



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
2 SEPTEMBER 2020**

Application Number	20/00452/FUL
Location	Millfields Caravan Park, Millfields, Burnham-on-Crouch
Proposal	Removal of condition 6 (wintering bird period) on approved planning permission FUL/MAL/18/00381 (Erection of building to be used as offices, shop, shower/toilet facilities, spa, pool facilities and gym, formation of hardstanding to be used as road and parking and enhanced landscaping, in association with an existing caravan site)
Applicant	Birch's Leisure Parks Ltd
Agent	Mr Philip Kratz – GSC Solicitors LLP
Target Decision Date	09.09.2020
Case Officer	Devan Hearnah
Parish	BURNHAM SOUTH
Reason for Referral to the Committee / Council	Council owned land

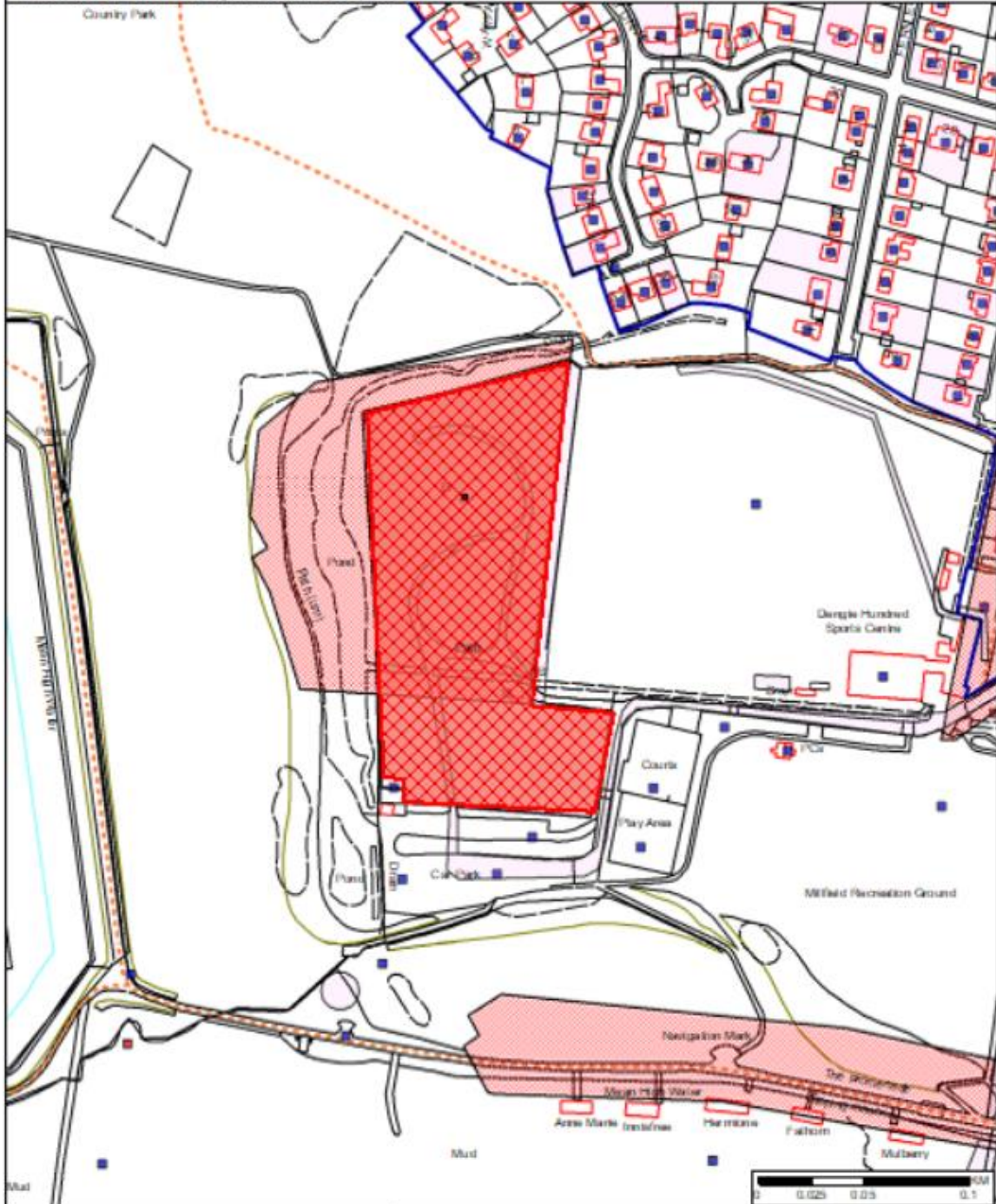
1. **RECOMMENDATION**


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

2. **SITE MAP**

Please see overleaf.

20/00452/F UL
Millfields Caravan Park, Burnham-on-Crouch



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	Organisation: Maldon District Council	Department: Department
	Comments: SBAC	Date: 11/08/2020
	MSA Number: 100018588	

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

Application Site

- 3.1.1 The application site, according to the Local Development Plan (LDP), forms part of the Riverside Park, which is approximately 23.15 hectares in size, to the southeast of Burnham-on-Crouch. The site is located east of Station Road and the Dengie Hundred Sports Centre, north of the river Crouch marshes, outside the settlement boundary of Burnham-on-Crouch.
- 3.1.2 The site is accessed via a west turning head onto Station Road. It is approximately 2 hectares in size and it is mainly grassed over with sporadic trees and hedges along the boundaries. A ditch traverses the site. The site has a lawful use as a caravan park and although at present there appears to be only a small utilities' structure on site, the site was occupied by caravans since 2006.
- 3.1.3 The Burnham-on-Crouch Rugby Union Football Club and the Dengie Hundred Sports Centre lie to the east of the site, a car park is located to the south of the site, residential properties are sited to the north, while to the west is public open space and the Burnham-on-Crouch marina.
- 3.1.4 Whilst the application site is flat, topographically the land rises steeply to the south and west of the site. The site is located within flood zone 3.

Proposal

- 3.1.5 This application seeks the removal of condition 6 specified on permission 18/00381/FUL, which was granted by the Council on 13 September 2019. Specifically condition 6 states that:

'CONDITION

No development shall be constructed during the wintering bird period between October - March inclusive.

REASON

In the interests of protecting the natural conservation designations and protected species in accordance with the guidance contained within the NPPF and Policy N2 of the approved Local Development Plan.'

3.2 Conclusion

- 3.2.1 Having regard to the information submitted and the comments made by the Council's Ecological Consultant, it is not considered that the removal of condition 6 of permission 18/00381/FUL would result in harm to the natural environment by way of disturbance to wintering bird species, in accordance with Policies D2 and N2 of the LDP and guidance contained within the LDP.

4. MAIN RELEVANT POLICIES

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

4.1 National Planning Policy Framework 2019 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 148-169 Meeting the challenge of climate change, flooding and coastal change
- 170-183 Conserving and enhancing the natural environment

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

- S1 Sustainable Development
- D2 Climate Change and Environmental Impact of New Development
- D5 Flood Risk and Coastal Change
- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity.

4.3 Burnham-on-Crouch Neighbourhood Development Plan (7 September 2017):

- Policy EN.3 Enhancement of the Natural Environment

4.4 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide (2018) (MDDG)
- Maldon Vehicle Parking Standards (2018) (VPS)
- Planning Practice Guidance (PPG)
- National Planning Policy Guidance (NPPG)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 Planning permission has previously been granted for the erection of a building to be used as offices, a shop, shower/toilet facilities, spa, pool facilities and gym, along with the formation of hardstanding to be used as road and parking and enhanced landscaping, in association with an existing caravan site. Therefore, the principle of the development on the site is set within the previously approved permission (18/00381/FUL).

- 5.1.2 The previous approval grants the principle of the development. Therefore, the determining factor in this application is solely whether condition 6 of 18/00381/FUL should be removed.

5.2 Ecology

- 5.2.1 Paragraph 180 of the NPPF states that in order to prevent unacceptable risks from pollution, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Paragraph 170 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by, among others, preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.
- 5.2.2 Policy D2 seeks all development to minimise its impact on the environment by incorporating measures to minimise all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.2.3 Policy N2 of the LDP states that where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.
- 5.2.4 The justification for the removal of condition 6 provided by the Applicant within section 5 of the Application Form is that there was no recommendation to impose the condition and that the development poses no risk to wintering birds. Therefore, the Applicant considers that the condition fails to comply with the six tests for planning conditions contained within the NPPF.
- 5.2.5 In addition to the above, the Council's Ecological Consultant notes that the site consists of poor semi-improved grassland, enclosed with sporadic trees and hedges along the boundaries. It has a lawful use as a caravan park with a small 'utilities' structure and surfaced roads and paths with access from Station Road adjacent to the skate park. They are therefore, satisfied that the site does not provide a suitable habitat as a high tide roost which would constitute functionally-linked land for SPA designated birds, which are associated with the Crouch and Roach Estuaries SPA and Ramsar and Essex Estuaries SAC. Although the estuary is located close to the development, there is no likelihood of the removal of the condition resulting in repeated disturbance which would impact the numbers and fitness of any SPA birds.
- 5.2.6 Having regard to the above, whilst the condition was originally imposed on the decision as a precautionary measure, as detailed within the previous HRA, it is not considered that the condition is necessary as the Ecological Consultant has highlighted that the removal of the condition would not result in repeated disturbance to the wintering birds. For this reason, it is not considered that the removal of the condition would result in harm to the natural environment in accordance with Policies D2 and N2 of the LDP and guidance contained within the LDP.

5.3 Other Matters

- 5.3.1 As the application has been submitted as an application to remove condition 6 of the original planning permission, under the terms of section 73 of the Town and Country Planning Act, it is considered necessary to impose a modified list of the original conditions, which should be adjusted to reflect changing circumstances, the discharge of conditions and changes to the relevant policies.
- 5.3.2 Conditions 7 (foul drainage) and 10 (construction method statement) have been updated to reflect the fact that the required detail has been discharged under the terms of application 20/05056/DET. Likewise, condition 8 (contamination) has been removed and what was originally condition 9 (remediation scheme) has been updated to reflect the detail discharged under 20/05056/DET in relation to condition 8.
- 5.3.3 Condition 5 (Flood Evacuation) has also been updated to link the approved documents to the original permission.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/94/00782** - Increase ceiling height to pump house and erection of pitched roof over slop sink. Planning permission granted.
- **20/05056/DET** - Compliance with conditions notification FUL/MAL/18/00381 Erection of building to be used as offices, shop, shower/toilet facilities, spa, pool facilities and gym, formation of hardstanding to be used as road and parking and enhanced landscaping, in association with an existing caravan site. Condition 7 - Foul Drainage. Condition 8 - Contamination. Condition 12 - Construction Method Statement. Conditions Discharged.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Burnham-on-Crouch Town Council	Object – The Town Council does not know why the condition was imposed on the original approval so cannot recommend its removal.	As discussed at section 5.2 the condition was imposed as a precautionary measure, but it is not considered that it's removal would harm the natural environment or the biodiversity value of the site.

7.2 External Consultees

Name of Consultee	Comment	Officer Response
Natural England	No comment	Noted

7.3 Internal Consultees

Name of Consultee	Comment	Officer Response
Ecology Consultant	No objection - The site does not provide a suitable habitat as a high tide roost which would constitute functionally-linked land for SPA designated birds which are associated with the Crouch and Roach Estuaries SPA and Ramsar and Essex Estuaries SAC. There is no likelihood that the removal of the condition would result in repeated disturbance which would impact the numbers and fitness of any SPA birds.	Addressed at section 5.2

7.4 Representations received from Interested Parties

7.4.1 No letters of representation had been received at the time of writing this report.

8. CONDITIONS

1 The development hereby permitted shall be begun before the expiration of three years from 13 September 2019.

REASON To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).

2 The development hereby permitted shall be carried out in complete accordance with approved drawings: ATS/537/03; 10955-0020-002; 10955-0001-007; RCEF64080-SK002 REV B and RCEF64080-SK003 REV A.

REASON To ensure the development is carried out in accordance with the details as approved.

3 The development hereby permitted shall only be used ancillary to the caravan park proposed as shown on approved drawing 10955-0001-007 and for no other purpose, including any type of residential accommodation, at any time.

REASON To ensure that the development would only provide facilities ancillary to the existing lawful use of the site in the interests of the character and appearance of the area, the adjoining designated nature conservation site and minimising flood risk in accord with policies S1, S8, E5, D1, D2, D5 and N2 of the approved Local Development Plan, policies EC.6, EN.1 and EN.3 of the Burnham-on-Crouch Neighbourhood Plan and the guidance contained within the National Planning Policy Framework.

4 The proposed development shall be implemented in accordance with the forms of mitigation included in Ecology Survey Report (dated November 2018) and be retained as such in perpetuity.

REASON In order to ensure that there is no adverse effect to the adjoining designated nature conservation site in line with policies S1, S8, E5, D1, D2 and N2 of the approved Local Development Plan, policy EN.3 of the Burnham-on-Crouch Neighbourhood Plan and the guidance contained within the National Planning Policy Framework

- 5 The use of the site hereby permitted shall be implemented in accordance with the Flood Warning and Evacuation Plan (dated 19.02.2019) approved under planning permission 18/00381/FUL. The Plan shall be made available to all users of the site at all times throughout the lifetime of this permission.

REASON In order to ensure that the impact from any flood events is limited in line with policy D5 of the approved Local Development Plan, policy EN.1 of the Burnham-on-Crouch Neighborhood Plan and the guidance contained within the National Planning Policy Framework.

- 6 The development shall be carried out in accordance with the foul drainage scheme approved under the terms of 20/05056/DET. The scheme shall be implemented prior to the first occupation of the development.

REASON To avoid the risk of water flooding and pollution in accordance with policy D2 of the Maldon Local Development Plan (2017).

- 7 In accordance with the detail contained within The Phase 2 Environmental Investigation Report (13 March 2020), discharged under the terms of 20/05056/DET, no development shall commence, other than where necessary to carry out additional investigation, until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The development hereby permitted shall not commence until the measures set out in the approved scheme have been implemented, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority may give approval for the commencement of development prior to the completion of the remedial measures when it is deemed necessary to do so in order to complete the agreed remediation scheme. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

This shall be conducted in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

The development hereby permitted shall not commence until the measures set out in the approved report have been implemented.

REASON To prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon Development Local Plan (2017).

8 Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to the Local Planning Authority for approval in writing. These approved schemes shall be carried out before the development is resumed or continued. Following completion of measures identified in the approved remediation scheme, a verification report demonstrating the effectiveness of the remediation scheme carried out must be submitted to the Local Planning Authority for approval in writing.

REASON To prevent the undue contamination of the site in accordance with policy D2 of the approved Maldon Development Local Plan (2017).

9 The development hereby approved shall be carried out in accordance with the approved Flood Risk Assessment and the following mitigation measures detailed within the FRA:

- Infiltration testing in line with BRE 365. If infiltration is found unviable the run-off rates from the site should be limited to 2.4 l/s
- Provide attenuation storage (including locations on layout plan) for all storm events up to and including the 1:100 year storm event inclusive of climate change.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Storage should half empty within 24 hours wherever possible. An assessment of the performance of the system and the consequences of consecutive rainfall events occurring should be submitted to and approved in writing by the Local Authority. If the storage required to achieve this via infiltration or a restricted runoff rate is considered to make the development unviable.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

REASON To avoid the risk of water flooding and pollution in accordance with policy D2 of the Maldon Local Development Plan (2017).

10 The Construction Method Statement approved under the terms of application 20/05056/DET shall be adhered to throughout the construction period.

REASON To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety in accordance with BE1 and T2 of the adopted Replacement Local Plan, and policies D1 and T2 of the submitted Local Development Plan.

11 Prior to works above ground level, details of the external materials to be used in the construction of the outbuilding hereby approved shall be submitted to the Local Planning Authority for approval in writing. The construction of the outbuilding shall be carried out in accordance with the approved details and retained as such in perpetuity.

REASON In the interests of the character and appearance of the site and the surrounding area, in accordance with policy D1 of the Maldon District Local Development Plan.

INFORMATIVES

1. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: SMO2 - Essex Highways, Springfield Highways Depot, Colchester Road, Chelmsford, CM2 5PU.
2. Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
3. Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
4. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
5. It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
6. The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
7. The applicant should ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours:
 - a) No waste materials should be burnt on the site, instead being removed by licensed waste contractors;
 - b) No dust emissions should leave the boundary of the site;
 - c) Consideration should be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site;
 - d) Hours of works: works should only be undertaken between 0730 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays and not at any time on Sundays and Public Holidays.