



**REPORT of
DIRECTOR OF PLACE, PLANNING AND GROWTH**

to
CENTRAL AREA PLANNING COMMITTEE
23 September 2026

Application Number	26/00406/VAR
Location	Suez Depot, Parks Trading Unit Workshop The Depot, The Promenade Park, Park Drive, Maldon, Essex
Proposal	Variation of condition 5 on approved planning permission 16/00234/FUL (Variation of condition 9 on approved planning permission FUL/MAL/11/00334. The application proposes to permit the Waste Refuse Contract, which operates out of Maldon Depot, to operate for an additional hour (between 18:00 and 19:00 hours) Tuesday to Saturday (excluding Bank Holidays)) - to enable operation between 06:00 and 18:00 hours on up to two Bank Holiday Mondays in any calendar year.
Applicant	Ms Eleanor Crick
Agent	Ms Eleanor Crick
Target Decision Date	25.09.2026
Case Officer	Charlie Mumford
Parish	Maldon Town Council
Reason for Referral to the Committee / Council	Council Owned Land

1. RECOMMENDATION

APPROVE subject to conditions as detailed in Section 8.

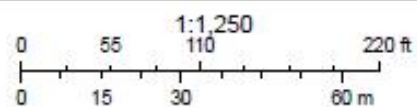
2. SITE MAP

Please see below.



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■ GMS BLPV Points



3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is situated on the eastern side of Park Drive, within the settlement boundary of Maldon but outside of the Maldon conservation area, behind the Park Drive Leisure Centre which lies to the west and to the south of the Promenade Park, accessed by a small access road. The site comprises hardstanding and parking for waste lorries and various outbuildings used for the day to day running of the Council's Waste Contract with Suez. The immediate area surrounding the site is park land and leisure sites. To the west, approximately 200 metres away, lies a large residential area of Maldon.
- 3.1.2 The site is an owned asset of Maldon District Council, which previously formed a part of the Promenade Park Depot and covers an area of approximately 4732 sqm, which sits within Flood Zone 2. The River Blackwater is, at its closest, 275 metres from the site and lies to the north and east.
- 3.1.3 The proposal seeks the variation of condition 5 on planning permission 16/00234/FUL granted permission on the 26 April 2016. The approved condition reads as follows:

CONDITION 5

The waste refuse contract shall only operate from the site between 06:00 hours and 18:00 hours on Mondays, between 06:00 hours and 19:00 hours Tuesday to Saturday, and not at any time on Sundays and Bank Holidays.

REASON

In order to ensure the appropriate use of the site in accordance with policy E7 of the adopted Maldon District Replacement Local Plan.

- 3.1.4 Specifically, the proposal seeks to amend the wording of the condition to allow an addition of hours to enable operation between 06:00 and 18:00 hours on up to two Bank Holiday Mondays in any calendar year.
- 3.1.5 The application was submitted along with a planning statement to support the justification of the addition of hours. The statement states that the proposal *'arises from changes made in recent years to the residential kerbside collection routes, whereby collections in Maldon—the largest residential area within the Maldon District—now take place on Fridays...Where a Bank Holiday falls on a Friday, with a subsequent Bank Holiday also occurring on the following Monday (this can occur on up to two occasions per year depending on the timing of Christmas Day, Boxing Day and New Year's Day), the catch-up service is currently undertaken on the Saturday following the Friday Bank Holiday. Operational experience has shown that Saturdays following a Friday Bank Holiday are subject to high levels of traffic congestion, and the provision of the service on these days results in increased disruption to residents. In addition, some Saturdays following a Friday Bank Holiday are non-working days (i.e. they may be Christmas Day or Boxing Day). It is therefore proposed that the catch-up collection be undertaken on the following Bank Holiday Monday, which would reduce congestion and improve overall service efficiency'*.

3.2 Conclusion

- 3.2.1 Having taken all considerations into account, and that there are no objections to the principle of the revised and additional hours, it is considered that the variation of Condition 5 would not cause detrimental harm to the character or appearance of the surrounding area, would not impact on the amenity of the neighbouring residential properties nor the proposed access and parking provision and on balance any negative impacts in terms of noise and disturbance would be far outweighed by the benefits to the community. Therefore, the development, complies with the National Planning Policy Framework (NPPF) and relevant policies of the Local Development Plan (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 including chapters and policies:

- Chapter 3 Decision-making policies
 - DM3 Determining development proposals
 - DM6 Use of planning conditions and obligations
- Chapter 4 Achieving Sustainable Development
 - S3 Presumption in favour of sustainable development
 - S4 Principle of development within settlements
 - S6 Neighbourhood plans and the presumption
- Chapter 12 Making effective use of land
 - L2 Making effective use of land
- Chapter 14 Achieving well-designed places
 - DP3 Key principles for well-designed places
- Chapter 17 Pollution, public protection and security
 - P2 Ground conditions
 - P3 Living Conditions and pollution
 - P4 Impact of development on existing activities
- Chapter 19 Conserving and enhancing the natural environment
 - N2 Improving the natural environment

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

- Policy S1 – Sustainable Development
- Policy S5 – The Maldon and Heybridge Central Area
- Policy D1– Design Quality and Built Environment
- Policy D2 – Climate Change and Environmental Impact of New Development
- Policy D5 – Flood Risk and Coastal Management
- Policy E1 – Employment
- Policy E3 – Community Services and Facilities
- Policy H4 – Effective Use of Land
- Policy T1 – Sustainable Transport
- Policy T2 – Accessibility

- Policy I1 - Infrastructure and Services

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Vehicle Parking Standards SPD

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The Council is required to determine planning applications in accordance with its approved LDP unless material considerations indicate otherwise (Section 38 (6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70 (2) of the Town and Country Planning Act 1990 (TCPA 1990)).
- 5.1.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 48 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.
- 5.1.3 In considering this application it must first be determined whether the proposal falls within the parameters of a Section 73 application.

Does the proposal fall within the parameters of a Section 73 application?

- 5.1.4 Lord Justice Lewison in a recent court judgment in the Court of Appeal between John Leslie Finney and Welsh Ministers, Carmarthenshire County Council and Energiekontor (UK) Limited [2019] EWCA Civ 1868 established the purposes of a Section 73 application. In particular Lord Justice Lewison stated that *“On receipt of such an application section 73 (2) says that the planning authority must “consider only the question of conditions”. It must not, therefore, consider the description of the development to which the conditions are attached. The natural inference from that imperative is that the planning authority cannot use section 73 to change the description of the development... It is notable, however, that if the planning authority considers that the conditions should not be altered, it may not grant permission with an altered description but subject to the same conditions. On the contrary it is required by section 73 (2) (b) to refuse the application. That requirement emphasises the underlying philosophy of section 73 (2) that it is only the conditions that matter.”*
- 5.1.5 The above judgement has been further endorsed recently in the case of Armstrong v Secretary of State for Levelling-Up, Housing and Communities & Anor [2023] EWHC 142 where the High Court stated that *‘section 73 is clearly intended to be a provision which enables a developer to make a section 73 application to remove or vary a condition, provided of course that the application does not conflict with the operative part of the planning permission’*
- 5.1.6 On the basis of the above judgement, it is clear that permission for a Section 73 application shall only be granted for the same development and any variation shall only relate to the conditions imposed to the original permission.

- 5.1.7 This Section 73 application does not alter the description of the proposed development previously approved and as such, the proposal would fall under the parameters of a Section 73 application.
- 5.1.8 Planning permission to establish a waste transfer station to enable safe management of waste prior to transfer was granted under the terms of application FUL/MAL/04/00533 approved in 2004 and subsequently varied under FUL/MAL/11/00811 and FUL/MAL/16/00234 in 2011 and 2016 respectively. The development would not alter the principle of this permission as the nature of the development would remain unchanged. Furthermore, policy I1 in the Local Development Plan works to ensure that *‘existing infrastructure and services are protected and / or improved to meet the existing and future needs of the District’* of which this would apply.

5.2 Design and Impact on the Character of the Area

- 5.2.1 The planning system promotes high-quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development. It should be noted that good design is fundamental to high-quality new development and its importance is reflected in the NPPF.
- 5.2.2 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution. Similar support for high-quality design and the appropriate layout, scale and detailing of development is found within the Maldon District Design Guide (MDDG).
- 5.2.3 The proposed amendments would not make any change to the design of the site, would not warrant a new application and would result in no further harm to the site or wider area in terms of design. Therefore, it accords with Policy D1 and H4 of the approved LDP.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. Policy H4 points out that a poorly designed scheme can have a significantly detrimental impact to the original character and the street scene in terms of extensions and alterations within the street scene and seeks schemes to complement and even enhance an existing property and its surrounding, including in that, the property's neighbours. This is supported by section C17 of the MDDG (2017).
- 5.3.2 The application site lies approximately 200 metres to the east of a large residential area of Maldon, intersected by Park Drive and various community leisure facilities.
- 5.3.3 The proposal to modify condition 5 with the addition of hours to enable operation between 06:00 and 18:00 hours on up to two Bank Holiday Mondays is likely to have no impact to residential amenity in terms of impacts such as overlooking, loss of privacy, overbearing or overshadowing, as the change in hours is not expanding the physical footprint of the site and is far enough away from residential properties. Likewise, disturbance in terms of smell would not be exacerbated by additional hours given the existing harm.

- 5.3.4 Concerns with regard to noise, and disturbance arising from this, however, have been raised by the Council's Environmental Health Officer. Given the start time of 06:00 there is likely to be some disturbance in terms of vehicle movements and associated dept activities. However, the benefit to the local community (as discussed in the submitted planning statement and quoted in paragraph 2.3 of this report) versus the additional noise for the maximum of two bank holidays, in the form of an improved waste service, would outweigh the negative impacts of possible increased noise. The Council's Environmental Health Officer raises no objections to the addition of hours, on the proviso that it is limited to the two bank holidays (as proposed). Therefore, the amendments are not considered to have a harmful impact in terms of neighbouring amenity.
- 5.3.5 No neighbouring objections have been received.
- 5.3.6 In consideration of the above, it is considered that the amendments would not represent an unneighbourly form of development or give arise to overlooking or overshadowing, in accordance with the stipulations of Policy D1 of the LDP.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse-riding routes.
- 5.4.2 The amendments proposed would not impact on the parking provided to the site. Therefore, no objection is raised and the development remains in accordance with Policy D1 and T2 and the Maldon District Vehicle Parking Standards.

5.5 Other Matters

- 5.5.1 As the application has been submitted as an application to vary Condition 5 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.
- 5.5.2 The wording of condition 5 (condition 4 following this application and its changes) will be updated to reflect the addition of the bank holiday hours.

6. ANY RELEVANT SITE HISTORY

Reference	Description	Decision
FUL/MAL/02/00769UL	Demolition of storage sheds and erection of new shed for tractor storage.	Approved
FUL/MAL/04/00533	Establish waste Transfer station to enable safe management of waste prior to transfer.	Approved
FUL/MAL/11/00811	Amendment to FUL/MAL/11/00334 - to increase boundary fence height from 2m to 3m.	Approved

	Increase length to incorporate east, south and partial west boundaries of depot site. Screen fencing by planting mixed native hedging inter-planted with standard native trees	
FUL/MAL/14/00133	Variation on condition 9 of approved planning permission FUL/MAL/11/00334 relating to operating times, to read 'The waste refuse contract shall only operate from the site between 06:00 hours and 18:00 hours on weekdays and Saturdays and not at any time on Sundays and Bank Holidays, with the exception of Good Friday and any other times agreed in writing by the Local Planning Authority	Refused
FUL/MAL/16/00234	Variation of condition 9 on approved planning permission FUL/MAL/11/00334. The application proposes to permit the Waste Refuse Contract, which operates out of Maldon Depot, to operate for an additional hour (between 18:00 and 19:00 hours) Tuesday to Saturday (excluding Bank Holidays).	Approved

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

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

Name of Parish / Town Council	Comment	Officer Response
Maldon Town Council	Support– notes disappointment about retrospective application.	Noted - Officer can confirm that application is not retrospective but is a variation of a condition. (Section 73 rather than Section 73A retrospective).

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

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objections.	Noted – see 4.3.4

7.3 **Site Notice / Advertisement**

Notice Type	Posted Date	Expiry Date for Comments	Location
Site Notice	15.07.2026	05.08.2026	Attached to lamppost at end of access, adjacent Park Drive.
Newspaper Advertisement	02.07.2026	23.07.2026	N/A

7.4 Representations received from Interested Parties *(summarised)*

7.4.1 No representations have been received

8. PROPOSED CONDITIONS.

Conditions:

- 1 The development hereby permitted shall be carried out in complete accordance with the approved drawings, details and vehicle movements as contained in the Design and Access Statement which are attached to and form part of this permission and the submitted detailed specifications.
REASON: To ensure that the development is carried out in accordance with the details as approved.
- 2 The surface water and foul drainage scheme to serve the development shall be carried out in accordance with the details agreed in the letter dated 5th October 2011 from the Council to Mr Cooke.
REASON: To ensure the incorporation of an appropriate drainage scheme in accordance with Government Guidance PPS 25 'Planning and Flood Risk'.
- 3 Surface water from the vehicle parking and service areas shall be passed through a storm by-pass oil interceptor, in accordance with the details agreed in the letter dated 5th October 2011 from the Council to Mr Cooke.
REASON: To ensure the incorporation of an appropriate drainage scheme and to avoid pollution of the water environment in accordance with policy CON5.
- 4 The waste refuse contract shall only operate from the site between 06:00 hours and 18:00 hours on Mondays, between 06:00 hours and 19:00 hours Tuesday to Saturday, not at any time on Sundays and between 06:00 and 18:00 on up to two Bank Holidays in a calendar year.
REASON: In order to ensure the appropriate use of the site in accordance with policy E7 of the adopted Maldon District Replacement Local Plan.
- 5 There shall be no burning of waste materials on the site as shown edged in red on Drawing No: ATS/533/02 dated 12.04.2011.
REASON: In order to ensure the appropriate use of the site in accordance with policy CON5 of the adopted Maldon District Replacement Local Plan.