

20/00552/FUL

**LAND BETWEEN WINDERMERE AVENUE AND LOWER
ROAD MALYONS LANE, HULLBRIDGE**

**APPLICATION TO VARY THE EXISTING SECTION 106
AGREEMENT DATED 18 JANUARY 2017 TO PLANNING
CONSENT 14/00813/OUT BY WAY OF MODIFICATION TO
THE WORDING OF PARAGRAPH 4.3.3 TO ALLOW FOR AN
EXTENDED TIMESCALE IN WHICH TO DELIVER THE
ROUNABOUT AT THE JUNCTION OF RAWRETH LANE
WITH HULLBRIDGE ROAD TO 200 RATHER THAN 50
DWELLINGS**

APPLICANT: **BARRATT DAVID WILSON HOMES**

ZONING: **SETTLEMENT EXTENSION SOUTH WEST
HULLBRIDGE SER6a AND SER6b**

PARISH: **HULLBRIDGE**

WARD: **HULLBRIDGE**

1 RECOMMENDATION

- 1.1 It is proposed that the Committee **RESOLVES** to **APPROVE** the application to vary clause 4.3.3 to the legal agreement made under section 106 of the act dated 18 January 2017 in respect of planning application 14/00813/OUT as follows:
- 1.2 Revised Paragraph 4.3.3 of the s.106 states to state:
- 1.3 “Not to occupy or cause to be occupied more than 200 dwellings until the new roundabout to be constructed at the junction of Rawreth Lane and Hullbridge Road authorised by planning permission number 16/00162/FUL has been completed and open for use by the public and has the written consent of the County Council.”
- 1.4 That legal agreement to the planning permission be revised accordingly.

PLANNING APPLICATION DETAILS

- 1.5 The development of the site at Malyons Farm to the west of the built up area of Hullbridge as part of the settlement extension policies SER6a and SER6b and under outline planning application 14/00813/OUT, requires the provision of a new roundabout junction improvement to be provided off the application site at the junction between Rawreth Lane and Hullbridge Road. Detailed reserved matters for the housing development were approved on 16 January 2019 under planning application reference 18/00135/REM and construction of the access to the development site, together with a number of dwellings now occupied and under construction, is progressing.
- 1.6 The roundabout the subject of this report is off the application site and was granted planning permission on 31 October 2016 under application reference 16/00162/FUL and is also under construction.
- 1.7 The legal agreement to the outline planning permission for the Malyons Farm development currently requires the provision of the off site roundabout at the Rawreth Lane/Hullbridge Road junction by the completion of the 50th dwelling in the residential development.
- 1.8 Paragraph 4.3.3 of the Section 106 agreement states:
- 1.9 “Not to occupy or cause to be occupied more than 50 dwellings until the new roundabout to be constructed at the junction of Rawreth Lane and Hullbridge Road authorised by planning permission number 16/00162/FUL has been completed and open for use by the public and has the written consent of the County Council.”
- 1.10 The applicants have made the current application to vary the number of dwellings trigger set out at section 4.3.3 of the agreement seeking a change from the current limit of 50 dwellings that may only be completed to a proposed change to 200 dwellings may be occupied. The effect would be that the roundabout junction improvement could continue to be delivered whilst development on the housing site progresses. Both sites have been affected by unforeseen changes in implementation due to COVID-19 that now also threaten clashes with other highway works and there is a need for flexibility in the time duration for completion of the roundabout so that the impact upon the highway network can be managed and take account of unforeseen circumstances ahead with national restrictions and other projects in the area.

2 MATERIAL PLANNING CONSIDERATIONS

- 2.1 The roundabout at issue is over and above those works necessary to mitigate the harm caused to the highway network by the Malyons Farm Development. The Council has long held the aspiration to improve the Rawreth Lane and Hullbridge Road junction to relieve through traffic congestion that follows alternative routes to the A127 through the Rochford District. The applicants for Malyons Farm were able to deliver this solution. The roundabout is not

required to fundamentally address additional traffic arising from the housing scheme.

- 2.2 The construction of the Lower Road roundabout giving access to the development at Malyons Farm over the summer of 2019 coincided with a significant amount of other highways and utilities infrastructure being delivered at the same time. This caused significant congestion which impacted on neighbouring residents and businesses. At the behest of the Rt Hon Mark Francois MP, the Rochford Developers' Forum was established to ensure better coordination of infrastructure delivery across approved developments. It was agreed that the construction of the second roundabout (Rawreth Lane/Hullbridge Road) to which this application relates would cause less congestion if the majority of the 'on-highway' works were carried out over the school summer holidays.
- 2.3 The works were originally planned to be carried out over the school summer holidays 2020 but due to Covid-19 did not occur. Work on the housing site and the roundabout is progressing such that with continued progress more than the 50 houses could be occupied, so the applicant would risk technically being in breach of the terms in the Section 106 agreement.
- 2.4 The recent shutdown of the site due to the Covid-19 pandemic has delayed the delivery programme at Malyons Lane including the Rawreth Lane/Hullbridge Road roundabout. The proposed modification of the s106 Agreement to require the delivery of the new roundabout prior to the 200th dwelling occupation would allow the roundabout to be constructed in the school summer holidays of 2021 ensuring minimal disruption to the public whilst maximising the opportunity to coordinate with other active developments in the vicinity, thus leaving alternative access routes open when others might be closed. A wider scope for implementation would allow better management of the roundabout provision in relation to impacts upon the highway network on other sites.
- 2.5 On 14 May 2020 the Ministry of Housing, Communities & Local Government (MHCLG) announced a number of measures to maintain the delivery of housing in light of the Covid-19 pandemic. MHCLG encourages LPAs to take a "pragmatic and proportionate" approach to s106 obligations with consideration given to the deferral of s106 triggers [and payments] through variations to existing s106. The proposal to vary the s106 to enable the delivery of the second roundabout by the 200th dwelling occupation rather than the current 50th occupation is entirely consistent with Government advice aimed at removing barriers to development and would support the delivery of much needed market and affordable homes in the district.
- 2.6 The additional COVID-19 related restrictions announced by the Prime Minister on 4 January reiterated the Government's support for construction and the housing market to continue. Barratt David Wilson Homes has industry-leading and British Safety Council accredited COVID-secure policies fully embedded across the business and are able to continue to operate safely

under these regulations, while keeping site personnel, customers and neighbours safe. This allows employees working together with the many sub-consultants to deliver both the homes and the roundabout.

- 2.7 The physical constraints encountered working next to a live carriageway require a limit to the number of people working to deliver the roundabout, both in terms of Health & Safety Regulations, but also those imposed to maintain social-distancing requirements in light of the continuing pandemic. These activities have to be coordinated with the utility companies' own COVID-secure policies and working practices. Therefore, the number of people working to deliver the roundabout is limited to one core team as opposed to the main housing site where, by reason of its size and extensive welfare facilities, more teams can operate independently across the site to carry out a wider range of work activities. Therefore, the argument that a deferment of the trigger to deliver the roundabout to the 200th should be met by a proportionate deferment in housing delivery does not apply and would be contrary to the Government's principal economic objective of ensuring housing and infrastructure delivery in these unprecedented times. Put simply, the housing development can progress at a faster rate than the roundabout construction because it is a bigger site and more spacious.
- 2.8 The applicants advise that following the first national lockdown the programme for delivery of the roundabout was accelerated and the diversion of the utilities is nearing completion and work on the roundabout itself is already in evidence. The objective remains to have the Hullbridge Road/Rawreth Lane roundabout completed by the end of summer 2021 just as was envisaged before the onset of COVID-19. However, the impacts of COVID -19 require reconsideration of the terms of the Section 106 agreement in the light of circumstances that could not be foreseen at the time the agreement was made.
- 2.9 At present the applicants advise (January 2021) that 26 dwellings have been completed and occupied at the Malyons Farm Development so far. Typical industry standard in normal conditions would usually provide 50 or so completions and occupations per year. COVID restrictions may well limit the number of sales but at normal conditions the existing trigger might be expected to have been achieved this summer (2021).
- 2.10 Given that the roundabout is way above that required to mitigate the impacts of the development upon the highway network and the need to progress the works in a way that avoids clashes with works to the network elsewhere, original plans and scheduling require some adaptation to national restrictions. Further flexibility is required to the implementation timeline in response to the need for works in relation to other sites. District officers consider the revision to the trigger that would allow up to 200 dwellings to be occupied before the roundabout is required to be complete is a reasonable request that gives the applicants flexibility to respond to changes in unforeseen circumstances largely not of their making and beyond their control and that the terms of the

agreement ought to be amended to reflect the request. This will allow both developments to proceed rather than be delayed.

3 CONSULTATIONS AND REPRESENTATIONS

3.1 Hullbridge Parish Council:

3.2 No objections.

3.3 Essex County Council Highways:

3.4 From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority:

4 EQUALITY AND DIVERSITY IMPLICATIONS

4.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need:

4.2 To eliminate unlawful discrimination, harassment and victimisation.

4.3 To advance equality of opportunity between people who share a protected characteristic and those who do not.

4.4 To foster good relations between those who share a protected characteristic and those who do not.

4.5 The protected characteristics are age, disability, gender, race, sexual orientation, religion, gender reassignment, marriage/civil partnerships, pregnancy/maternity.

4.6 The Equality Impact Assessment (EIA) indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

5 CONCLUSION

5.1 The roundabout junction improvement at the junction of Rawreth Lane with Hullbridge Road is way above that required to mitigate the impacts of the development at Malyons Farm upon the highway network. The need to progress the works in a way that avoids clashes with works to the network elsewhere and the impact upon scheduling brought about by operating restrictions due to COVID-19 require some adaptation and flexibility in response to the need for works in relation to other sites. The revision to the trigger that would allow up to 200 dwellings to be occupied before the roundabout is required to be complete is a reasonable request that gives the applicants flexibility to respond to changes in unforeseen circumstances largely not of their making and beyond their control and would allow both the housing site and roundabout to be built out rather than delayed. The terms of the agreement ought to be amended to reflect the request.



Marcus Hotten,
Assistant Director, Place & Environment

Relevant Development Plan Policies and Proposals

Rochford District Council Local Development Framework Allocations Document
(2014) Policy SER6 and 6A.

Background Papers:-

None.

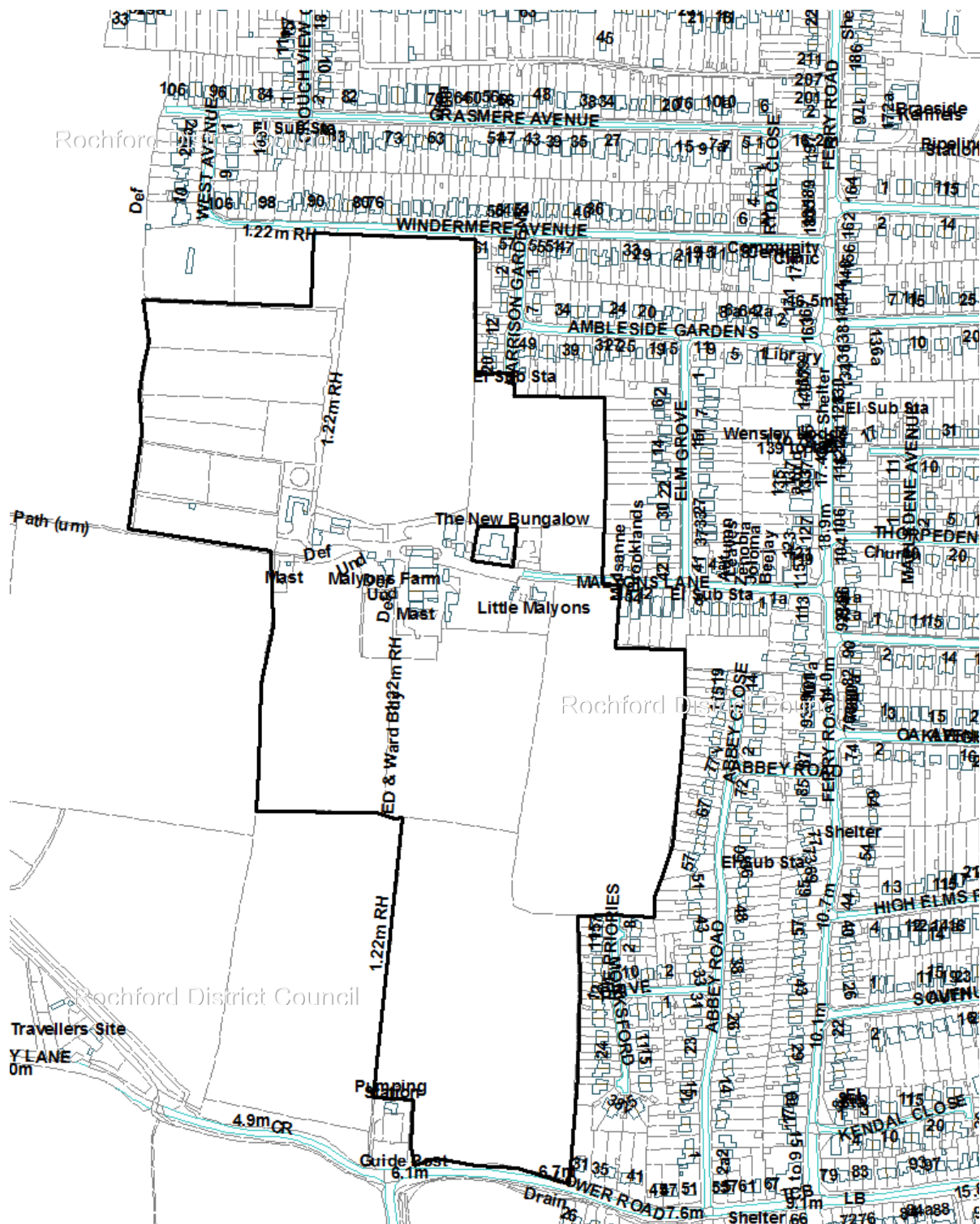
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