passed the Sequential Test.

- 5.11.5 The Exception Test requires the submission of a FRA which demonstrates the development will be safe for its lifetime, without increasing flood risk elsewhere, and will reduce the overall flood risk where possible. In order to afford a level of protection against flooding, the FRA advises that during the tidal 1 in 200 and 1 in 1,000 year event including climate change, floodwater would overtop the defences, and possibly flow through any breach openings. Section 5.2.4 of the FRA explores the residual risk of a breach using the Maldon District Council Strategic Flood Risk Assessment (SFRA).
- 5.11.6 The FRA goes on to say that the site could experience breach flood depths of up to 0.5-1 metre during the 0.5% (1 in 200) annual probability including climate change breach flood event and up to 1.5-2 metres during the 0.1% (1 in 1,000) annual probability including climate change breach flood event (up to the year 2107). Therefore assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change.
- 5.11.7 The flood level at the site has been estimated to reach 5.09m Above Ordnance Datum (AOD) and 5.74m AOD respectively. Across commercial ground floor areas in the building the flood depth would be 0.99m and 1.64m and the hazard would be Dangerous for Most and Dangerous for All.
- 5.11.8 Finished first floor levels have been proposed at 6.95m AOD and therefore there is safe refuge above the 0.1% (1 in 1,000) annual probability including climate change allowance of 35% flood level of 3.7m AOD.
- 5.11.9 As part of the assessment, a FRA (Flood Risk Assessment: Report Reference: 1744/RE/01-17/01 dated January 2017 was submitted in support of the application. While no consultation response has been received at the time of writing this report, it is important to note that The Environment Agency had considered the FRA which is identical and was also submitted with the last application FUL/MAL/17/00273 and had raised no objection to the proposal subject to other considerations such as Safety of Building - Flood Resilient Construction; Safety of Inhabitants - Emergency Flood Plan; and Other Sources of Flooding to be taken into account should the application be approved. These considerations can be dealt with by conditions and informative should the application be approved.
- 5.11.10 In addition to the above, the Emergency Planner has been consulted and has advised that a flood water evacuation plan would be required and be made available to all residents should the application be approved. This again can be dealt with by planning conditions.

5.12 Archaeology

- 5.12.1 The proposed development is located on the edges of the medieval settlement of Heybridge on the frontage of the road leading to the Hey Bridge and the Causeway. The immediate vicinity contains numerous archaeological remains, ranging in date from the Late Iron Age and Roman settlement of Elms Farm to the west to the Saxon, medieval and post-medieval settlement of Heybridge. It is therefore possible that archaeological features relating either to historic Heybridge or to earlier phases of the settlement history of the area will be impacted upon.
- 5.12.2 Archaeological deposits are both fragile and irreplaceable and any approved development on site should therefore be preceded by a programme of archaeological investigation which should be secured by an appropriate condition attached to any forthcoming planning consent. The Conservation Officer has recommended that if this proposal is approved that a full archaeological condition is attached to the planning consent as this would be in line with Paragraphs 139 and 141 of the National Planning Policy Framework.

6. ANY RELEVANT SITE HISTORY

- **OUT/MAL/04/01006** - Construction of 22 no. studio one and two bedroom flats. Application withdrawn.
- **FUL/MAL/05/01375** - Construction of 10 residential units and 1 No. commercial unit with associated parking and works. Refused: 02.03.2006.
- **FUL/MAL/08/00872** - Redevelopment of site to provide 2 x two bedroom town houses, 6 x two bedroom flats and 2 x ground floor retail units with ancillary car parking, open space and highway improvements. Refused: 19.02.2010.
- **FUL/MAL/17/00273** - Erect 9 dwellings and commercial unit (Class A2) and layout parking to rear. Refused: 15 May 2017.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Heybridge Parish Council	Recommend approval as the development regenerate the area.	Noted.

7.2 Statutory Consultees and Other Organisations (*summarised*)

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council (ECC) Highways	No objection subject to conditions and informative.	Noted

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Environment Agency (EA)	No comments received at the time of writing this report.	It is noted in the previous planning application FUL/MAL/17/00273, EA had raised no objection to the proposal providing the Sequential and Exception Test is passed.
Anglian Water Services (AWS)	No comments received at the time of writing this report.	It is noted in the previous planning application FUL/MAL/17/00273, AWS had raised no objection subject to an informative to be imposed should the application be approved.

7.3 Internal Consultees (*summarised*)

Name of Internal Consultee	Comment	Officer Response
Environmental Health Services	Concerns regarding: <ul style="list-style-type: none"> Contamination of the site. Noise Report: The impact on the future occupiers of the site from road traffic noise. 	Noted in the report.
Planning and Policy Team	The proposal would comply with policy S2, S5, S8 and E2 of the LDP.	Noted.
Archaeology	No objection subject to conditions.	Noted in the report.
Emergency Planners	It is requested that the information around the evacuation is lifted from the flood risk assessment and added into a flood water evacuation plan and shared with residents of the site.	Noted. Condition to be imposed should the application be approved.
Urban Design Officer	No objection to the proposal as the Applicant has addressed previous concerns raised	Noted in the report.

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 summarised as set out in the table below:

- Judith Lea for the Maldon Society, 12 The Courtyard Spital Road Maldon Essex

Objection Comment	Officer Response
This site is an important circulation route for Maldon and Heybridge.	Noted in the report
New development should blend into the street scene and neighbouring properties.	
Mass and design should be considered.	
The scheme is unsympathetic to its surroundings.	
The present buildings reflect a past use.	

8. **REASON FOR REFUSAL**

The proposed development would result in an unacceptable level of harm to the living conditions of future occupiers as a consequence of noise and disturbance resulting from traffic on The Street, The Causeway and The Square. Furthermore, inadequate information has been submitted to demonstrate that the proposed use at ground floor can operate without resulting in material harm to the amenity of neighbouring occupiers through noise and disturbance. The proposed development would therefore be contrary to The National Planning Policy Framework, and Policies S1, D1 and D2 of the Maldon District Local Development Plan.