

**17/00877/OUT**

**CHERRY ORCHARD BRICK WORKS, CHERRY ORCHARD LANE, ROCHFORD, SS4 1PP.**

**OUTLINE APPLICATION WITH SOME MATTERS RESERVED FOR A PROPOSED RETIREMENT VILLAGE CONSISTING OF 32 NO. OVER 55'S APARTMENTS, 22 NO. OVER 55'S DWELLING HOUSES AND 9 NO. OVER 55'S BUNGALOWS, 30 NO. ASSISTED LIVING APARTMENTS, 35 NO. SHELTERED APARTMENTS AND A 93-BED CARE HOME, 903 SQM OF A1 SPACE, 397 SQM OF A3 SPACE, 1974 SQM OF B1 SPACE, 890 SQM OF D1 SPACE AND 197 PARKING SPACES. ACCESS TO THE SITE IS THE ONLY RESERVED MATTER FOR CONSIDERATION AT THE OUTLINE STAGE**

**APPLICANT: CHERRY ORCHARD HOMES & VILLAGES LIMITED – MR NEIL RYAN**

**ZONING: LONDON SOUTHEND AIRPORT & ENVIRONS JOINT AREA ACTION PLAN (JAAP)**

**PARISH: ROCHFORD PARISH COUNCIL**

**WARD: ROCHE SOUTH**

## **1 RECOMMENDATION**

1.1 It is proposed that the Committee **RESOLVES**

That planning permission be refused for the following reasons:-

- (1) The proposed development would not accord with the adopted development plan which allocates the site for employment use as part of a business park. There are no material planning considerations which warrant a departure from the statutory development plan. The proposal would undermine the economic objective of sustainable development which seeks to ensure that sufficient land is available to support economic growth. The proposal would fall contrary to policy E3 of the JAAP, policy NEL3 of the Allocations Plan and policy ED4 of the Core Strategy.

- (2) The proposal is not considered to represent sustainable development and would fall contrary to the NPPF by virtue of proposing a significant residential element which would not be a use that would sit comfortably against and be in the interests of good spatial planning immediately alongside a large employment site. This is particularly the case as the main vehicular access would be expected to be via the adjoining business park and given the proposed C2 Use Class development and restriction to persons over 55, (less likely to take advantage of neighbouring employment opportunity) and given the significant distance from existing residential settlements, facilities and amenities.
- (3) The proposal, by virtue of the type of residential accommodation proposed, namely age restricted and a significant proportion involving an element of care, would not respond most closely to the identified need in the district and would not cater for a mixed demographic group, contrary to policy H5 of the Core Strategy.
- (4) Affordable housing is required in respect of any dwellings proposed that fall within the C3 Use Class, as set out in policy H4 of the Core Strategy. The proposed age limitation to over 55's only in relation to the affordable housing and the proposed mix to include a significant proportion of sheltered affordable housing would not fulfil the affordable housing need in the Rochford District most effectively. The proposal, for the above-mentioned reasons would not accord with policy H4 of the Core Strategy.
- (5) The proposed residential development would not accord with the requirement in the NPPF that a sequential approach to flood risk is followed. The applicant has not demonstrated that there are no other sites within the district at lower flood risk where the type of development proposed could be delivered. The proposal in this regard is therefore objectionable on flood risk grounds contrary to policy ENV3 of the Core Strategy (2011) and relevant parts of Section 14 of the NPPF.

## **2 PLANNING APPLICATION DETAILS**

- 2.1 This report is an updated version of that considered at a meeting of the Development Committee on 22 November 2018 where Members deferred the application to allow the applicants time to submit additional information in relation to flood risk and the Habitat Regulations. These two matters are addressed in this revised report. In addition, further information submitted by the applicant has been considered; relevant sections of the report have been revised accordingly.
- 2.2 This application is for planning permission for a mixed use development of residential and commercial use. The residential element is described by the applicant as a 'retirement village' for persons aged over 55 years. Most of the

proposed accommodation would likely fall within the C2 Use Class as 'residential institutions' with a small number of C3 Use Class as 'dwelling houses'.

- 2.3 The commercial uses would include uses falling within the following Use Classes: A1 (Shops), A3 (Restaurants and Cafés), B1 (Business – Offices) and D1 (Non-Residential Institutions).
- 2.4 Access is the only 'Reserved Matter' for consideration at the outline stage. Appearance, landscaping, layout and scale would all therefore be matters reserved for consideration in a Reserved Matters application that would follow, if outline planning permission were granted.
- 2.5 The key matters for determination in this outline application are as follows:-
- the acceptability of the principle of the proposed uses including quantum, type and proportion of different uses;
  - the acceptability of the proposed vehicular accesses to the site; and
  - other material planning considerations, including matters such as flood risk, drainage, highway impact and ecology.
- 2.6 A detailed site layout plan has been provided although this is for illustrative purposes only and is not for approval. This plan is provided to demonstrate that the quantum of development proposed could be accommodated at the site alongside other necessary infrastructure, including, for example, parking provision and flood attenuation measures. The layout of development shown on the illustrative layout plan may not be the layout that comes forward for consideration at a later Reserved Matters stage.

### **3 MATERIAL PLANNING CONSIDERATIONS**

#### **Site and Context**

- 3.1 The site is located immediately east of Cherry Orchard Lane and wraps around a row of terraced dwellings which front this road. The site extends northwards to the southern bank of Noblesgreen Brook, a tributary of the River Roach. The eastern boundary adjoins an area of land put to no use at present beyond which is a site granted planning permission for the relocation of Westcliff Rugby Club. The southern boundary of the site immediately adjoins land that is subject to outline planning permission (15/00781/OUT) for a business park and in respect of which development has commenced.
- 3.2 The site was previously a former brick works with various planning consents relating to this use granted by Essex County Council as the Waste and Minerals Planning Authority. Use of the site as a brick works ceased many years ago and the site is currently put to no use.

- 3.3 The site benefits from planning permission for commercial use in accordance with the site allocation as set out in the Joint Area Action Plan (JAAP), reference 17/00850/OUT as detailed below.

#### **Relevant Planning History**

- 3.4 17/00850/OUT - Outline Application With Some Matters Reserved for Proposed Business Park consisting of B1, A3, D1 and D2 uses, Access Road, Parking and Landscaping. Access (to the site) only for Consideration at the Outline Stage. APPROVED.
- 3.5 17/00710/FUL - Construction of day nursery at ground floor with offices (B1) over, parking and associated landscaping. APPROVED.

#### **Principle of Development**

- 3.6 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 3.7 The relevant parts of the adopted development plan are the Rochford District Core Strategy (2011), the Allocations Plan (2014) and the Development Management Plan (2014) and the London Southend Airport and Environs Joint Area Action Plan (JAAP) (2014).
- 3.8 Policy E3 of the JAAP allocates land including the application site for new employment use as part of a new business park, split into three areas known as Areas 1, 2 and 3. Areas 2 and 3 benefit from outline planning consent for commercial use in accordance with the JAAP, granted under reference 15/00781/OUT, development in respect of which has commenced.
- 3.9 This application relates to a large part of Area 1, some 66 per cent (approximately 4.18 ha), the remainder (approximately 2.12 ha) being within a different ownership. Outline planning permission for commercial use in accordance with the JAAP at this site has been recently granted.
- 3.10 The current proposal relates to an alternative, largely residential scheme at the site. A largely residential scheme would not accord with the adopted development plan, which allocates the site for employment use (policies E3 of the JAAP and policy NEL3 of the Allocations Plan) largely within the B1 (Offices) Use Class. It falls to consider whether there are any material planning considerations which would warrant approval of the proposal contrary to the development plan.
- 3.11 The purpose of the planning system is to contribute to the achievement of sustainable development which the National Planning Policy Framework (NPPF) identifies as having three overarching aims relating to economic, social and environmental objectives. The planning system can help support

the economic objective by helping to build a strong, responsive and competitive economy by ensuring that sufficient land is available in the right places to support growth. Paragraph 80 of the NPPF identifies that significant weight should be placed on the need to support economic growth. The allocation of the application site for employment growth responds to this objective. The airport business park is part of the Joint Area Action Plan that looks ahead to 2031 and accounts for increased passenger movements at London Southend Airport that are anticipated in the coming years. This allocation is an important opportunity to provide more employment opportunities locally including higher skilled jobs and is both Rochford and Southend's joint strategy for providing these employment opportunities in the longer term. Although the proposal would deliver some employment opportunities associated with the commercial element of the scheme and the care home, the nature and quantum would not be that envisaged in the site allocation.

- 3.12 Whilst the applicant has sought a view on the demand for office accommodation in Rochford and Southend from a local commercial agent, which is that there is no current effective demand for new built office space, this is the view of one local agent, at a point in time. A detailed view from the Council's planning policy and economic regeneration teams draws on the independent review of the need for office space in the South Essex Economic Development Needs Assessment (EDNA) 2017, by GVA, which identified a severe under supply of employment space in Rochford district relative to demand. The conclusion cannot be drawn, at present, that the application site which forms part of the business park allocation is no longer needed for the employment purposes for which it is designated.
- 3.13 The NPPF makes clear that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose, but this is not the case here.
- 3.14 The site is allocated for employment use as part of a statutory plan which has been adopted following full consultation and which is up-to-date having been adopted in December 2014 and containing policies up to 2031. There is no clear and robust evidence that would justify questioning this employment allocation.
- 3.15 The applicant argues in the accompanying Design Code and Masterplan document that the planning application for commercial development to Areas 2 and 3 of the allocation provided more floor space than that identified for these areas in policy E3 of the JAAP. It is the case that the outline planning application relating to Areas 2 and 3 (15/00781/OUT) proposed a total of 86,900 sqm of floor space which is greater than 79,000 square metres referenced in policy E3. However, policy E3 clearly refers to applications for development 'at least' delivering the floor space set out.

- 
- 3.16 The allocation is in its infancy. Insufficient time has elapsed, and no clear and robust evidence has been submitted to conclude that there would be no reasonable prospect of employment use that accords with the JAAP being delivered here.
- 3.17 The NPPF requires that decisions should apply a presumption in favour of sustainable development which for decision taking means approving development proposals that accord with an up-to-date development plan without delay. In this case, however, the Council has an up-to-date development plan, but the proposal would not accord with it. Paragraph 11(d) of the NPPF would not apply to the consideration of this application as this relates only to proposals where there are no relevant development plan policies or where policies which are most important for the determination are out-of-date.
- 3.18 Policy E3 as it relates to Area 1 details that applications for development will be supported which at least deliver, or proportionately contribute in land take towards achieving 20,000 square metres of floor space relating to B1 (Business) and Education uses. The policy goes on to acknowledge that B1 uses could be accompanied by ancillary storage and distribution uses. The proposal would only deliver 2864 square metres of commercial floor space that would accord with the development plan for this location, namely B1 (office) and D1 (education) uses, the other proposed commercial uses would not.
- 3.19 Even taking account of the fact that there is a remaining part of the Area 1 allocation that is not part of this application site and within which commercial floor space could be provided in the future, the current application would go no meaningful way to achieving the high quality business park the purpose for which the site is allocated for.
- 3.20 The scheme for consideration in the current application is largely residential and there are no material planning considerations that would warrant approving housing in this location contrary to the statutory development plan, the material considerations key to this conclusion are discussed below.
- 3.21 The absence of a 5 year supply of deliverable housing sites in the district may be a material consideration that could be given weight in the consideration of the acceptability of a housing scheme which would be contrary to an adopted development plan allocation. However, Rochford Council has a 5 year housing land supply and is not an authority that has persistently under-delivered. This is not therefore a material consideration that would justify departure from the adopted plan.
- 3.22 In addition to the fact that there are no material considerations which would warrant a departure from the development plan, it is also considered that the proposed largely residential scheme would also not be a use that would sit comfortably alongside a large employment site, particularly where the main

vehicular access would be expected to be via the new roundabout on Cherry Orchard Way and through the business park to the south. It is not considered to be good spatial planning to position a residential care village immediately adjacent to a business park with no buffer, especially given the isolated position in respect of existing residential settlements.

- 3.23 The site is considered remote from rather than being adjacent to or part of an existing residential settlement. The site would not be in walking distance of local facilities and amenities including doctors' surgeries, schools and shops although it is accepted that the site is close to the local country park. Although the site is in closer proximity to commercial uses including a petrol station and associated shop on the Rochford Business Park this is on the opposite site of a main road, Cherry Orchard Way.
- 3.24 The proposal for restricting the residential use at the site to that entirely for persons aged over 55 and in a large part for persons requiring at least some element of care runs contrary to any sustainable argument that might be developed in terms of siting residential use immediately adjacent to employment use given that few of the anticipated residents of the site would be likely to take advantage of the neighbouring employment opportunities. The proposal is not considered to represent sustainable development.
- 3.25 Alongside the proposed housing other uses are proposed which the applicant proposes would support the proposed residential use at the site. 903 square metres of A1 (retail) and 397 square metres of A3 (restaurant/café) are proposed. The NPPF at paragraph 86 requires the application of a sequential test where main town centre uses are proposed which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then edge of centre locations, and only if suitable sites are not available should out of centre sites be considered. Policy RTC2 of the Council's Core Strategy does, however, acknowledge that small scale retail development would be encouraged in out of centre residential areas where this would not undermine the role of the District's town centres. Given the amount of A1 and A3 uses would not be objectionable, in principle.
- 3.26 In summary, the Council's adopted development plan is clear that this site is specifically allocated for commercial use as part of a strategy to provide employment opportunities in the District in the longer term as part of a wider business park which is envisaged to develop alongside expansion of London Southend Airport. The allocation is up to 2031 and at the current time there is no clear evidence that there would be no reasonable prospect of the site being developed for the allocated commercial use; a reason for refusal on the grounds of conflict with the adopted development plan is recomme

---

**Quantum, Type and Proportion of Residential Uses**

- 3.27 It is also necessary to consider whether the proposed quantum, type and proportion of residential development would be objectionable in respect of any other policies within the adopted development plan.
- 3.28 The NPPF requires that planning policies address the needs of groups with specific housing requirements. Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies, including but not limited to those who require affordable housing, families with children, older people and people with disabilities.
- 3.29 The Council does not have specific planning policies relating to proposals for development within the C2 Use Class; however, policy H5 of the Core Strategy requires that new developments contain a mix of dwelling types to ensure they cater for all people within the community, whatever their housing needs. The latest published SHMA acknowledges the need for some C2 type development in the district. That being said, the Council has recently approved planning permission for some 60 assisted living accommodation units at a site in Rochford and a scheme for 12 assisted living accommodation units in Rayleigh (subject to s106).
- 3.30 The Council's Strategic Housing Department raises concern that the proposal would result in an over development of this type of accommodation within the district, taking account of existing stock and planning consents granted. Despite this, there is a clear identified need for additional C2 type accommodation in the latest published SHMA and it is considered that, in principle, some C2 development could be considered appropriate. There is, however, also a need for affordable housing (C3 dwellings) and policy H5 seeks a mix of dwelling types to ensure schemes cater for all people within the community. Setting aside the in principle objection to residential development of this employment allocation, it is considered that the type of residential use proposed is not that which would respond most closely to the identified need in the district and would not cater for a mixed demographic contrary to policy H5. A mixture of C3 dwellings with policy compliant affordable provision alongside some extra care/care home accommodation units would more closely reflect need.

**Affordable Housing**

- 3.31 Affordable housing is required in respect of any dwellings proposed that fall within the C3 Use Class. Affordable housing could not be sought in relation to any residential accommodation that falls within the C2 Use Class. Whether residential use falls within the C3 or the C2 Use Class depends on whether care is involved and on the level of care provided.



- 3.32 The application form identifies that a total of 128 units are proposed (excluding the proposed care home). The Council's affordable housing policy requires that 35 per cent of all dwellings are affordable at a split of 80/20 rented versus intermediate. The application form identifies that 83 market housing units and 45 social rented housing units are proposed; the latter equating to 35 per cent of the total.
- 3.33 The applicant would be required to demonstrate the level of care that would be provided in relation to any proposed C2 development to enable the authority to judge that it would fall within the C2 Use Class rather than the C3 Use Class for the purposes of calculating the necessary affordable housing that should be provided. In this case, however, the applicant is providing affordable housing in respect of all of the proposed dwellings except in respect of the proposed care home which would fall within the C2 Use Class.
- 3.34 The Council's Strategic Housing Team would not accept the age limitation to over 55's only in relation to the affordable housing as this would not fulfil the need in the Rochford District. The applicant has indicated that whilst the number of affordable units would equate to 35 per cent, the mix would be 11 houses (1 and 2-bed) and 34 sheltered housing units. As this mix would not best meet need, the proposal would not in this respect meet policy H4 of the Core Strategy and a reason for refusal is therefore recommended in relation to this.
- 3.35 If the application were to be recommended favourably a section 106 agreement would be sought to deliver the 35 per cent affordable provision such that the proposal would accord with the requirements of policy H4 of the Core Strategy.

### **Access**

- 3.36 The acceptability of the proposed vehicular accesses to the site is also for consideration at the outline stage. No comments have yet been received from the Highways Authority although in respect of the commercial scheme at the site, the Highways Authority did not object, subject to planning conditions; one of which sought to restrict use of the existing access onto Cherry Orchard Way and ensure that the main access to the site was that from the southern boundary.
- 3.37 The proposal includes an access point to the southern boundary which would utilise the new roundabout access off Cherry Orchard Way, required by the Highway Authority in relation to the earlier commercial scheme. Given this it is considered that the proposed accesses, subject to restrictive condition, would be acceptable in principle. A consultation response from Essex County Council Highways is awaited and will be reported on the addendum.

### Design

- 3.38 The creation of high quality buildings and places is fundamental to what the planning process should achieve. Good design is a key aspect of sustainable development. The design, form and layout of buildings and the spaces between buildings is of great importance but not something for detailed consideration at this outline stage.

### Vehicle Parking Provision

- 3.39 The Council applies a maximum parking standard for trip destinations and a minimum parking standard for residential dwellings. The Council would require any development to include adequate parking provision. The parking standard for C3 dwellings is a minimum and would require 1 space per 1-bed dwelling and 2 spaces per 2-bed plus dwelling. Visitor parking would be required at 0.25 spaces per dwelling. It is not clear from the application form or submission exactly how many of the proposed dwellings would be C3 dwellings rather than C2 and consequently a precise parking requirement cannot be calculated as a lesser parking provision requirement may be justified for C2 dwellings.
- 3.40 The parking requirement for a care home would be 1 space per full time equivalent staff plus 1 space per 3-beds for visitors. Without knowing staff numbers a parking requirement cannot be calculated.
- 3.41 The parking requirement for non residential uses that would be applicable would be 1 space per 30 square metres of floor space for B1 (office), 1 space per 5 square metres for A3 (restaurant/café), 1 space per 14/20 spaces (depending on whether the A1 were a food store) for the A1 (retail) and 1 space per full time equivalent staff plus drop off facility for the D1 (nursery).
- 3.42 Although a parking provision of 197 spaces is contained within the proposal description, it would not be considered appropriate, at the outline stage, to have a specific figure stated in the proposal description. If the granting of outline planning permission for the proposal were to be considered favourably, it would be recommended that the parking provision figure be taken out of the description or a condition imposed to provide clarity that notwithstanding the reference to 197 spaces in the description, the consent did not require a specific number of parking spaces. Only when precise details of dwelling types C2/C3 and unit sizes 1, 2, 3-bed etc were known could a view be taken on the acceptability of a specific parking provision.
- 3.43 Disabled parking, parking for powered two-wheelers and cycle parking would also be a consideration at a later Reserved Matters stage if outline planning consent were to be granted.

**Sustainable Transport - Bus Service**

- 3.44 There is clear policy emphasis on the delivery of developments that will reduce reliance on the private car.
- 3.45 Policy T4 of the JAAP requires that a comprehensive network of quality bus services be provided serving the transport needs of the Southend/Rochford and wider Essex catchment area, particularly linking to the new airport railway station and other transport interchanges. ECC Highways Authority recommended that a financial contribution be sought towards the provision of a bus service to serve the site in respect of the commercial scheme recently granted outline planning permission at the site. This would also likely be a requirement of the proposed residential scheme if it were to be recommended favourably.

**Sustainable Transport - Walking and Cycling**

- 3.46 The JAAP places emphasis on non private car modes of transport. Policy T5 of the JAAP requires that all development contributes towards the construction of new, as well as improvements to existing, walking and segregated cycling infrastructure and facilities in the JAAP area and the integration of these facilities into the wider network.
- 3.47 The London Southend Airport and Environs Joint Area Action Plan – Walking and Cycling ‘Greenway Network’ – Linking the Community document was completed in December 2015. This is a joint study on behalf of Southend Borough Council, Essex County Council and Rochford District Council and outlines the actions required to create a Greenway Network of cycling and walking routes to the north and east of the proposed new business park that forms part of the JAAP. The report includes an annotated plan for the Greenway which in relation to the application site shows the extended Greenway running through the site north-south and east-west and linking to Hall Road to the north and Cherry Orchard Jubilee Country Park to the west.
- 3.48 A financial contribution would be sought via s106 legal agreement to secure a financial contribution towards improvements to existing footways and cycleways in proximity to the site if the application were to be recommended favourably.

**Flood Risk and Drainage**

- 3.49 Paragraph 163 of the NPPF requires that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. A site specific flood risk assessment is required for all development in Flood Zones 2 and 3 and in Flood Zone 1 where the proposal relates to a site of 1 hectare or more. Development should only be allowed in areas at risk of flooding where (subject to the sequential and exception tests, as applicable) it can be demonstrated that:

- 
- a) Within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
  - b) The development is appropriately flood resistant and resilient;
  - c) It incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
  - d) Any residual risk can be safely managed; and
  - e) Safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
- 3.50 The site falls within Flood Zones 1 and 2, as shown on the Environment Agency Flood Risk maps, a very small portion of the site along the northern site boundary immediately adjacent to the Noblesgreen Brook may also just fall within Flood Zone 3. These flood zones refer to the probability of river and sea flooding, with flood zone 1 at the lowest risk of flooding from these sources. The area of the site which falls within Flood Zone 2 is confined to the central area and the north-west corner, the remainder of the site being within Flood Zone 1.
- 3.51 Planning Practice Guidance requires consideration of the vulnerability of proposed development to flooding and advises in what circumstances certain development should not be permitted.
- 3.52 The proposed commercial development of A1, A3, D1 and B1 uses are classified as 'less vulnerable' save for D1 use as a proposed day nursery which would be classed as a 'more vulnerable' use. The proposed residential development falling within Use Classes C2 and C3 is classified as a 'more vulnerable' use, all according to the Planning Practice Guidance.
- 3.53 The development proposed would be considered appropriate in Flood Zones 1 and 2 according to the flood risk compatibility table in the relevant Planning Practice Guidance. This table does not, however, show the application of the Sequential Test which should be applied first to guide development first to Flood Zone 1, then Zone 2, nor does it reflect the need to avoid flood risk from sources other than rivers and the sea.
- 3.54 The Sequential Test does not need to be applied to individual developments on sites which have been allocated in development plans through the sequential test. In this case, the development relates to an allocated site which was subject to sequential testing as part of a business park. However, notwithstanding this, it is considered that, in this case, the Sequential Test is not passed for the reasons as set out below.

- 
- 3.55 The area to apply the Sequential Test across should be defined by local circumstances relating to the catchment area for the type of development proposed. When applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. The application is for a mixed use which is in large part for residential development.
- 3.56 Whilst a new business park in this location which is part of a larger business park strategically located within the proximity of London Southend Airport could not be reasonably sited elsewhere in the district it is considered that alternative sites for the proposed residential (and commercial) development do exist, including on allocated sites. As the development is of district wide importance it is not considered appropriate to consider a wider catchment area than the district as a whole.
- 3.57 Within sites, the most vulnerable development should be located in areas of lowest flood risk unless there are overriding reasons to prefer a different location. Layout is not a matter for determination at the outline stage; however, the indicative site layout does show that some of the more vulnerable uses would be sited on parts of the site at greater risk of flooding, in Flood Zone 2.
- 3.58 The proposed residential development would not accord with the requirement in the NPPF that a sequential approach to flood risk is followed. The applicant has not provided evidence to support their argument that the sequential test would be passed in accordance with the requirement in the planning practice guidance. It cannot be concluded that there are no other sites within the district at lower flood risk. The proposal in this regard is therefore objectionable on flood risk grounds.
- 3.59 Proposed development must also not increase flood risk elsewhere and policy ENV7 seeks the use of sustainable urban drainage systems, as does the NPPF.
- 3.60 The submitted site specific flood risk assessment includes assessment of the current surface water drainage at the site and concludes that it is not known how surface water is currently drained from the site. There is no current connection to the Noblesgreen Brook to the north. The site has a significant amount of hard surface from the historic use as a brick works and the rate of surface water run off is therefore not considered to be solely a green field run off rate at present.
- 3.61 Essex County Council as Lead Local Flood Authority does not raise any objection to the proposal with regard to surface water drainage, subject to the imposition of planning conditions.

**Air Quality**

- 3.62 The impacts of increased traffic emissions arising from the development would not be such that mitigation would be required.

**Archaeology**

- 3.63 Planning policy at the national and local level (policy ENV1 and policy E1) requires consideration of the impacts of proposed development on heritage assets which include underground heritage assets.
- 3.64 An archaeological report which assesses the archaeological significance of the site has been submitted with this application. Whilst no intrusive ground investigations have been recorded within the application site, trial trenching has taken place within the vicinity of the site and revealed archaeological finds of varying age. Given the former use of the site as a brick works and the ground disturbance associated with this, archaeological deposits before the post medieval period (AD1540) are likely to have been disturbed or destroyed. Archaeological remains relating to the site's industrial history may, however, still survive; these would be of local significance and a condition could be imposed to require appropriate investigation and recording at the site if the application were to be recommended favourably.

**Ecology**

- 3.65 The NPPF, policy ENV1 and policy DM27 require that effects on biodiversity are considered in the determination of planning applications. The NPPF requires that distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with status and that appropriate weight is attached to their importance and the contribution that they make to wider ecological networks.
- 3.66 In addition, in accordance with The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations), all competent authorities, must undertake a formal assessment known as 'appropriate assessment' of the implications of any new plans or projects that may be capable of affecting the designated interest features of European Sites before deciding whether to undertake, permit or authorise such a plan or project; these regulations apply to planning applications determined by Local Authorities.
- 3.67 The site is approximately 1.8 miles as the crow flies from the European designated sites along the Essex coast which consists of the Crouch & Roach Estuaries (Mid Essex Coast Phase 3 (SPA) (Ramsar) (SSSI) and the Essex Estuaries (SAC). The site is also a similar distance from Hockley Woods (SSSI).
- 3.68 Local planning authorities have a duty to consult Natural England before granting planning permission on any development that is in or likely to affect a

SSSI. The site is within an Impact Zone of a European designated site where the scale of development is such that Natural England should be consulted. In response to the consultation, Natural England has highlighted that it considers that the proposed development could generate significant impact on the European designated sites along the coast resulting from increased recreational activity.

- 3.69 The Conservation of Habitat and Species Regulations 2017 (Habitat Regulations) require the Local Planning Authority as a 'competent authority' in the exercising of its planning function to undertake a formal assessment of the implications of development proposals before granting consent for any development which is likely to have a significant effect on a European site (either alone or in combination with other development). The formal assessment is known as a 'Habitat Regulations Assessment (HRA)' which has several distinct phases. The first is a formal 'screening' for any likely significant effects. Where these effects cannot be excluded, assessment in more detail through an 'appropriate assessment' is required to ascertain that an adverse effect on the integrity of the site can be ruled out. Where such adverse effects on the site cannot be ruled out, appropriate mitigation must be secured by condition/limitation. A Local Planning Authority may only agree to grant planning permission after having ascertained that the development would not adversely affect the integrity of the European site; this can include consideration of proposed mitigation secured via condition/limitation. The Local Planning Authority is required by law to have regard to guidance provided by Natural England.
- 3.64 Natural England has advised that it considers that the development would be likely have a significant effect on the European site and that an HRA is required. Very limited information has been submitted with the application with regard to the potential for impact on the European site and details of proposed mitigation have not been submitted.
- 3.70 The proposal has been considered in respect of the Habitat Regulations, taking account of the interim advice from Natural England in August 2018 and the HRA record template has been completed. The HRA record template requires slightly different consideration for developments of over 100 plus dwellings (or equivalent). The proposal is for over 100 dwellings if all the residential accommodation (excluding the proposed care home) is considered and the proposal has been considered on this basis. For developments of this scale, Natural England advises that the developer's proposed scheme of mitigation should be considered against Natural England's requirements. Natural England's requirements for development of this scale include provision on site of suitable alternative green space and a financial contribution towards off site mitigation.
- 3.71 No suitable alternative green space is proposed within the development site; however, the site is adjacent to Cherry Orchard Jubilee Country Park, a large

public open space which provides a suitable dog-walking area. The applicant has agreed to a financial contribution of £122.50 per dwelling to contribute towards longer term monitoring and mitigation along the coastline; in this instance, officers consider that the financial contribution would be sufficient mitigation.

- 3.72 Natural England has been consulted on the appropriateness of the proposed mitigation and the response received has advised that the development would not likely have an adverse impact on the integrity of the European sites, providing that both suitable alternative green space were delivered (or a contribution towards delivering this) and the financial contribution towards longer term monitoring provided. Officers have gone back to Natural England to advise that despite their advice, the proposed mitigation consisting of a financial contribution towards longer term monitoring only would be considered sufficient; their further response is awaited.

### **Protected Species**

- 3.73 In addition to designated sites there is also a need to consider potential impacts on protected species. For example, The Wildlife and Countryside Act (WCA) (1981) protects all wild birds within the UK, including their active nests, eggs and dependent young. Species listed under Schedule 1 of the WCA are also afforded protection from disturbance during the breeding season.
- 3.74 The phase 1 ecological report draws on information gathered during a walkover site survey site and considers the potential of the site to support protected species; this report advised that further survey work was required in relation to several species. In order to determine the presence of protected species (referring to animals protected by legislation including Schedule 5 of the Wildlife and Countryside Act 1981) and the extent to which they might be affected by the proposed development the applicant has undertaken desk based and further field survey work relating to water voles, otters, badgers and breeding birds and has considered likely impacts in a series of phase 2 reports submitted with this application.
- 3.75 The submitted ecological reports have been considered in light of Standing Advice from Natural England which is designed to enable local planning authorities to decide what is needed for surveys and what mitigation, if any, would be required.

### **Water Voles**

- 3.76 The site survey for water voles was undertaken at the optimum time of year, between April and October by a qualified ecologist and revealed evidence of a small population within the Noblesgreen Ditch some 50 metres west of that section of the ditch that runs adjacent the sites northern boundary. No habitat within or immediately adjacent to the site was considered likely to be suitable to support this species. Given the low population and characteristics of habitat



the proposed development would be considered unlikely to impact adversely on this species and no mitigation would therefore be considered necessary. There would be scope for the creation of habitat within open water Sustainable Urban Drainage features at the site suitable for this species to provide enhancement.

#### Otters

- 3.77 The site survey for otters found no evidence of their presence and as a consequence no mitigation would be considered necessary as the proposed development would be considered unlikely to impact adversely on this species.

#### Breeding Birds

- 3.78 Surveys were conducted to assess the value of the site for breeding birds. These were undertaken by a suitably qualified ecologist in the peak breeding season and during suitable weather conditions. All the birds suspected of breeding at the site are scrub, woodland or hedgerow nesting species; no ground nesting species were suspected to breed at the site.
- 3.79 In total, 29 bird species were recorded and of these 17 were suspected of breeding at the site. None of the species had an estimated breeding population exceeding 10 pairs and the total breeding bird population was therefore considered to be small. 2 of the species are of particular conservation concern, including the linnet. The results represent a typical assemblage of species for a site on derelict land in lowland England and the site is considered of local importance for breeding birds, save for the linnet, where the conservation importance of the species and number of breeding pairs makes the site of district value for this species.
- 3.80 The development would remove all existing breeding bird habitat from the site and without mitigation would result in the loss of most breeding bird species within the site. Conditions could ensure that clearance takes place outside the bird nesting season, provide for suitable habitat in any landscaping scheme for species present and provide bird nesting boxes to mitigate the loss of existing habitat, if the application were to be recommended favourably.

#### Bats

- 3.81 Three visits to the site were conducted and surveys carried out to establish the presence/absence of bats at the site. The results of the surveys are contained within the submitted bat survey report which concludes that there is an absence of roosting bats at the site. There is limited use of the site by bats and the proposal would not be likely have a detrimental impact on the local bat population. No mitigation would therefore be considered necessary.

### Badgers

- 3.82 Survey work found evidence of a badger sett immediately adjacent to the site's south-eastern boundary. Further survey work would be required in relation to badgers to establish an appropriate exclusion zone around the sett to ensure that construction and development did not impact adversely on this protected species. Given that layout is not for determination at this outline stage it is considered that a layout could be developed that would guard against harmful impact on the badger sett. The impact of the proposed development on badgers would therefore not constitute a reason for refusal as appropriate mitigation/protection could be achieved by imposition of a planning condition if the application were to be recommended favourably.

### Contaminated Land

- 3.83 The NPPF (paragraph 178) requires Local Planning Authorities (LPAs) to ensure that a site is suitable for the proposed use taking account of, amongst other things, ground conditions arising from former activities and uses. Policy ENV11 is, however, clear that land contamination is not in itself a reason to refuse planning permission. Model land contamination conditions would be recommended to ensure that any contaminated land at the site was appropriately remediated prior to construction, if the application were to be recommended favourably.

### Proximity to Major Hazard Site

- 3.84 The site falls within the consultation zone of the Major Hazard Site at Cherry Orchard Brick Works, which relates to a historic consent for the storage of LPG gas at the brick works. Whilst the brick works use ceased many years ago, the Health and Safety Executive is still required to be consulted and its response is awaited. It is, however, considered likely that the proposed use would be considered acceptable if a condition were imposed to require the revocation of the hazardous substance consent prior to occupation of any part of the site. A condition could deal effectively with issues relating to this matter if the application were to be recommended favourably.

### Trees

- 3.85 Policy DM25 requires that development proposals be designed to seek to conserve and enhance existing trees and woodlands. Development which would adversely affect, directly or indirectly, existing trees and/or woodlands will only be permitted if it can be proven that the reasons for the development outweigh the need to retain the feature and that mitigating measures can be provided for, which would reinstate the nature conservation value of the features.
- 3.86 The arboricultural impact assessment report submitted with the application provides details of existing trees at and bordering the site, assessed during a

survey undertaken in May 2016. This report notes that the lack of recent management has led to the development of natural vegetation cover across parts of the site in the absence of any formal management and that this includes dense groups of trees in developing scrub with limited amenity value as individuals. Only 1 tree was assessed as being of high quality, namely an oak, reference T5, sited to the northern bank of the Noblesgreen Brook just outside the application site boundary; this and another group of trees, to the north-eastern corner of the site, would be protected by fencing during construction; aside from this, all trees within the application site would be removed to facilitate the proposed development. Given the relatively limited amenity value of the existing trees at the site and the opportunity for new tree planting which would, in the longer term, secure trees of high amenity value across the site, it is considered that the initial tree loss could be effectively mitigated. Conditions could be imposed to secure tree protection and new tree planting, if approval were to be recommended.

### **Public Open Space**

- 3.87 Policy E3 of the JAAP stipulates that all development areas will be required to contribute towards new public open space to the north and east of the business park. This policy requirement was met by the re-provision of the rugby pitches, to the north and east of the business park allocation, secured by the development under 15/00781/OUT and there is not considered to be a need to require further contribution in relation to this application.

### **Environmental Sustainability - BREEAM/Renewable Energy**

- 3.88 The NPPF explains that planning plays a key role in helping to secure reductions in greenhouse gas emissions and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development. Policies ENV8 and ENV10 of the Core Strategy address environmental sustainability issues at the local level.
- 3.89 Policy ENV8 seeks to secure at least 10 per cent of the energy requirements from developments from decentralised and renewable or low carbon sources; if the application were to be recommended favourably such requirements could be secured by planning condition.
- 3.90 Policy ENV7 of the JAAP requires all new buildings to meet the BREEAM standard of 'excellent' unless unviable or unfeasible. This policy requirement supersedes that of policy ENV10 of the Core Strategy which requires the 'very good' standard. A planning condition could be imposed to secure this in respect of all non-residential buildings if approval were recommended.
- 3.91 Policy ENV7 also requires that rainwater harvesting and water recycling systems are used alongside other environmentally sustainable measures such as green roofs and walls; a condition could also be imposed to require

the use of these systems where appropriate and subject to viability, if approval were to be recommended.

#### **4 CONSULTATIONS AND REPRESENTATIONS (summarised)**

##### **Rochford Parish Council**

- 4.1 Members objected to this application for the following reasons:-
- 4.2 It was understood that once the former brick works were no longer in use, the land would be returned to Green Belt. The tied cottages adjacent to the site were built prior to 1948 when the Planning Regulations changed so cannot be deemed to set a precedent. There is no provision for this facility within the JAAP and Local Plan on this site. There is no mention of affordable housing within this development. There are concerns about bringing existing land zoned for commercial use into resident use. It is felt that approval of the application could set a precedent for more residential development on this site which is not in accordance with the JAAP or Local Plan. The site will be isolated from the rest of the community of Rochford. Members note that there is provision for mobility scooter parking. However, the footways around the site, particularly in Hall Road, are not suitable for mobility scooters, especially near the railway bridge. There is no public transport near the site, especially from Rochford railway station. There will be a very close co-location of residential and commercial buildings which could have a detrimental effect on the enjoyment of the residential properties.
- 4.3 Members request that if RDC is minded to approve this application, Rochford Parish Council is included in any discussions regarding a Section 106 Agreement.

##### **Strategic Planning and Regeneration – RDC**

- 4.4 Having reviewed this application from a Planning Policy and Economic Development perspective, we would like to make the following comments:-
- 4.5 The National Planning Policy Framework (NPPF paragraph 80) recognises the importance of planning decisions in creating the conditions in which businesses can invest, expand and adapt; furthermore, the NPPF states that significant weight should be placed on the need to support economic growth. Paragraphs 81 and 82 expand on the role of planning policies in creating a clear economic vision and strategy to encourage sustainable economic growth and identifying strategic sites for local and inward investment.
- 4.6 Rochford District Council's Core Strategy 2011 aims to ensure the growth of local employment opportunities and deliver an additional net 3,000 local jobs by 2021. In addition, the Council will actively seek to maintain high and stable levels of economic and employment growth in the District and will support proposals that secure growth within high value businesses and which match

local skills in order to reduce reliance on out commuting. Key to this approach is the protection of local employment sites and implementation of the London Southend Airport and Environs Joint Area Action Plan (JAAP) to realise the potential of the local airport as an growth hub. Core Strategy policies relevant to this application include policy ED2 - Expansion of employment land to the north of the airport for the development of non aviation-related industries will be supported to increase local employment opportunities within the District; and policy ED4 – future employment allocations. The Council will allocate land to the north and west of London Southend Airport for employment uses to compensate for de-allocations elsewhere in the District.

- 4.7 Rochford District Council's Growth Strategy 2014 and Employment Land Study (ELS) 2014 both form part of the evidence base for the emerging Local Plan and note that Rochford District currently experiences low job density and consequently high flows of out commuting as residents travel elsewhere for work. The Council's Economic Growth Strategy 2017 prioritises growing and retaining businesses and encouraging inward investment. The provisions of the JAAP and unlocking additional employment sites are viewed as key factors in this.
- 4.8 From analysis of past supply and take up, the ELS identified that there is a lack of supply of office premises in the Southend Airport area, particularly at the larger end, with few new or refurbished industrial units on the market.
- 4.9 Furthermore, the South Essex Economic Development Needs Assessment (EDNA) 2017, a study by GVA, identified a severe under supply of employment space in Rochford District relative to demand, whilst supply has dropped sharply across South Essex. The analysis also considered scenarios such as the Greater London Authority Industrial Land Study 2016-2036 and a model to reflect growth as a result of London Southend Airport. This anticipated potential workspace demand for Rochford District 2016-2036 to be for an additional 30,000m<sup>2</sup> of employment space, over 7ha land, creating an additional 1,200+ jobs. The EDNA included a 'Land Requirement Forecast' (Combined Scenario) which identified positive demand for additional B1 and B2 floor space across the period to 2036, but negative floor space demand for B8 uses over the same period.
- 4.10 The application site falls within policy NEL3 of the Council's Allocations Plan 2014; however, the detailed policy requirements and expectations were set out in the London Southend Airport and Environs Joint Area Action Plan (JAAP) 2014.
- 4.11 The site falls within an area outlined in the JAAP, which was adopted by the Council in December 2014. The application site falls within 'Area 1' which is allocated for B1/Education uses, and expected to deliver around 20,000m<sup>2</sup> of floor space comprising those uses. The site also falls within the scope of policies E3 and E4 of the JAAP which further state that supporting non B1 uses may be acceptable where it can be demonstrated that these uses are

necessary to support the operation and/or the requirements of employees working in the business park. The application site neighbours another business park site – marketed as Airport Business Park Southend – which received outline permission in 2016 and will comprise predominantly B1 and B2 uses, in accordance with the JAAP.

- 4.12 The details submitted alongside this application suggest the proposed development would consist of a 'retirement village' comprising 32no. over 55s apartments, 22no. over 55s dwelling houses, 9no. over 55s bungalows, 30no. assisted living apartments, 35no. sheltered apartments, a 93-bed care home and around 4000m<sup>2</sup> of ancillary floor space including A1, A3, B1 and D1 uses.
- 4.13 The proposed development of the site would therefore be a significant departure from the Council's adopted local development plan, being contrary to both the JAAP and Core Strategy.
- 4.14 The Planning and Compulsory Purchase Act 2004, as amended, requires planning decisions to be made in accordance with the local development plan unless material considerations indicate otherwise. In this case, there are not considered to be any material considerations justifying the significant departure from policy proposed, nor, in our view, has any substantiated evidence been provided to suggest that the uses for which the site has been allocated are no longer needed, appropriate or viable. The fact that a significant amount of employment floor space is being provided on an adjacent site is not considered to justify a lesser amount of floor space being provided on the application site.
- 4.15 The proposal, if permitted, would clearly and demonstrably undermine the Council's economic vision for the Airport and its environs by impeding the creation of much needed B1 employment space, and in doing so, impeding the creation of jobs needed to support the local economy. Furthermore, evidence produced by the Council to support its emerging Local Plan highlights that there is a significant future need for additional B1 floor space in the District.
- 4.16 Read against the National Planning Policy Framework, the Council's five year housing supply is not considered to justify a departure from policy in order to deliver additional housing. Furthermore, the nature of the development being proposed is such that a significant proportion of the residential units proposed would not fall within Class C3 of the Use Classes Order. Even if the need to provide such accommodation was so great so as to justify a departure from policy, the Strategic Planning and Economic Regeneration team contends that the location of this site is not sustainable or appropriate for the type or scale of development proposed, being poorly related to any established settlements, having very limited access to local facilities and services and sitting adjacent to areas of industry.
- 4.17 Taking into account the above, we would conclude the following:-

4.18 The proposed development would be a significant departure from the Council's local development plan. The proposal is contrary to both the JAAP and Core Strategy, and, if approved, would undermine the Council's economic strategy and vision. There are not considered to be any material considerations justifying the significant departure from policy proposed, nor, in our view, has any substantiated evidence been provided to suggest that the uses for which the site has been allocated are no longer needed, appropriate or viable.

4.19 For this reason, the Strategic Planning and Economic Regeneration team would support the refusal of this application.

#### **Essex County Council – Lead Local Flood Authority**

4.20 Having reviewed the additional information submitted in support of the planning application, we wish to issue a holding objection to the granting of planning permission based on the following:-

##### **Inadequate FRA/Drainage Strategy**

The Drainage Strategy submitted with this application does not comply with the requirements set out in Essex County Council's Outline Drainage Checklist.

Therefore the submitted drainage strategy does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

In particular, the submitted FRA fails to:-

- Provide a drainage strategy that in principle will work and has all the necessary third party agreements with Anglian water about discharge points and rates.
- Drainage hierarchy needs to be followed:-
  1. Infiltration - If infiltration is proposed, ground water testing and infiltration testing in line with BRE 365 will need to be submitted to show that infiltration is feasible. Any infiltration storage devices should have 1m between the base of the storage device and seasonal high ground water level.
  2. Discharging to a water course - Sufficient water quality data needs to be submitted in order to show treatment in line with Chapter 26 of the CIRIA SuDS Manual C753 for all areas across the site, especially due to possible site contamination. Any appropriate permissions need to be in place for discharge points and rates.

### 3. Discharge into a sewer.

- Provision of suitable 'urban creep' allowance.
- The proposed drainage strategy layout suggests that there will be a flooded parking area to the South East of the site in a 1 in 100 flood event. A detailed justification for this option needs to be provided, including clear evidence that this does not offer a significant flood risk.
- Over ground storage options would be preferable; otherwise details for not choosing this option should be provided.
- Any potential off-site flood risk from neighbouring developments should be taken into consideration in the drainage strategy.

### Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless, these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures); and
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, ECC advises local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

### **ECC – Lead Local Flood Authority – Revised Response**

- 4.21 Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following:-



## Condition 1

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure.
- Limiting discharge rates to 3.4l/s/ha for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- Demonstrate all storage features can half drain in less than 24 hours.
- The appropriate level of treatment for all run off leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Ensure there is a provision of 10% for urban creep included in storage calculations.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

**REASON:** To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the lifetime of the development. To provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with

surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

#### Condition 2

No works shall take place until a scheme to minimise the risk of off site flooding caused by surface water run off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

REASON: The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If de watering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of top soils during construction may limit the ability of the site to intercept rainfall and may lead to increased run off rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

#### Condition 3

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

REASON: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

#### Condition 4

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved

Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

REASON: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

### Environment Agency

- 4.22 We have inspected the application as submitted and have no objection to the planning application, providing that you are satisfied that the development would be safe for its lifetime and you assess the acceptability of the issues within your remit.
- 4.23 The applicant has sequentially sited all proposed development within Flood Zone 1. Our maps show the site boundary lies within fluvial Flood Zone 3 defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for Outline application with some matters reserved for proposed retirement village consisting of the following: 32 no over 55's apartments, 22 no. over 55's dwelling houses, 9 no. over 55's bungalows 30 no. assisted living apartments, 34 no. sheltered apartments 93-bed care home 903sqm of A1 space 397 sqm of A3 space, 1974 sqm of B1 space, 890 sqm of D1 space 197 parking spaces, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. We are satisfied that the flood risk assessment, referenced P2665.4B.1 and dated 1 September 2017, provides you with the information necessary to make an informed decision.
- 4.24 The site is located within Flood Zone 1 with a 'low probability' of flooding, with less than a 1 in 1000 annual probability of river flooding in any year (<0.1%). Therefore, the Sequential and Exception Tests will not need to be undertaken as part of this planning application. In particular:
- Drawing 207 Rev B. shows all proposed residential development lies within Flood Zone 1 and 2.
  - The access and egress route travels through Flood Zones 1 and 2 therefore we would advise applicant to sign up to our Flood Warning service.
  - Flood Storage Compensation is not required.
  - A Flood Evacuation Plan has yet been proposed.
- 4.25 As the applicant has sequentially cited their proposed development to be wholly within Flood Zone 1, we feel it is unnecessary to request the applicant to re-model Noblesgreen Ditch designated main river in order to incorporate

the new climate change allowances. This is because the majority of the new climate change allowances have not exceeded the current extent of the existing flood zone 2.

- 4.26 The Environment Agency does not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network. The Planning Practice Guidance to the National Planning Policy Framework states that those proposing developments should take advice from the emergency services when producing an evacuation plan for the development as part of the flood risk assessment. In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you consult with your Emergency Planners and the Emergency Services to determine whether the proposals are safe in accordance with the guiding principles of the Planning Practice Guidance (PPG).
- 4.27 In addition to the above flood risk, the site may be within an area at risk of flooding from surface water, reservoirs, sewer and/or groundwater. We have not considered these risks in any detail, but you should ensure these risks are all considered fully before determining the application.
- 4.28 The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. Noblesgreen Ditch is designated a 'main river'.

#### **Anglian Water**

- 4.29 Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.
- 4.30 The foul drainage from this development is in the catchment of Rochford Water Recycling Centre that will have available capacity for these flows
- 4.31 Development will lead to an unacceptable risk of flooding downstream. A drainage strategy will need to be prepared in consultation with Anglian Water to determine mitigation measures. We request a condition requiring the drainage strategy covering the issue(s) to be agreed.
- 4.32 The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England

includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to water course and then connection to a sewer.

- 4.33 The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable. No evidence has been provided to show that the surface water hierarchy has been followed, as stipulated in Building Regulations Part H.
- 4.34 This encompasses the trial pit logs from the infiltration tests and the investigations in to discharging to a water course. If these methods are deemed to be unfeasible for the site we require confirmation of the intended manhole connection point and discharge rate proposed before a connection to the public surface water sewer is permitted. We would therefore recommend that the applicant needs to consult with Anglian Water and the Environment Agency. We request that the agreed strategy is reflected in the planning approval.
- 4.35 Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval:

‘No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.’

REASON: To prevent environmental and amenity problems arising from flooding.

‘No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.’

REASON: To prevent environmental and amenity problems arising from flooding.

### **Natural England**

#### **First Response**

- 4.36 It has been identified that this development falls within the ‘zone of influence’ for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

- 4.37 In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is anticipated that new housing development in this area is 'likely to have a significant effect' on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination'. The Essex Coast RAMS is a large scale strategic project which involves 11 Essex authorities, including Rochford District Council, working together to mitigate these effects. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.
- 4.38 In the interim period until the RAMS is in place, it is therefore important that any recreational impacts from residential schemes such as this are considered in terms of the Habitats Regulations.
- 4.39 As an interim approach, it is advised that such schemes be subject to a project level Habitats Regulations Assessment (HRA); in this case, we advise that appropriate funding should be agreed with and collected from the developer on the basis that it can be used to fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s)), targeted at increasing their resilience to recreational pressure in line with aspirations of the emerging RAMS. As an example, this could include funding towards existing warden schemes at the relevant European designated site(s). A suitable delivery mechanism for the measures must be agreed to secure them and ensure they are implemented from the first occupation of dwellings. Alternatively, we understand that it may be acceptable, at the outline planning stage, to include a suitably worded planning condition which secures full adherence with the emerging Essex Coast RAMS at the Reserved Matters stage, requiring a per house financial contribution to be calculated through the ongoing RAMS project work.
- 4.40 We therefore advise that you should not grant permission until such time as these mitigation options have been assessed and secured through your HRA. We would be happy to advise on the HRA once completed and, on receipt, will aim to provide a full response within 21 days. Please be aware that if this is not supplied, Natural England may need to consider objecting to the proposal on the basis of potential harm to the European designated sites.
- 4.41 We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application: local sites (biodiversity and geodiversity), local landscape character and local or national biodiversity priority habitats and species.
- 4.42 Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geo-conservation group or other recording society and

a local landscape characterisation document in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at [Wildlife and Countryside link](#).

#### Protected Species

- 4.43 Natural England has produced standing advice to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice.
- 4.44 Development provides opportunities to secure a net gain for nature and local communities, as outlined in paragraphs 8, 102, 118, 174 and 175 of the NPPF. We advise you to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where on site measures are not possible, you may wish to consider off site measures, including sites for biodiversity offsetting. Opportunities for enhancement might include:-
- Providing a new footpath through the new development to link into existing rights of way;
  - Restoring a neglected hedgerow;
  - Creating a new pond as an attractive feature on the site;
  - Planting trees characteristic to the local area to make a positive contribution to the local landscape;
  - Using native plants in landscaping schemes for better nectar and seed sources for bees and birds;
  - Incorporating swift boxes or bat boxes into the design of new buildings;
  - Designing lighting to encourage wildlife; and
  - Adding a green roof to new buildings;
- 4.45 You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:-
- Links to existing green space and/or opportunities to enhance and improve access;

- Identifying opportunities for new green space and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips);
- Planting additional street trees;
- Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links; and
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

4.46 Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat.

#### **Second Response (Summary)**

4.47 We welcome that you have completed your HRA (Stage 2: Appropriate Assessment) using our suggested HRA record template but advise that we are unable to provide bespoke review at this time. However, we are satisfied that, provided the mitigation you have secured is in line with the guidance given in our detailed strategic- level advice (i.e. that outlined within appendix 1 of this letter), an 'adverse effect on the integrity' (AEOI) of the European sites included within the Essex Coast RAMS from increased recreational disturbance can be ruled out. In summary, this mitigation should include:-

- Open space/green infrastructure provision of sufficient quality and
- Financial contribution, in line with the Essex Coast RAMS, secured by appropriate planning condition or s106 legal agreement.

#### **Essex Police**

4.48 There is no reference to physical security, as recommended by sections 58 and 69 of the NPPF. Essex Police would like to invite the developers to contact us with a view to discussing crime prevention through environmental design.

#### **Ecology and Woodlands (RDC)**

- 4.49 Development to be carried out in accordance with the method statement and tree protection plan supplied by AGB environmental.
- 4.50 Further survey works/licence is required regarding badgers; the applicant has been advised accordingly regarding this.



- 
- 4.51 The site supports nesting/breeding birds. A condition regarding timing of development and further survey works should be detailed to ensure adequate protection is provided.
- 4.52 The habitat was not deemed suitable to support other protected species, as detailed by AGB Environmental and Jon Dobson, although enhancement mitigation is supplied and should be included as a condition of consent such as bat boxes, suitable lighting, landscaping planting pallet and design to support native fauna and allow migration to other green corridors, as appropriate.

#### **Environmental Services (RDC)**

- 4.53 Adequate provision should be made for waste bin storage and presentation; a review of plans by our waste collection contractor and early discussion will be required.

#### **Archaeology (ECC)**

- 4.54 The Historic Environment Record (EHER) shows that the proposed development site is located on the site of the former brick works. It is also to the west and north of the Cherry Orchard Lane Brick Field, which revealed evidence of multi period settlement and activity from the Iron Age through to the post medieval period. There will be the remains of the brick works foundations. It is also possible that further archaeological remains could still survive in this area, which would be destroyed by this development.
- 4.55 In view of this, the following recommendation is made in line with the National Planning Framework.
- 4.56 'No development or preliminary ground works of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the local planning authority'.
- 4.57 The archaeological work will comprise full recording of the brick works and assessment to determine if archaeological features survive beneath the brick works or elsewhere on the site. This may be followed by excavation if archaeological features are found. All field work should be conducted by a professionally recognised contractor in accordance with a brief issued by this office.

#### **RDC (Strategic Housing)**

- 4.58 The application is not meeting any need in the district.

- 4.59 Extra care units: We have a large development at Rocheway which pretty much covers the need for such accommodation, as set out in the SHMA for the next twenty years.
- 4.60 The demand for over 55 accommodation is very small; we currently only have a total of 57 applicants on the waiting list across the whole district.
- 4.61 Location: It is in the wrong place as there are no shopping facilities, doctors, etc and the lack of transport links would discourage any interest, as applicants tend to want to be near these facilities.
- 4.62 In regard to affordable housing, we would require: 10 over 55 apartments, 10 over 55 houses, 4 over 55 bungalows and 6 sheltered apartments. I did not include any of the extra care units as these are likely to be outside the affordable housing definition dependent upon the level of care provided.

But ultimately the need for over 55 affordable accommodation is very well met in the district as a third of all affordable housing stock is either sheltered or over 55 accommodation.

## **5 EQUALITY AND DIVERSITY IMPLICATIONS**

- 5.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need:-
- To eliminate unlawful discrimination, harassment and victimisation
  - To advance equality of opportunity between people who share a protected characteristic and those who do not
  - To foster good relations between those who share a protected characteristic and those who do not.
- 5.2 The protected characteristics are age, disability, gender, race, sexual orientation, religion, gender reassignment, marriage/civil partnerships, pregnancy/maternity.
- 5.3 The Equality Impact Assessment (EIA) indicates that the proposals in this report could have a disproportionately adverse impact on people with a particular characteristic relating to age.
- 5.4 The proposal seeks to develop housing that would cater solely for persons over the age of 55. The key protected characteristic that the proposal could impact on is therefore age. Age groups can be quite wide as is the case here, i.e. over or under the age of 55. Officers do not consider that there would be any justifiable planning reason to require residential development at this site, if it were to be approved to be limited solely to persons aged over 55 years and a reason for refusal relating to this point is recommended.

- 5.5 If the application were to be recommended favourably for housing at the site planning conditions would be sought to require compliance with the Council's planning policies relating to wheelchair users to protect persons to whom the protected characteristic of disability may apply. The proposal would not therefore impact disproportionately on persons to which this protected characteristic applies. The proposal seeks to provide some housing within the C2 Use Class which includes an element of care and may therefore cater for persons receiving care to which the protected characteristic of disability applies.
- 5.6 The proposed development would not directly impact adversely on any persons to which the other protected characteristics apply.

## **6 CONCLUSION**

- 6.1 There are no material considerations which would warrant a departure from the Council's statutory development plan which allocates the application site for employment use in association with a business park. The business park forms an important employment opportunity in the district which takes a longer term view to 2031 alongside anticipated growth associated with London Southend Airport. There is no clear evidence to indicate that there is no demand for the allocated employment use at the site. Given the conflict with the adopted development plan the proposal is not a development that officers can recommend favourably.
- 6.2 The proposal is in a large part for residential development which is not considered appropriate in this location, remote from any existing residential settlement and immediately adjacent to the remaining part of the business park.
- 6.3 In addition, the proposal to restrict the residential development to persons aged over 55 would not result in housing which would best meet the district's housing need nor the district's affordable housing need and would not cater for all people in the community contrary to policies H4 and H5.
- 6.4 The proposed residential development would also not accord with the requirement in the NPPF that a sequential approach to flood risk is followed. The applicant has not provided evidence in accordance with the requirement in the planning practice guidance and it cannot be concluded that there are no other sites within the district at lower flood risk. The proposal in this regard is therefore objectionable on flood risk grounds contrary to policy ENV3 of the Core Strategy (2011) and relevant parts of Section 14 of the NPPF.



Marcus Hotten,  
Assistant Director, Place & Environment

---

### **Relevant Development Plan Policies and Proposals**

Policies RTC2, ED4, ED1, T7, T6, T5, T8, T3, CLT1, H6, H5, H4, ENV1, ENV5, ENV3, ENV4, H1, ENV8, ENV9, ENV10 and ENV11 of the Rochford District Core Strategy (2011).

Revised National Planning Policy Framework (NPPF)

Policies DM25, DM26, DM27, DM28, DM29, DM30, DM31 and DM32 of the Development Management Document (2014).

Policy NEL3 of the Allocations Plan (2014)

London Southend Airport & Environs Joint Area Action Plan (JAAP) (December 2014)

National Planning Practice Guidance

Natural England – Standing Advice

### **Background Papers**

Equality Impact Assessment.

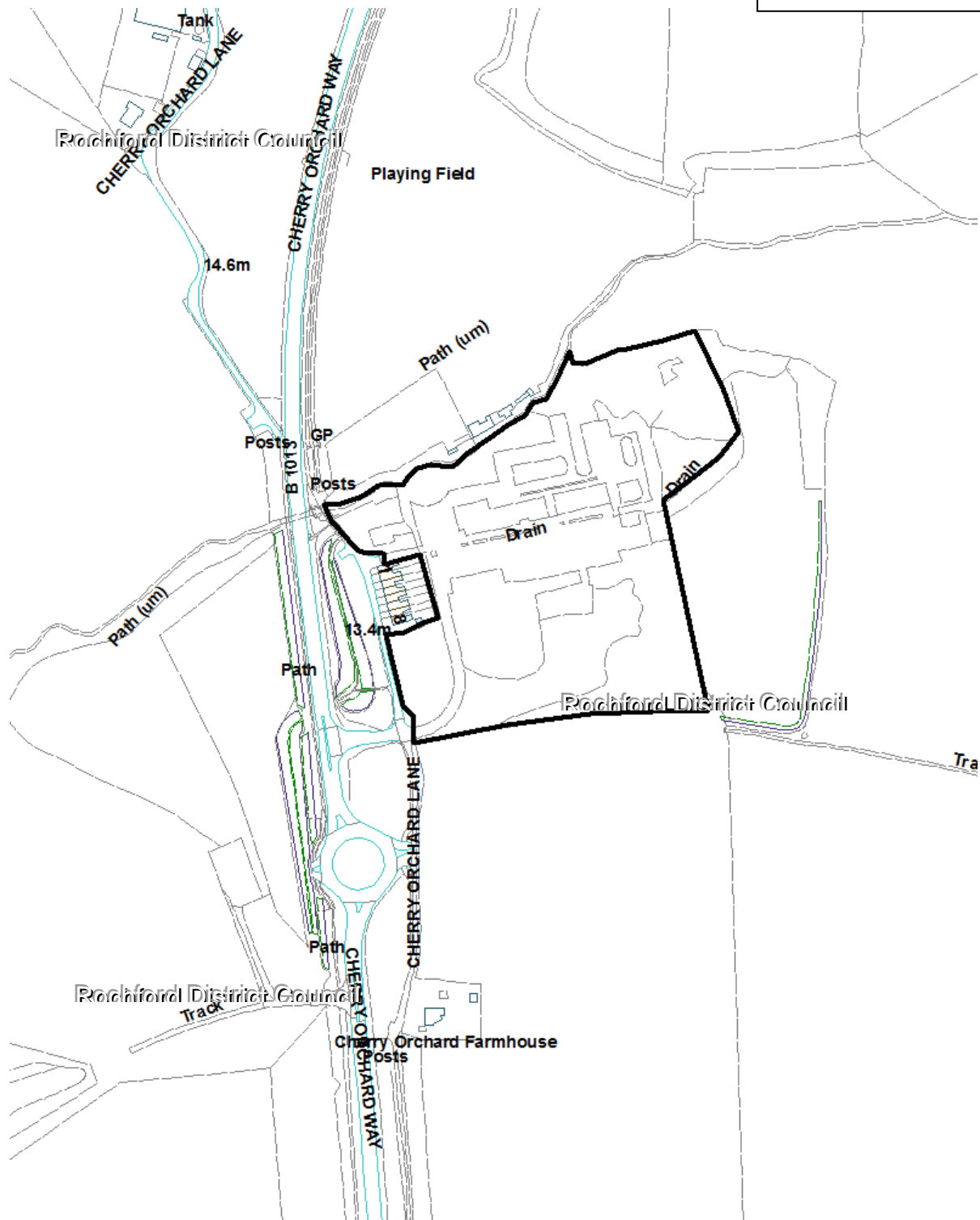
For further information please contact Katie Rodgers on:-

Phone: 01702 318111 Ext: 3508

Email: [katie.rodgers@rochford.gov.uk](mailto:katie.rodgers@rochford.gov.uk)

If you would like this report in large print, Braille or another language please contact 01702 318111.

17/00877/OUT



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. This copy is believed to be correct.

Nevertheless Rochford District Council can accept no responsibility for any errors or omissions, changes in the details given or for any expense or loss thereby caused.

Rochford District Council, licence No.LA079138

8.37

