



**MINUTES of  
COUNCIL (EXTRAORDINARY - PLANNING)  
22 SEPTEMBER 2016**

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**PRESENT**

Chairman Cllr P G L Elliott

Vice-Chairman Cllr H M Bass

Councillors Mrs B F Acevedo, J P F Archer, E L Bamford,  
Miss A M Beale, B S Beale MBE, R G Boyce MBE, CC,  
Mrs P A Channer, CC, A S Fluker, M S Heard,  
Miss M R Lewis, R Pratt, S J Savage, Rev. A E J Shrimpton,  
A K M St. Joseph, Mrs M E Thompson and Miss S White

**555. CHAIRMAN'S NOTICES (SEE OVERLEAF)**

The Chairman drew attention to the list of notices published on the back of the agenda.

**556. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors R P F Dewick, I E Dobson, M F L Durham, Mrs H E Elliott, M W Helm, M R Pearlman and N R Pudney.

**557. DISCLOSURE OF INTERESTS**

Councillor Miss S White declared that in relation to Agenda Item 7 – OUT/MAL/15/00179 – Nipsells Farms Lodge, Nipsells Chase, Mayland the land was owned by family members and she would be leaving the meeting for that item. She declared that this was not an interest either pecuniary or non-pecuniary, but that she would declare it anyway.

Councillor Mrs P A Channer CC declared a non-pecuniary interest as she was a Member of Essex County Council who was consulted on matters regarding highways, access, parking etc. and was referred to under a number of items.

Councillor A S Fluker declared in the interests of openness and transparency that in relation to Agenda Item 5 - FUL/MAL/16/00302 – Land South of New Moor Farm and East of North End, Southminster he knew the applicant and some of the objectors.

**558. FUL/MAL/16/00208 - LAND OFF PARK DRIVE, MALDON**

The Council considered the report of the Director of Planning and Regulatory Services and determined the following planning application, having taken into account all representations and consultation replies received.

<b>Application Number</b>	<b>FUL/MAL/16/00208</b>
<b>Location</b>	Land Off Park Drive Maldon Essex
<b>Proposal</b>	Variation of conditions 3,4 & 5 of approved application FUL/MAL/14/00581 (Erection of 131 dwellings with access from Park Drive, associated internal access roads, cycle ways/footpaths, garaging, parking, open space and landscaping).
<b>Applicant</b>	Crest Nicholson Eastern
<b>Agent</b>	Mr Jack Lilliott - Strutt And Parker
<b>Target Decision Date</b>	<b>FUL/MAL/16/00208</b>
<b>Case Officer</b>	Anne Cook, TEL: 01621 875822
<b>Parish</b>	<b>MALDON EAST</b>
<b>Reason for Referral to the Committee / Council</b>	Departure from the Local Plan 2005 Major Application Strategic site within the strategic submitted Local Development Plan

**RESOLVED** that this application be **APPROVED** subject to the following conditions:

- 1 Prior to first occupation of the 52nd dwelling the applicant shall carry out following highway works, as shown in principle on the Richard Jackson drawing No.44269/C/SK03 REV C, with all details being first agreed with the Highway Authority, to include the following:
  - The provision of the right turn lane associated with the constructed bellmouth access;
  - The provision of a 2m footway across the site frontage;
  - The provision of a pedestrian refuge island on Park Drive with associated dropped kerbs and tactile paving;
  - The provision of tactile paving across the Park Drive arm of the roundabout;
  - The provision of dropped kerb pedestrian crossing points with appropriate tactile paving, across all four arms of the roundabout.
- 2 Prior to first occupation of the 52nd dwelling a shared use pedestrian/cycle facility shall be provided to include the following details to be first agreed with the Highway Authority:
  - The provision of a 3m wide shared use cycleway (approximately 60m) from the north east corner of the site (near to the public footpath) to the entrance to Madison Heights / Football grounds; and to widen the existing footway between the entrance to Madison Heights / Football grounds to the bellmouth junction of the recycling centre to 3.0m to enable it to be a shared use cycleway (approximately 230m).
  - Provision of suitable dropped kerbs, tactile paving and signing across the Madison Heights and Blackwater Leisure centre accesses.
- 3 Prior to first occupation of the 52nd dwelling the following bus stops within the vicinity of the site shall be upgraded in accordance with details to be first agreed with the Highway Authority to include:
  - The provision of a bus shelter with integral real-time passenger information on the western side of Park Drive opposite the leisure centre;

- The provision of a bus shelter and hardstanding, with raised kerbing and flag type bus stop on the western side of Mundon Road adjacent to the site.
- 4 The footway link as shown on the submitted drawing No: SK-01-S278 Rev T1 shall be retained in perpetuity.
  - 5 Approval is granted subject to all conditions forming part of application FUL/MAL/14/00581 and FUL/MAL/15/00582, unless otherwise varied by this permission.

### **POSITIVE AND PROACTIVE STATEMENT**

Town and Country Planning (Development Management Procedure) (England) Order 2015 - Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

#### **559. OUT/MAL/16/00302 - LAND SOUTH OF NEW MOOR FARM AND EAST OF NORTH END, SOUTHMINSTER**

The Council considered the report of the Director of Planning and Regulatory Services and determined the following planning application, having taken into account all representations and consultation replies received, including those listed in the Members' Update and the Addendum circulated at the meeting.

<b>Application Number</b>	<b>OUT/MAL/16/00302</b>
<b>Location</b>	Land South Of New Moor Farm And East Of North End Southminster Essex
<b>Proposal</b>	Residential Development of up to 120 dwellings with associated infrastructure, open spaces and landscaping and community land with access reserved.
<b>Applicant</b>	Mr Ivor Beamon - Gladman Developments LTD
<b>Agent</b>	
<b>Target Decision Date</b>	30 September 2016
<b>Case Officer</b>	Clive Simpson, TEL: 01621 875851
<b>Parish</b>	<b>SOUTHMINSTER</b>
<b>Reason for Referral to the Committee / Council</b>	Departure from the Local Plan 2005

Following the Officer's presentation of the report, Mr Les Barclay, an Objector, of 5 New Moor Close, Southminster, Essex and Mr Ivor Beamon, of Gladman Developments Ltd, both addressed the Council.

In response to a question, the Officer confirmed that the majority of responses received from statutory consultees were drawn up following the recent Appeal Decision in relation to Theedhams Farm.

Members debated this application and raised various concerns in relation to the following:

- The lack of provision of schools infrastructure
- The oversubscribing of GP surgeries
- The lack of creation of jobs
- The increased volume in traffic which was too much for the existing road infrastructure to cope with.

Members were of the opinion that the reasoning for the Planning Inspector upholding the previous refusal of an application on this site had not been overcome by this application. Furthermore, the amount of contribution towards the proposed doctor's surgery was so minimal as to have an insignificant impact on the health service requirements in the locality.

Councillor A S Fluker, a Ward Member, requested that a letter be sent to the Secretary of State for Health stating that the problems with the lack of local health care cannot be mitigated through payments such as this and it was agreed that both he and the Chairman would meet with the Director of Planning and Regulatory Services in order to draft an appropriate letter to be sent to the Secretary of State for Health.

A comment was made regarding the fact that the Officers' recommendation did not make reference to comments made by Historic England. Members felt that Historic England's objection should be included in any reason for refusal should Members be minded to refuse this application, as there would be a negative impact on heritage assets.

Councillor B S Beale, MBE, a Ward Member, proposed refusal of this application in accordance with the Officers' recommendation. This was duly seconded and upon a vote the motion was carried.

Members agreed that the reason for refusal was varied to include specific reference to the adverse impact the development would have on the nearby Scheduled Ancient Monument at Pandole Wood.

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

- 1 The site is in a sensitive rural location outside of the defined settlement boundary for Southminster where restraint policies apply. The site has not been identified by the Council for development to meet future needs for the District and does not fall within either a Garden Suburb or Strategic Allocation for growth identified within the Local Development Plan. The proposed development as a result of its unsympathetic scale and form would not protect or enhance the natural or built environment. It would have an unacceptably

intrusive urbanising effect upon the site adversely affecting the intrinsic character and beauty of the countryside, as well as causing harm to the significance of the nearby designated heritage asset. As such the proposal does not represent sustainable development and the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the scheme contrary to policies S2, H1, CC6 and BE1 of the adopted Maldon District Replacement Plan, policies S1, S8 and D1 of the Maldon District Submitted Local Development Plan and the guidance and provisions of the National Planning Policy Framework, in particular Paragraphs 7, 14, 126, 134 and 216.

### **POSITIVE AND PROACTIVE STATEMENT**

Town and Country Planning (Development Management Procedure) (England) Order 2015 - Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing with the Applicant/Agent. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reasons for the refusal, approval has not been possible.

#### **560. FUL/MAL/16/00649 - LAND AT CORNER OF STATION ROAD, MALDON**

The Council considered the report of the Director of Planning and Regulatory Services and determined the following planning application, having taken into account all representations and consultation replies received, including those listed in the Members' Update circulated at the meeting.

<b>Application Number</b>	<b>FUL/MAL/16/00649</b>
<b>Location</b>	Land At Corner Of Station Road Maldon Essex
<b>Proposal</b>	Vary condition 15 (delivery hours) of approved planning application FUL/MAL/15/00567 (Planning application for the demolition of existing buildings and the construction of a foodstore (Class A1) together with access, car-parking (100 spaces), landscaping and associated engineering works on land at Station Road/ Fullbridge, Maldon) Vary delivery hours.
<b>Applicant</b>	Lidl UK GmbH
<b>Agent</b>	Miss Stephanie Eastwood - Bilfinger GVA
<b>Target Decision Date</b>	Time extended until 4 October 2016
<b>Case Officer</b>	Anne Cook, TEL: 01621 875822
<b>Parish</b>	<b>MALDON NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Departure from the Local Plan 2005 Major Application Parish Trigger

Following the Officer's presentation of the report, Ms Sonia Margerum, an Objector, of 17 Chandlers Quay, Maldon, Essex CM9 4LF addressed the Council.

Members discussed this application and various concerns were raised regarding the impact that any increase in delivery times for vehicles would have on the neighbouring properties. A comment was made that this site was different to both the Tesco site and the proposed Aldi site as it was fundamentally closer to residential properties.

Members raised concerns regarding noise particularly from reversing alarms and headlights on delivery vehicles shining directly in to residential properties during the hours of darkness when accessing the site, as it was necessary for vehicles to reverse in to the site. In response, the Principal Planner advised that the management plan as submitted stated that both vehicle headlights and radios would be switched off when parked in the delivery bay and that reversing alarms would be switched off from 9pm.

Councillor A S Fluker proposed that in the interests of the neighbouring residential properties, health and safety and noise this application be refused contrary to the Officers' recommendation. This was duly seconded.

The Chairman asked for a vote on the Officers' recommendation to approve this application and upon a vote, the motion failed. There followed a vote on the proposal to refuse this application.

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

- 1 The proposed extension to the delivery hours would, by reason of the site's proximity to residential properties, have a materially adverse effect on the amenities of the residents of those properties, as a result of unreasonable noise, disturbance and general pedestrian and vehicular activity at and within the vicinity of the site late in the evening, contrary to Policy BE1 of the adopted Maldon District Replacement Local Plan, policy D1 of the submitted Maldon District Local Development Plan and the guidance and provisions of the National Planning Policy Framework, in particular Paragraphs 109 and 123.

#### **POSITIVE AND PROACTIVE STATEMENT**

Town and Country Planning (Development Management Procedure) (England) Order 2015 - Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing with the Applicant/Agent. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reasons for the refusal, approval has not been possible.

#### **561. OUT/MAL/15/00179 - NIPSELLS FARM LODGE, NIPSELLS CHASE, MAYLAND**

Following an earlier declaration Councillor Miss S White left the meeting at this point. Councillor J P F Archer also left the meeting at this point. Councillors White and Archer did not return to the meeting.

The Council considered the report of the Director of Planning and Regulatory Services and determined the draft Heads of Terms in order to complete the legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) (S106 Agreement) in respect of this planning application, having taken into account all representations and consultation replies received.

The Principal Planner advised that the purpose of the report was to give Members the opportunity to go agree the draft Heads of Terms to be incorporated into the S106 agreement to be tabled to the Inspector in the event the appeal were allowed. In response to a question she advised Members that the mechanism that previously allowed an appeal for stalled sites on viability grounds no longer exists. The S106 Agreement would be legally binding and as such would give the authority more control over matters such as affordable housing in the event that any appeal was allowed.

Members raised concerns that entering into the Heads of Terms would have the effect of prejudicing against this authority in the event of an appeal and asked Officers for assurance that this would in fact strengthen the authority's position.

The Director of Planning and Regulatory Services confirmed to Members that this would not prejudice the Council's position. Inspectors would only consider the S106 on the basis that the appeal was allowed for wider planning reasons and would agree that the S106 was legally binding.

Members also raised concerns about the low level of funding towards healthcare. In response, the Principal Planner advised that NHS England would normally apportion any monies and that the amount would not necessarily have been in response to a request by this authority.

In response to a question regarding clarification of arrangements for the proposed Locally Equipped Area for Play (LEAP), the Principal Planner advised that the requirement was on the developer to supply the equipment and that a management company would be set up. The management company would fund the ongoing management of the LEAP with periodic reviews taking place with Maldon District Council. She also advised that details regarding the proposed means of funding the ongoing maintenance would need to be submitted to this authority by the developer.

**RESOLVED** that the Heads of Terms be agreed subject to a specific inclusion that play equipment within the Locally Equipped Area for Play is subject to ongoing maintenance also.

There being no further items of business the Chairman closed the meeting at 8.24 pm.

CLLR P G L ELLIOTT  
CHAIRMAN

(a)  
(b)