



**MINUTES of
COUNCIL (EXTRAORDINARY)
21 MARCH 2019**

PRESENT

Chairman	Councillor H M Bass
Vice-Chairman	Councillor N R Pudney
Councillors	J P F Archer, E L Bamford, B S Beale MBE, R G Boyce MBE, Mrs P A Channer, CC, I E Dobson, Mrs H E Elliott, P G L Elliott, A S Fluker, Mrs B D Harker, B E Harker, M S Heard, Miss M R Lewis, S J Savage, Mrs N G F Shaughnessy, Rev. A E J Shrimpton, A K M St. Joseph, Mrs M E Thompson and Miss S White

972. CHAIRMAN'S NOTICES

The Chairman referred to the notices printed on the agenda. At this time he also made reference to the forthcoming elections and reminded Members that that the Council was now in purdah.

973. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Miss A M Beale, R P F Dewick, M F L Durham, CC, M W Helm, M R Pearlman and R Pratt, CC.

974. DISCLOSURE OF INTEREST

Councillor S J Savage disclosed a non-pecuniary interest in Agenda Item 4 - RES/MAL/18/01440 and Item 5 – MLA/MAL/19/00101 Land South of Wycke Hill and Limebrook Way, Maldon, Essex as he was a Maldon Town Councillor.

Councillor Mrs P A Channer disclosed a non-pecuniary interest as an Essex County Councillor in any matter where the County Council were consultees on a variety of matters.

The Committee received the reports of the Director of Strategy, Performance and Governance and determined the following planning applications, having taken into account all representations and consultation replies received, including those listed on the Members' Update circulated prior to the meeting.

975. RES/MAL/18/01440 - LAND SOUTH OF WYCKE HILL AND LIMEBROOK WAY, MALDON, ESSEX

Application Number	RES/MAL/18/01440
Location	Land South Of Wycke Hill And Limebrook Way, Maldon, Essex
Proposal	Approval of reserved matters (layout, scale, appearance and landscaping) for Phase 2 of the Eastern Parcel of the wider Land South of Wycke Hill and Limebrook Way site (LPA Application Ref. FUL/MAL/18/00071), comprising the construction of 406 residential dwellings (Use Class C3) and associated work
Applicant	Taylor Wimpey (East London)
Agent	Ms Catherine Williams – Savills
Target Decision Date	25.03.2019
Case Officer	Kathryn Mathews
Parish	MALDON WEST
Reason for Referral to the Committee / Council	At the discretion of the Director of Strategy, Performance and Governance This application was deferred from the last Council (Extraordinary) Committee – Agenda Item 5 (28 February 2019) due to a lack of technical information in the Officer report

Members were reminded that this application had been deferred at the last extraordinary meeting of the Council.

It was noted from the Members' Update that a further consultation response from the Environment Agency had been received.

Following the Officers' presentation Ms Williams, the Agent, addressed the Committee.

Having sought clarification on a point regarding design codes, Councillor A S Fluker, Leader of the Council, proposed that the application be approved in accordance with the Officers' recommendation. This proposal was duly seconded.

A number of Members raised concern regarding some of proposed properties not complying with the recommended minimum amenity space. Officers advised that whilst this was true it had been assessed in line with the generous amount of public open space which would, by some means, compensate and overall Officers were happy that the proposal would be satisfactory. It was noted that the proposed parking had been assessed as complying with the Council's car parking standards.

Councillor B E Harker referred to the design of some of the proposed flatted blocks, felt that there had been little regard to the garden suburb principles and was concerned regarding the amenity spaces being below the minimum standard. He proposed that the application be refused, contrary to Officers' recommendation, due to the under-provision of amenity space for some of the dwellings proposed. The Chairman advised him that there was already a proposition, of approval, and therefore if he disagreed he would need to vote against it.

A lengthy discussion ensued, during which Officers provided guidance and responded to a number of points and concerns raised by Members regarding the proposed application, including the following:

- It was clarified that garden suburb principles set out in the South Maldon Garden Suburb Strategic Masterplan Framework Supplementary Planning Document are landscape led in terms of the space around the built form and the approved infrastructure made for provision of that including the Design Codes greenways which are approved at up to 25m wide and accessible for all residential parcels facing onto green spaces. Those buildings with lower levels of amenity space had been located within significant landscaped public open spaces areas to compensate.
- The Maldon District Design Guide applied in terms of amenity space standards and are taken from the Essex Design Guide, and Members were referred to the relevant section of the Officers' report which dealt with that matter.
- Occupation of the older persons flats proposed, being part of the affordable housing to be provided, would be controlled through the Section 106 Agreement.
- Some existing hedgerow had been removed along Fambridge Road for highway works as part of phase 1 and Officers advised that the hedge line and enhanced landscape would be replaced along that boundary in accordance with the landscape design approved as part of the phase 1 application.
- The comments made by Environmental Health regarding the noise assessment of Limebrook Way were commented on and a Member questioned whether mitigation on those boundaries should be considered.

The Lead Specialist Place advised, in response to further comments regarding amenity space levels, that a small number of the proposed developments did not meet the Council's policy requirements. However, legislation required the Council to determine planning applications in accordance with the Council's Local Development Plan unless material considerations indicated otherwise. Members also needed to assess if this minor shortfall was harmful taking into account the provision of a large amount of public open space and whether that offset that element of harm. This process had been considered by Officers when making their recommendation and it was felt that the shortfall for quite a small number of properties was acceptable.

In response to a question regarding amending the condition proposed which would require details of management of the shared drainage features, the Lead Specialist Place clarified that the Council was the decision maker and approval of details required by conditions could not therefore be delegated to a third party such as Essex County Council Sustainable Drainage Systems (SuDS) Team. However, the Council would ensure suitable consultation was carried out with the SuDS Team prior to approving any details submitted. Following further discussion, it was agreed that the Officers would reword the condition relating to Sustainable Drainage Systems to make it more robust.

At this point Councillor S J Savage declared a further non-pecuniary interest in this item of business as he had windows with a trickle vent.

The location of the 19 dwellings with proposed below policy amenity space were highlighted to Members. There was some discussion regarding Permitted Development Rights (PDR) and in response the Lead Specialist Place advised that a condition could

be imposed which removed PDR on those particular plots or all plots if Members were so minded.

Councillor Fluker raised a point of order asking that his proposition be put to the vote.

The Chairman put the proposal in the name of Councillor Fluker to approve the application in accordance with the Officers' recommendations, subject to the Officers rewording the condition relating to Sustainable Drainage Systems to make it more robust and removal of PDR in relation to the dwellings with gardens below the Council's recommended minimum private amenity site levels. At this point the Lead Specialist Place provided further clarification in respect of the removal of the PDR suggested. Upon a vote being taken this proposal was declared lost and the Chairman sought a proposal for refusal.

Councillor B E Harker proposed that the application be refused, contrary to Officers' recommendation, because the amenity spaces of some of the dwellings failed to meet the adopted 1997 version of the Essex Design Guide for private amenity space, leading to unacceptable living conditions for future occupiers of the dwellings and contrary to Policy D1 of the Local Plan and the Essex Design Guide.

The Chairman asked Officers to comment in relation to the proposed refusal. The Lead Specialist Place advised that the report covered this matter in a lot of detail. Officers acknowledged that there was a small percentage of properties below the required standard for amenity space, however there was a very generous level of public open space (both formal and informal) provided. The Council was advised that the Officers' recommendation was that this therefore mitigated any harm from the shortfall.

The proposal of refusal in the name of Councillor Harker was duly seconded.

Councillor R B Boyce requested a recorded vote.

The Chairman put the proposal in the name of Councillor Harker and the voting was as follows:

For the proposition:

Councillors J P F Archer, B S Beale, Mrs H E Elliott, P G L Elliott, Mrs B D Harker, B E Harker, M S Heard, Miss M R Lewis, Mrs N G F Shaughnessy, Rev. A E J Shrimpton and Miss S White.

Against the proposition:

Councillors H M Bass, E L Bamford, R G Boyce, Mrs P A Channer, I E Dobson, A S Fluker, N R Pudney, S J Savage, A K M St. Joseph and Mrs M E Thompson.

Abstentions: None.

The application was therefore refused.

RESOLVED that the application be **REFUSED** contrary to Officers' recommendations, for the following reason:

- 1 A number of the dwellinghouses proposed would be provided with private amenity space which would be below the minimum areas set out in the Essex Design Guide. This would result in unacceptable living conditions for the

occupiers of these properties, contrary to the NPPF and Policy D1 of the Maldon District Approved Local Development Plan.

976. MLA/MAL/19/00101 - LAND SOUTH OF WYCKE HILL AND LIMEBROOK WAY, MALDON, ESSEX

Application Number	MLA/MAL/19/00101
Location	Land South Of Wycke Hill And Limebrook Way, Maldon, Essex
Proposal	Application for a modification to Section 106 legal agreement executed under planning application OUT/MAL/14/01103 as amended by Deed of Variation (references FUL/MAL/16/01454 and FUL/MAL/17/00396)
Applicant	Taylor Wimpey (East London)
Agent	Ms Catherine Williams – Savills
Target Decision Date	Not applicable
Case Officer	Kathryn Mathews
Parish	MALDON WEST
Reason for Referral to the Committee / Council	Not delegated to Officers

Following the Officers' presentation Ms Williams, the Agent, addressed the Committee.

Councillor A S Fluker, Leader of the Council, proposed that the application be approved in accordance with Officers' recommendation. This proposal was duly seconded.

Councillor S J Savage raised concern regarding the proposed allotments and their future management. He then proposed an amendment to the proposition in the name of Councillor Fluker, that the relevant Parish Council be offered first choice to run the allotments. This was duly seconded. In response to a request for clarification, Councillor Savage advised that Parish Council was the legal term and therefore would encompass both Maldon and Burnham-on-Crouch Town Councils.

The Chairman sought clarification from the Council's Interim Monitoring Officer as to whether the amendment was permissible. In response, the Interim Monitoring Officer referred to the Section 106 Agreement and the need to clarify whether 'green infrastructure' as defined within this Agreement included allotments. He therefore asked Members to consider a brief adjournment to allow him to consult with Officers and view the Section 106 Agreement.

A debate ensued, during which Councillor Miss M R Lewis proposed that the application be deferred for one meeting so further information could be sought. This was not supported.

At this point the Chairman adjourned the meeting.

977. ADJOURNMENT OF THE MEETING

RESOLVED that the extraordinary meeting be adjourned to allow the Interim Monitoring Officer and Officers to discuss the proposed amendment.

978. RESUMPTION OF BUSINESS IN OPEN SESSION

RESOLVED that the extraordinary meeting of the Council resumes at 8:56pm.

979. MLA/MAL/19/00101 - LAND SOUTH OF WYCKE HILL AND LIMEBROOK WAY, MALDON, ESSEX CONTINUED

On resumption of the meeting the Interim Monitoring Officer advised Members that allotments were defined within the Section 106 Agreement as green infrastructure and therefore within the parameters of the report to Members. Therefore, if Councillor Savage wished to make an amendment he could.

At this point Councillor Savage repeated his earlier proposed amendment.

Councillors M S Heard, Mrs N G F Shaughnessy and Rev. A E J Shrimpton all declared an interest in this item of business as they were Maldon Town Councillors.

The Chairman then put the proposed amendment in the name of Councillor Savage to the vote and this was duly agreed.

Further debate ensued, in response to questions regarding the contributions for youth facilities, the Principal Planning Officer provided clarification regarding the figures provided in the report and explained that the Council's Parks Team had advised that they were reasonable.

The Chairman then put the proposal of Councillor Fluker, duly amended by Councillor Savage and upon a vote being taken this was agreed.

RESOLVED that the proposed changes to the Section 106 Agreement be **APPROVED** as set out below:

- The current definition of 'Local Management Organisation' (LMO) be amended to *'a community interest company or another incorporated or unincorporated body appointed pursuant to Schedule 8 of this Deed'*.
- To allow a separate LMO to be set-up for the East and West Green Infrastructure and separate LMO (or multiple) to be set-up for the sports facilities, allotment site and tunnel (which would connect the Eastern and Western Parcels).
- The current definition of the 'Youth Facilities Contribution' be amended to *'the contribution in the sum of £173,894.00 to be paid to the District Council for the Purposes and specifically towards the provision of Youth Facilities'*.
- The addition of a requirement for the MUGA and sports hall / community space to be provided by the developer.

and with amendment that the relevant Parish / Town Councils be offered first choice to run the allotments.

980. FUL/MAL/17/01262 - LAND BOUNDED BY MALDON ROAD AND CREEKSEA LANE, BURNHAM-ON-CROUCH, ESSEX

Application Number	FUL/MAL/17/01262
Location	Land Bounded by Maldon Road and Creeksea Lane Burnham-on-Crouch
Proposal	4 new homes and garages, access to Maldon Road, amenity space and associated infrastructure.
Applicant	Mr S Butler-Finbow – Pigeon Land Ltd
Agent	Mr Simon Charter- Parc Design Solutions Ltd.
Target Decision Date	22.03.2019
Case Officer	Devan Lawson
Parish	BURNHAM-ON-CROUCH NORTH
Reason for Referral to the Committee / Council	Strategic site within the strategic submitted Local Development Plan

The Members' Update circulated prior to the meeting provided the following information:

- Amendment to paragraphs 3.1.5 and 3.1.7 of the report;
- Information regarding approval of pre-commencement conditions (section 5.15 of the report)
- Further consultation response had been received from Burnham-on-Crouch Town Council.
- An additional letter of objection received from a neighbouring occupier.

Following the Officers' presentation Mr Butler-Finbow, the applicant, addressed the Committee.

Councillor A S Fluker, Leader of the Council, proposed that the Officers' recommendation as set out in the report be agreed. This was duly seconded.

Following an exchange between herself and the Chairman of the Council regarding Procedure Rule 8(4) – Content and length of speeches, Councillor Miss M R Lewis requested that her disgust at the Chairman's attitude to a request she had made be Minuted.

A number of concerns were raised regarding the size of the proposed garages and the annexe accommodation above them. The Lead Specialist Place clarified that the garages were as per the previous application approved and although they did not accord with the Council's Parking Standards (recently amended) they could be built as proposed without needing planning permission.

In response to a question regarding letting out the annexe accommodation above the proposed garages, the Lead Specialist Place advised that this could occur but there was a proposed condition which required that the use of the annexe accommodation remain ancillary to the main dwelling.

Councillor S J Savage declared a non-pecuniary interest in this item of business as he had a garage and someone else's house was above it.

The Lead Specialist Place informed the Council the extant permission meant that the garages could be built out at any time with the same shortfall in policy this was a material consideration and held substantial weight. In his opinion the Officer advised that it was not possible to demonstrate harm by this shortfall.

Following further debate the Chairman put the Officers' recommendation as proposed by Councillor Fluker and upon a vote being taken this motion was declared lost. The Chairman then sought a proposal for refusal.

Councillor B E Harker proposed that the application be refused, contrary to Officers' recommendations, because it failed to meet the Council's adopted parking standards of the Local Plan as the depth of the garages was only 6.1m and 7m contrary to the Local Plan. This proposal was duly seconded.

The Chairman asked the Lead Specialist Place to comment on whether this was a valid material consideration for a reason for refusal and reminded Members of need to have valid reasons for refusal at a number of points during the discussion. In response the Officer reiterated his earlier advice, providing Members with guidance that that legislation was absolutely clear that planning applications must be determined in accordance with the Development Plan unless material considerations indicated otherwise. The extant permission could be built out tomorrow and he advised Members of his professional opinion in respect of the proposal.

The Chairman then put the proposition in the name of Councillor Harker for refusal of the application, reminding Members of the advice given by Officers. The voting was as follows:

For the proposition:

Councillors J P F Archer, B S Beale, P G L Elliott, Mrs B D Harker, B E Harker, M S Heard, Miss M R Lewis, N R Pudney, Mrs N G F Shaughnessy and Rev. A E J Shrimpton.

Against the proposition:

Councillors H M Bass, R G Boyce, Mrs P A Channer, I E Dobson, Mrs H E Elliott, A S Fluker, S J Savage, A K M St. Joseph, Mrs M E Thompson.

Abstentions:

Councillors E L Bamford and Miss S White.

The application was therefore refused.

RESOLVED that this application be **REFUSED** for the following reason:

- 1 The internal dimensions of the parking spaces within the garages proposed would be below the minimums set out in the Council's Adopted Vehicle Parking Standards Supplementary Planning Document. As a result, the development would not make adequate provision for off-street parking which would have an unacceptable detrimental impact on the local road network and highway safety, contrary to Policies S1, D1 and T2 of the Maldon District Approved Local Development Plan.

There being no further items of business the Chairman closed the meeting at 9.29 pm.

H M BASS
CHAIRMAN

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