

23/00012/OUT

270 EASTWOOD ROAD, RAYLEIGH

DEMOLITION OF EXISTING HOUSE AND NON RESIDENTIAL STRUCTURES, CREATION OF IMPROVED ACCESS AND ERECTION OF CARE HOME AND LATER LIVING RESIDENTIAL DWELLINGS AND ASSOCIATED WORKS

APPLICANT: **HAMLIN ESTATES LTD.**
ZONING: **MGB**
PARISH: **RAYLEIGH TOWN COUNCIL**
WARD: **LODGE**

1 RECOMMENDATION

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

That planning permission be refused for the following reasons:-

- (1) The application site lies within the Metropolitan Green Belt as identified in the Rochford District Council Local Development Framework Allocations Plan. The National Planning Policy Framework (NPPF) (July 2021) at paragraph 149 sets out the general presumption against inappropriate development within the Green Belt. Such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

The development does not meet any of the exceptions outlined within paragraph 149 of the NPPF. Therefore the proposal is considered to represent inappropriate development which generates harm to the Green Belt by definition. The need for specialist accommodation for older people (in the form of communal accommodation and “later living” accommodation) within the district has been assessed as to whether it represents a very special circumstance. However, in this instance, the harm identified upon the Green Belt would be considered to amount to greater weight than the demand for older persons’ housing. Therefore, there are not considered to be any very special circumstances that

would outweigh the harm identified to the Green Belt which would be attributed substantial weight. The development would therefore be contrary to Section 13 of the Framework, with specific reference to paragraphs 148 and 149, policy GB1 of the Core Strategy 2011 and policy DM10 of the Development Management Plan 2014.

- (2) The 35 No. 'later living' dwellings would be considered C3 dwellings whereby a proportion of affordable housing should be provided. There is a lack of mechanism to secure the Affordable Housing requirement with the application as submitted. The development would therefore fail to meet the 35% affordable housing requirement, conflicting with Policy H4 of the Core Strategy 2011. The development would therefore fail to provide a type and tenure of housing needed for different groups in the community, as required by the NPPF, specifically paragraphs 62 and 63.
- (3) In the absence of a flood risk assessment or drainage strategy, a lack of adequate information has been provided to demonstrate that the proposed development could suitably mitigate against flood risk. As a result, it is not possible to determine whether the development could be safely accommodated on the application site or that the development would not increase flood risk elsewhere, contrary to paragraphs 167 and 169 of the NPPF, Policy ENV4 of the Core Strategy 2011 and Policy DM28 of the Development Management Plan 2014.
- (4) The proposed development, namely the construction of the access, would result in pressure to the oak tree located on Eastwood Road which is subject to a TPO. Due to the tree's health, any additional pressure would likely expedite its decline and ultimately result in its loss. The development would therefore fail to comply with Policy DM25 and the aims of the NPPF in respect of the importance of street trees.
- (5) The application does not include a mechanism to secure suitable mitigation in the form of a standard contribution towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMs) or otherwise. Based on the precautionary principle it is considered that the proposed scheme would be likely to have a significant adverse effect on the SAC and SPA due to the potential increased disturbance through recreational activity. The proposal would therefore fail to comply with the requirements of the Regulations. It would fail to accord with Policy ENV1 of the Rochford District Council Local Development Framework Core Strategy 2011 which seeks to maintain, restore and enhance sites of international, national and local nature conservation importance. It would also be contrary to Paragraph 175(a) of the Framework which states that where significant harm to biodiversity resulting from a development cannot be adequately mitigated, then planning permission should be refused.

2 PLANNING APPLICATION DETAILS

- 2.1 The proposal seeks outline planning approval for a care home and 35 No. later living residential dwellings on the application site. The demolition of No. 270 Eastwood Road would be required to accommodate the access to the site which is proposed from Eastwood Road.
- 2.2 Access is the only 'Reserved Matter' for consideration at the outline stage. Appearance, landscaping, layout and scale would all be matters reserved for consideration in a Reserved Matters application that would follow if outline planning permission were granted. The Planning Practice Guidance defines the Reserved Matters and 'access' is defined as 'the accessibility to and within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network'.
- 2.3 An indicative layout plan has been provided for the proposal. This is taken as indicative only as layout, scale and appearance are reserved matters and not for determination and formal assessment as part of this outline planning application. This plan has been provided to demonstrate how the quantum of development proposed could feasibly be accommodated on the site. As this is indicative only, it may differ from any such plans submitted at a future reserved matters stage.
- 2.4 Members may be familiar with the application site as a similar application was presented to the Committee in August 2022. The application was subsequently refused (the reasons are laid out in the planning history below) and the application before you is a revised submission. The proposal has been amended by removing the 35 No. affordable homes which were previously included and by now proposing 35 'later living' dwellings rather than the 30 lifetime homes previously considered.
- 2.5 The definition of lifetime homes within the Core Strategy is 'homes designed for people to remain in for as much of their life as possible and to this end are adaptable to the differing needs of different stages of their life cycle'.
- 2.6 There is no definition of later living homes within the NPPF or NPPG. Officers have interpreted this to mean older persons' accommodation due to a lack of definition or explanation of its meaning within the application.

3 MATERIAL PLANNING CONSIDERATIONS

Site Description and Context

- 3.1 The site is a 3.76ha area of land located south of Eastwood Road and to the east of South View Close. The site extends back towards the A127 but maintains some 245m distance from the rear boundary. It is otherwise surrounded by land which appears to primarily be used for agricultural, nursery and other light industrial purposes. The site is located within the Green Belt of Rayleigh and westwards of Eastwood. There is a linear area of

Green Belt to the north east of the site (encompassing The Drive, Limehouse Nurseries and Rayleigh Downs Road) which segregates the two settlements.

- 3.2 The site itself is identified as a nursery although this appears to be domestic. The site is well maintained with closely mown lawn, a number of trees and a water course which runs through its centre, all of which contribute to a visually pleasing and aesthetic appearance. The site is defined by a well established hedgerow which runs around the perimeter.
- 3.3 In addition, the application site has been put forward as part of the Council's 'Call for Sites' with many other sites, although the Local Plan is still in its early stages and therefore it is not known whether the site will be formally adopted.

Relevant Planning History

- 3.4 Application No. 21/01134/OUT - Outline application with all matters reserved apart from access to the site (off Eastwood Road) for the demolition of 1 No. existing house and other non residential buildings at the site and for the construction of residential dwellings, a care home and associated works – Refused for the following reasons:-
1. The application site lies within the Metropolitan Green Belt as identified in the Rochford District Council Local Development Framework Allocations Plan. The National Planning Policy Framework (July 2021) (NPPF) at paragraph 149 sets out the general presumption against inappropriate development within the Green Belt. Such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. The development does not meet any of the exceptions outlined within paragraph 149 of the NPPF. Therefore, the proposal is considered to represent inappropriate development which generates harm to the Green Belt by definition. The applicant considers the need for specialist accommodation for older people and affordable housing within the district to represent very special circumstances that would outweigh the inappropriateness of the development. However, there are other sites within the district which have been identified as being able to accommodate a similar type of development outside of the Green Belt, some of which have been granted planning permission. In this instance, the harm identified upon the Green Belt would be considered to amount to greater weight than the demand for older persons housing or affordable housing. Therefore, there are not considered to be any very special circumstances that would outweigh the harm identified to the Green Belt. The development would therefore be contrary to Section 13 of the NPPF, with specific reference to paragraph 149, policy GB1 of the Council's Core Strategy 2011 and policy DM10 of the Council's Development Management Plan 2014.

2. The proposed development is considered to have the potential to impact residential amenity by way of noise disturbance as a result of the proposed access. The applicant has failed to submit a noise survey with the application meaning the local authority is unable to properly analyse the estimated noise levels and their impact on neighbouring properties. The proposal is therefore considered to have the potential to result in unacceptable noise levels that have not been addressed or attempted to be mitigated against within the application and the impact of the noise of the vehicular access upon neighbouring properties cannot be adequately assessed. As such, the proposal has the potential to have a detrimental impact upon adjoining properties, contrary to policy DM1 of the Development Management Plan 2014 and paragraph 185(a) of the NPPF.
3. Insufficient information has been submitted with the application to assess the impact of the access upon the TPO tree (T77) on Eastwood Road. As such, it is not apparent what mitigation would be required in order to retain the tree. It is therefore not clear whether the access is viable with the oak tree retained and whether it would need to be removed. The development would therefore fail to comply with Policy DM25 of the Council's Development Management Plan 2014 and the aims of the NPPF in respect of the importance of street trees.

Key Considerations

- 3.5 The primary matters for consideration in the determination of this outline planning application are:-
 - The principle of the development proposed with its allocation in the metropolitan green belt;
 - Proposed access arrangement and the acceptability, including the impact of the number of vehicles on the highway network;
 - Flood risk and drainage;
 - Ecological and environmental considerations; and
 - Other matters including (but not limited to) affordable housing, residential amenity and air quality.

Green Belt – Principle of Residential Development

- 3.6 Section 13 – Protecting Green Belt Land of the National Planning Policy Framework (NPPF) states that great importance is attached to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.

- 3.7 The NPPF sets out within paragraph 149 that the construction of new buildings is inappropriate in the Green Belt unless the proposal would fall under one of the specified exceptions which are:-
- a) buildings for agriculture and forestry;
 - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments;
 - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
 - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
 - e) limited infilling in villages;
 - f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites);
 - g) limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
- 3.8 The proposal would not fall within parts a) to d) or f) above. With regard to part (e), the NPPF does not provide a definition of what constitutes being in a village or what constitutes limited infilling. It is therefore a matter of judgment taking into account various factors.

Consideration of Part (e)

- 3.9 Account should be taken of the boundaries of urban areas and the boundaries of the Metropolitan Green Belt set in the Proposals Map. A village boundary defined in a Local Plan is a relevant consideration, but not necessarily determinative, particularly if it does not accord with an assessment of the extent of the village on the ground. The Council's Core Strategy sets out a settlement hierarchy with the largest settlements being Tier 1 consisting of Rayleigh, Hockley and Rochford. Some settlements in the district are too large to be reasonably considered a village. The distance of an application site from the nearest village/urban centre is a consideration, as is the character of the area immediately surrounding the site. Consideration must be

given to whether the site is more closely related to and part of an area between and separating settlements or clearly part of a village. There is often an abrupt change in character and appearance beyond urban areas where sites would not be considered part of an existing village. Some villages may have significant linear form but some areas of such could be significantly more rural in character and as such may not be considered as part of a village. Instances of small clusters of buildings strung out along a rural road in a sporadic pattern with areas of countryside in between would not likely represent a village; the instance of pavements, facilities and services to the 'village' are all relevant considerations; instances of small clusters of rural buildings separate from larger settlements by areas of countryside and district in character are unlikely to be considered part of the village. Whilst generally outlying dwellings would unlikely be considered part of a main village, each case should be considered on its own merits.

- 3.10 The application site is located off Eastwood Road which is part of the densely populated town of Rayleigh. The character of Eastwood Road is that of dwellings within close proximity; a large number of services and the road itself is used continuously as a through road to transport traffic from Eastwood/Southend to Rayleigh. There are a number of roads which project north and east of Eastwood Road to further extend the residential settlement. Whilst the application site is within the Green Belt, this marks an area of open countryside that is located in the built up area of Rayleigh and prevents urban sprawl between adjoining residential settlements.
- 3.11 It is concluded that the application site could not be considered to be part of a village.
- 3.12 In terms of whether the proposal would amount to infilling, the size of the application site and its characteristics in terms of whether there is existing development and built form immediately surrounding is relevant to this consideration. One of the key purposes of Green Belt policy is to prevent urban sprawl. Sites on the edge of existing villages but where they directly border open countryside would not then generally be considered to constitute infilling. If, however, a site forms a gap between existing built form immediately neighbouring the site to all or most sides a proposal could constitute infilling.
- 3.13 The proposed development would not be located between existing residential plots. Whilst the access off Eastwood Road would be between two residential properties, as the site opens out it is clear that the site is largely bordered by fields and is allocated in such a way to prevent urban sprawl.
- 3.14 It is concluded that the proposal could not be considered to be infilling.
- 3.15 As to limited, if the proposal is only small scale, for example, one modest dwelling, then this may be considered limited. A proposal for major development, i.e., 10 dwellings or more, would not be considered limited. Anything in between would have to be considered on its own merits taking

account of the scale and amount of development surrounding. The number of dwellings and the scale of development in terms of the massing of proposed built form would be a consideration here.

- 3.16 The development includes the provision of 35 dwellings and a 70-bed care home. As such, the number of dwellings proposed would not be considered limited, which is supported by an appeal decision at Land Rear of Willow Farm Orchard Road, Billericay (application reference: APP/V1505/W/19/3244082) where the provision of 10 dwellings was not considered limited infilling.
- 3.17 It is concluded that the proposal could not be considered to be limited with regard to limited infilling.
- 3.18 In summary it is concluded that the proposal could not be considered to be for limited infilling in a village.

Consideration under Part (g)

- 3.19 Looking at part (g), in terms of whether the proposal would amount to infilling, this has already been assessed and considered under part (e). The exception under part (g) allows for limited infilling outside of a village location but in this case the proposal must not have a greater impact on the openness of the Green Belt than the existing development. This part also allows for the development of PDL but only where a proposal would not cause substantial harm to the openness of the Green Belt and where the proposal would contribute to meeting an identified affordable housing need within the area of the local planning authority.
- 3.20 Previously Developed Land (PDL) is defined in the appendix to the NPPF as 'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.'
- 3.21 The historic use of the site is not entirely clear. The site is known as Acacia Nurseries; however, neither historic maps or the available planning history suggest this to be a commercial nursery. There is no evidence of glass houses or large commercial buildings and it is therefore not considered that the site has historically or presently formed an agricultural use. In addition, whilst the site is well maintained and domestic in appearance as a result, there is also no evidence of it being used as a residential garden. The site is absent of residential paraphernalia with the exception of a few cars parked in

the out buildings on the western edge of the site. The site would also therefore not be considered to form a residential garden within a built up area.

- 3.22 The application site would therefore be considered to constitute PDL.
- 3.23 Whether the scheme is considered to form limited infilling/PDL or not, it should not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority. Whilst there are approximately three existing buildings located within the application site, the development would add considerably greater bulk and mass to the site which would undoubtedly be considered to have a greater impact upon the Green Belt and therefore it would not be considered to fall within part (g).
- 3.24 With regard to policy DM10, the following criteria needs to be adhered to for PDL to be considered acceptable:-
- (i) is well related to a defined residential settlement;
 - (ii) is well related to local services and facilities;
 - (iii) has good connections to the strategic road network;
 - (iv) would promote sustainable transport modes;
 - (v) would not have a negative impact on areas of international, European and local nature conservation importance, or the historic environment; and
 - (vi) is located within the South Essex Coastal Towns landscape character area.
- 3.25 It is considered that the development is well related to a residential settlement, local services and facilities with good highway connections and could promote sustainable transport. The proposal is not considered to have a negative impact upon the historic environment. The site is located within the South Essex Coastal town landscape character area. However, Policy DM10 does seek to ensure that the design, scale and siting does not harm the openness of the Green Belt and character of the countryside which has been addressed above and considered unacceptable.
- 3.26 The proposal would therefore represent the construction of new buildings within the Green Belt, with both a visual and spatial impact upon openness as a result of the introduction of built form where it is currently absent. The development would be inappropriate and would fail to maintain the five purposes that national policy has placed upon the Green Belt, as detailed within paragraph 138 of the NPPF.

- 3.27 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (paragraph 147). When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. The essential characteristics of Green Belts are their openness and their permanence. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations (paragraph 148).
- 3.28 Although no very special circumstances have been presented with the current application, the applicant did previously consider the need for specialist accommodation for older people within the district to outweigh the identified inappropriateness of the development. This was put forward in a letter dated 9 March 2022 with the previously refused application. Therefore weight will be given to this point as a very special circumstance, as well as other considerations identified by the Council.

Green Belt – Very Special Circumstances

Need for Older Persons Accommodation – Communal Accommodation

- 3.29 Within the letter dated 9 March 2022 previously submitted, the applicant has outlined the Ministry of Housing, Communities and Local Government guidance relating to identifying the need for housing for older people. The applicant has also correctly identified within the letter that the Rochford District has a higher proportion of older people compared to Essex as a whole and this is expected to increase within years to come, meaning that there will be greater pressure on care and support services.
- 3.30 It is noted that the applicant has stated within this letter that the residents of the care home would be aged over 85 years old and suffer from dementia. However, this is quite specific and it is not considered that significant weight should be attributed to this and rather the suitability of older persons accommodation as a whole should be considered. It would not be reasonable for the Council to control the specific medical conditions or ages of the care home occupants as part of this application. Policy H4 of the Core Strategy regarding affordable housing and Policy H5 in relation to dwelling types have set the foundations for the Council's consideration of specialist housing needs. 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.
- 3.31 In addition, the Planning Practice Guidance (PPG) states that the need for additional residential care accommodation in Use Class C2 should be considered. Furthermore, paragraph 012 of the PPG (Housing for Older and

Disabled People chapter) states that plan-makers will need to consider the size, location and quality of dwellings needed in the future for older people in order to allow them to live independently and safely in their own home for as long as possible, or to move to more suitable accommodation if they so wish. Paragraph 013 of the PPG (Housing for Older and Disabled People chapter) goes on to discuss that location of housing is a key consideration for older people and therefore factors to consider include the proximity of sites to good public transport, local amenities, health services and town centres.

- 3.32 In light of the above, local and national policies identify the need for older people housing. The proposed development would contribute towards meeting the identified need for this type of accommodation, as identified in the above mentioned policies, and is therefore a material consideration when determining the application. However, the site is located within the metropolitan Green Belt and therefore consideration should be had as to whether the benefits of the proposed development, given the identified need for older people housing, would outweigh the harm that has been identified upon the Green Belt.
- 3.33 The application site abuts the settlement of Rayleigh and would be within reasonable distance of a food shop (Sainsburys some 400m west) and other services which are available on Rayleigh High Street and within Eastwood which can be accessed via foot or bus routes. It is also noted that within the letter dated 9 March 2022 the applicant has explained that many of the care services would be provided on site, including those within lifetime homes, and therefore the residents would not need to travel out of the care home for these services. Even if lifetime home residents were to leave the site, there are a number of bus routes which would take them into Rayleigh High Street which has an NHS doctor's surgery and other services. Therefore, some weight should be attributed to the site's sustainability to local services.
- 3.34 The South Essex Strategic Housing Market Assessment (SHMA) (2016) highlights that, as of 2011, there were 3360 residents aged 65 and over living in communal establishments within South Essex. This age group accounts for 72% of care homes without nursing. The South Essex Strategic Housing Market Assessment Addendum 2017 projects a rise (up until 2037) in the number of older people within the region. It concludes that there would be 'sizeable growth' in the number of older people (65+). This would reflect commonly acknowledged patterns towards an ageing population.
- 3.35 The SHMA Addendum 2017 identifies an average annual change in demand for communal population of +11 between 2014 and 2037. Over the period to 2037, this represents a need of 264 additional bed spaces in communal accommodation (e.g., care homes) relative to the 2014 provision. This need is defined at the district level; however, the district is not so large as to contain fundamentally distinct housing market areas that might warrant a disaggregation of need across settlements.

- 3.36 Furthermore, the emerging South Essex Housing Needs Assessment (SEHNA) identifies an average annual change in demand for communal population of +7 between 2020 and 2040. Over the period to 2040 this represents a need of 146 additional bed spaces, considerably less than that noted in the SHMA Addendum in 2017. Whilst this assessment has not been finalised at the time of writing, it suggests that there has been a material decrease in the need for communal bed spaces.
- 3.37 Whilst the Council's development plan does not contain a policy expressly addressing the need for communal accommodation, recent planning permissions have been granted for a new 93-bed care home in Rochford (reference 17/00877/OUT – Cherry Orchard Brickworks) and a new 60-bed care home in Rayleigh (reference 20/01041/REM - Land North of London Road and West of Rawreth Industrial Estate). A 60-unit independent living residential home has also been permitted in Rochford (reference 17/00102/FUL - Rocheway). Taken as a whole, when delivered, such developments are likely to accommodate a majority of the need arising for new communal accommodation identified in either the SHMA Addendum 2017 or the emerging SEHNA, particularly in the short term. However, it is recognised that an element of demand is likely to remain in the long term beyond that met by planned facilities and that in any case the identified need for additional bed spaces and dwellings should not form an absolute cap on new provision.
- 3.38 In light of the above, it is unlikely that there would be an unmet need for communal accommodation once planned facilities are operational. Both the SHMA Addendum 2017 and emerging SEHNA project need over a long term period, to 2037 and 2040 respectively. Existing planned facilities would meet the entire need identified by the SEHNA and the majority of need identified by the SHMA Addendum 2017. Even if a view were to be taken that existing planned facilities would not address long term needs in full, it is considered reasonable that this long term need could be met through the Council's new Local Plan, which is planned for adoption in 2024. This approach would allow for a plan-led assessment taking on board the most appropriate location for any additional facilities, in the context of land availability, demand and constraints.
- 3.39 Of further consideration is a recent appeal decision for C2 residential development, specifically a care home, which was allowed in the Green Belt in Billericay (reference: APP/V1505/W/22/3302878). The inspector found that as there was an unmet need and as there was no policy or strategy to meet this, considerable weight was attributed to this benefit. The Inspector also attributed weight to a lack of housing supply and together these factors fed into the Green Belt balance.
- 3.40 However, as set out above, the Council has a pipeline of communal facilities which are likely to address the short term need for additional communal accommodation. Furthermore, it has a five year housing land supply (detailed further below). The factors which were attributed weight in the Billericay

appeal are therefore absent from the circumstances in this case. This is supported by the Inspector's decision in allowing the 93-bed care home (reference 17/00877/OUT – Cherry Orchard Brickworks) which found that much of the district's need would likely be addressed by development already permitted by the Council and the above permissions highlight that this has continued since this appeal was allowed. Of significance is that this appeal decision states that the aforementioned permissions demonstrate that a pipeline of communal facilities is still being effectively achieved, in the absence of a specific policy addressing this need.

- 3.41 A similar conclusion was reached by a recent appeal decision concerning a proposed care community in the Green Belt in Tunbridge Wells (reference: APP/M2270/W/21/3289034) whereby the inspector concluded that the sites identified, together with windfalls, would be likely to meet the need for C2 housing over the plan period and this reduces the weight attached to the benefit of additional accommodation.
- 3.42 As there is no short term unmet need for communal accommodation, and no compelling evidence has been provided to demonstrate that any long term unmet need for additional communal accommodation could not be accommodated either outside of the Metropolitan Green Belt or within areas which are less valuable to the integrity of the Metropolitan Green Belt, it is considered that the need for communal accommodation of the type proposed would not justify harm to the Metropolitan Green Belt.

Need for Older Persons Accommodation – “Later living” Dwellings

- 3.43 The proposal also relates to 35 'later living' residential dwellings. The application form states that these would be 1-bed properties. It is, however, unclear from the application whether these dwellings would simply be age restricted market dwellings, or whether an element of care is envisaged (such that they may fall within Use Class C2).
- 3.44 Were the 35 dwellings specifically designed to cater for an older person need, e.g., an extra care or sheltered tenure, it would be relevant to consider whether the need for such tenures should be afforded weight in the planning balance.
- 3.45 It is unclear from the description of 'later living' dwellings the exact breakdown of older persons' accommodation proposed. The PPG outlines that this older persons' accommodation could include accessible and adaptable housing, age restricted market housing, retirement living or sheltered housing and extra care housing. The SHMA Addendum (2017) identified a need for +170 extra care units and +850 sheltered housing units within the District between 2014 to 2037. However, the emerging SEHNA has identified a need for +119 extra care units and +690 sheltered housing units within the district before 2040, which suggests a slight decrease in demand. Additionally, the Council's Housing Officer has identified that there are currently 55 applicants on the Council's Housing Register requiring sheltered housing.

- 3.46 It is accepted that the Council does not have a specific policy relating to planning for older persons' accommodation. Whilst it is likely that the Council's emerging Local Plan, scheduled for adoption in 2024, will provide a specific policy addressing this need, it is accepted that, due to the constrained nature of the District, it is not unreasonable to assume an element of this need would have to be met in the Green Belt. As identified in the SHMA Addendum 2017 and the emerging SEHNA, the District has a clear need for specialist forms of older persons' accommodation.
- 3.47 However, as stated above, beyond describing the units as 'later living' the applicant has not provided sufficient information to allow the type or tenure of these units to be identified. In the absence of this information, and in relation to the details provided on the application form, the Council must assume these units would simply be age restricted market homes falling within Use Class C3.
- 3.48 As it is likely that the proposed units would provide a form of accommodation meeting one of the definitions set out in the PPG concerning Housing for Older and Disabled People, it is accepted that moderate weight should be attached to the contribution these units would make to meeting the need for older persons' accommodation in the District, as required by national policy.
- 3.49 However, it is also noted that through Policy H6, the Council is able to deliver on accessible and adaptable housing on larger housing schemes. Policy H6 of the Core Strategy requires that 3% of new dwellings on development sites of 30 or more dwellings should be built to full wheelchair accessible standards. The Ministerial Statement of 2015 introduced a new optional building regulation requirement Part M4(2) which requires a dwelling to be fully wheelchair accessible and this can be required of 3 per cent of the dwellings proposed, given the existence of the Council's Policy H6. In line with this, the recent appeal which allowed 662 dwellings in Ashingdon (application reference: APP/B1550/W/21/3283646) was conditioned to provide 13 dwellings to the wheelchair accessible standard and 47 homes would be built to the wheelchair adaptable standard. In addition, the consent for residential development at Land North of London Road in Rayleigh (reference: 20/00940/OUT) was also conditioned to provide a minimum of 13 dwellings to be built to full wheelchair accessibility standard.
- 3.50 It is acknowledged that accessible and adaptable housing does not form the basis of all housing for older people and is also available to people with restricted mobility which may not necessarily be older people. Nevertheless, it does provide some form of accommodation for older people and it is clear that the Council is able to deliver on this on larger development sites.
- 3.51 Irrespective of whether the delivery of accessible and adaptable dwellings can be considered as accommodating at least some need of 'later living' accommodation, it is only attributed moderate weight at best whereas the NPPF (paragraph 148) is clear that substantial weight should be attached to any harm to the Green Belt.

5-Year Housing Land Supply

- 3.52 It is accepted that housing related policies H1 and H2, in so far as they relate to housing need, are out of date as they relate to housing need figures which are approximately a decade old and do not reflect the current annual housing target for the district of 385 dwellings per annum set by the Government's standard methodology. However, the inspector for a recent appeal within the district (reference: APP/B1550/W/21/3283646) set out that despite this, these policies should not be ignored and should carry weight.
- 3.53 Paragraph 219 of the NPPF clarifies that existing policies should not be considered out of date simply because they were adopted or made prior to the publication of the Framework, but that due weight should be given to them, according to their degree of consistency with the Framework. The closer the policies in the plan are to the policies in the Framework, the greater the weight that may be given to them.
- 3.54 The Council's latest Housing Land Supply Position Statement (published as part of its 2021-22 Authority Monitoring Report) shows a deliverable five-year supply of 2,176 homes as at 1 April 2022. This compares to a five-year need, calculated using the standard method set out in national guidance, of 1,890 homes inclusive of the appropriate buffer. As a result, the Council can demonstrate a five-year housing land supply such that Paragraph 11(d) of the NPPF would not be of relevance in this regard.
- 3.55 In light of the above, the contribution the proposal would make to housing supply is not considered to represent a very special circumstance here that would outweigh the harm identified to the Green Belt.

Other Considerations

- 3.56 Planning Practice Guidance (PPG) provides advice on the role of Green Belts in the planning system. With regard to openness, it sets out that three factors, but not limited to those three, can be taken into account when assessing openness. These are the spatial and visual aspects of openness, the duration of the development and the degree of activity likely to be generated, such as traffic generation.
- 3.57 The site has the appearance of an open nursery, mostly bounded by trees and hedgerows with a water course that runs through the centre of the site. The site lies to the south of the settlement boundary of Rayleigh but is otherwise surrounded by open countryside.
- 3.58 It is likely that the proposed development would not have a high visual impact on openness too far outside of the application site, at least from public viewpoints. From within the site, and from the public viewpoints at the end of South View Close to the rear of the sub station and through the access point on Eastwood Road, there would be a strong adverse impact of visual aspects of openness. There would clearly be built form where there is none presently

and this would be prominent to those who would walk past or live near to the site.

- 3.59 Having regard to the PPG, there would also be an adverse impact on openness as a result of the permanent nature of the proposal and due to the addition of dwellings, roads, gardens, etc., which would extend the urban character beyond the existing settlement boundaries.
- 3.60 The limiting of the visual aspects of openness to the site from certain vantage points nearby does not diminish the harm to openness with regard to the internal visual impacts and the spatial aspects. It would be considered that the proposal would have a significant harmful impact on openness.
- 3.61 Paragraph 138 of the Framework sets out the five purposes of Green Belts. Of most relevance to the proposal are purposes a), b) and c). Purpose d) and e) are not relevant.
- 3.62 In relation to the first purpose, to check the unrestricted sprawl of large built up areas, the proposal would result in an expansion of the built form of the town outwards towards the open countryside. South View Close and Eastwood Road currently provide strong and robust boundaries to the residential settlement that are well designed. The proposal would expand the urban area outwards to the east and south, leading to sprawl.
- 3.63 The second purpose relates to preventing neighbouring towns from merging into one another. The two towns which are relevant are Rayleigh and Eastwood. There is a significant parcel of the Green Belt which would remain should the application site be developed and this would be sufficient to form a buffer and prevent the merging of Eastwood and Rayleigh at that point.
- 3.64 The third purpose is to assist in safeguarding the countryside from encroachment. The general appearance of the application site is countryside with views to the south and east being that of open land. The proposed development would represent encroachment into the countryside and harm to this purpose would result.
- 3.65 Overall, it is considered that the proposed development would have a significant impact on openness. In addition, there would be other Green Belt harm due to the contribution of the application site to two of the purposes of including land within the Green Belt and harm to them which would result. It is considered that these harms add to the significant harm to openness to which substantial weight would need to be given in accordance with paragraph 148 of the NPPF.
- 3.66 It is considered that the other considerations do not clearly outweigh the totality of harm that has been identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Highways and Access

- 3.67 Access is not a matter reserved and is for consideration at the outline stage. There is an existing access point which serves the application site off Eastwood Road. However, the proposal involves the demolition of No. 270 Eastwood Road in order to provide a wider access to the site. Drawing No. SK01 depicts the proposed site access with 2.4m by 43m visibility splays in accordance with the 30mph speed limit as recommended in Manual for Streets. The local Highway Authority has been consulted on the application and raises no objection, subject to a number of recommended conditions. One of the conditions would be to ensure that the roadway measures 5.5m wide with 2m pavements either side. This can be achieved within the parameters of the site and is shown on drawing no. SK01. Subsequently, ECC Highways does not seek any financial contribution as part of this proposal.
- 3.68 There is an existing bus stop outside No. 270 Eastwood Road that would require relocation. Appendix E of the Transport Statement includes an email from Essex County Council (ECC) Highway Authority which confirms that from a highways point of view, the most suitable location to relocate the bus stop and shelter would be to outside No. 254 Eastwood Road.
- 3.69 The relocation of the bus stop would be to the west of the on street layby parking serving some dwellings along Eastwood Road. This would also be westwards of the junction with Clarence Road. The relocation of the bus stop would not conflict with the use of this lay by. Further, the relocation has been considered in regards to the nearby junction and the Highway Authority have raised no concern or conflict with the vehicular movements of this junction.
- 3.70 It is noted that bus routes 9 (Arriva), 816 (Stephensons), 20, 25, 625, 725 and 825 (First) operate from this bus stop known as 'adjacent to Clarence Road South'. Whilst bus routes 9, 816, 25, 625, 725 and 825 run westwards along Eastwood Road, the bus route 20 runs up Clarence Road. Meaning the relocated bus stop would not function with the current operation of bus route 20.
- 3.71 However, within close proximity (some 186m east) of the existing bus stop is the stop known as 'Lancaster Road' which bus route 20 also stops at. The use of this stop would only result in an additional few minutes' walk for users of bus route 20 who would otherwise get on at Clarence Road South. It is appreciated that this may cause some inconvenience to users, however, this would be a relatively limited impact and would not prohibit complete use of this bus route to the detriment of promoting sustainable transport. To this effect, the loss of the bus stop for route 20 in this location cannot be considered sufficiently detrimental to justify refusal of this application.
- 3.72 In relation to internal access footpaths and roads, the indicative plans demonstrate that suitable space could be provided for safe and accessible

access routes. Further details would be secured at the reserved matters stage.

- 3.73 Subject to conditions, including a requirement for the completion of the access prior to occupation, which would be required if the application were recommended for approval, the principle of the access as proposed is considered acceptable.
- 3.74 Whilst No. 15 South View Close is outlined within the red line site boundary, its demolition has not been included within the description and there is no suggestion as part of this application that any form of access would be proposed to the site via South View Close. This application is considering sole access from Eastwood Road.

Other Considerations

- 3.75 As the application is for outline planning permission with all matters reserved except for access, it is only the principle of the development and the access that needs consideration. Nonetheless, indicative layout plans have been submitted with the application in which the Council's (Place Services) Urban Design Consultant has provided comments in relation to this which are included within the consultation responses of this report. The below considerations therefore relate to the principle of the development and other matters such as layout, scale, appearance, landscaping and design that would be considered at the reserved matters stage.

Affordable Housing

- 3.76 Policy H4 of the Core Strategy requires that at least 35% of dwellings on all developments of 15 or more units shall be affordable. These affordable dwellings shall be tenure blind. The policy objective is for 80% of affordable housing to be affordable rented housing and 20% intermediate (shared ownership) housing. As the proposal is for 35 units, this would equate to the need to provide 13 (rounded up from 12.2) affordable dwellings. The Council's Housing Allocation Officer has supported this figure.
- 3.77 Whilst the agent was contacted to agree securing this as part of a S106 Legal Agreement, they did not respond. Without agreement from the agent that this could form part of a S106, the development would not provide the adequate affordable homes necessary for the scale of development proposed, conflicting with the requirements of Policy H4.
- 3.78 It is acknowledged that paragraph 65 of the NPPF provides an exception to the provision of affordable housing on sites which provide specialist accommodation for a group of people with specific needs (e.g., purpose built accommodation for the elderly). As it has not been stated what the 'later living' accommodation would comprise of, it cannot be ascertained that this would be exempt from this requirement. Therefore the proposal would remain in conflict with Policy H4 of the Core Strategy and paragraphs 62 and 63 of the

NPPF which require the provision of a type and tenure of housing needed for different groups in the community.

Density

- 3.79 Proposals for residential development must make efficient use of the site area in a manner that is compatible with the use, intensity, scale and character of the surrounding area, including the size of the site. Policy DM2 of the Development Management Plan stipulates that the density across a site should be a minimum of 30 dwellings per hectare, unless exceptional circumstances can be satisfactorily demonstrated.
- 3.80 The application site has a notional site density, taken from the indicative site layout combined with the location plan, of 27.92 dpha. However, this includes the care home (approximately 70 beds) which are arguably not dwellings in their own right. Nevertheless, the density of the site is considered to be unobjectionable given the indicative layout on the northern section of the site.

Residential Amenity

- 3.81 The proposed access road would be located between No. 268A and No. 272 Eastwood Road and run along the rear gardens of the properties along the eastern end of South View Close. A narrow public footpath separates No. 268A from the application site at present but the rear gardens of South View Close abut the application site. It is acknowledged that a number of other dwellings along both Eastwood Road and South View Close lie adjacent to the application site; however, as the application is for outline permission with all matters reserved except for access, it is only the impact of the access that can be considered upon neighbours. Matters of overlooking, overshadowing and privacy would be for consideration as part of a reserved matters application where details around appearance, landscaping, layout and scale would be provided.
- 3.82 The application site is currently served by a track which runs from Eastwood Road into the site. However, the use of the existing site appears to be domestic and the nursery does not appear to have been used for commercial purposes since the mid 20th century. From the site visit, this track was understood to be used for vehicular access by the residents of No. 270 Eastwood Road and No. 15 South View Close and is therefore limited to domestic purposes. It is considered that the use of the proposed access serving 35 homes and a 70-bed care home, which would require vehicular access for visitors, staff and residents, would have a material impact upon the adjoining neighbours. Most significantly upon No. 272 Eastwood Road which is currently only adjoined by the residential property of No. 270 Eastwood Road. This represented a reason for refusal of the previous application.
- 3.83 The Council's Environmental Health Officer has been consulted on the application who has considered the noise impact of the development in light of the absence of a noise impact assessment. The Council's EHO is content that

the noise that would occur from the proposed development and its construction could be mitigated against, the details of which could be submitted at a reserved matters stage. On this basis, no objection is raised to the proposed development as it is considered that appropriate mitigation could be implemented so as to not create an unreasonable impact upon adjoining occupiers. Whilst no additional information has been provided with the application, upon more detailed review of the scheme by a second independent EHO, officers accept that this could be controlled by condition and it would no longer amount to a reason for refusal that could be sustained at appeal.

Flood Risk and Drainage

- 3.84 Rochford District Council Core Strategy contains Policy ENV3 which relates to flood risk; this states that the Council will direct development away from areas at risk of flooding by applying the sequential test and, where necessary, the exceptions test.
- 3.85 The application site as outlined in red is located within Flood Zones 1, 2 and 3. However, the development has been shown indicatively on the northern parcel of the site. As such, the development would be located entirely within Flood Zone 1 and were planning permission granted, it could be conditioned to ensure that the development is sequentially sited in this location.
- 3.86 Paragraph 167 of the NPPF requires that when determining any planning application, 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 such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
 - 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.

- 3.87 The area of the site which is subject to the development proposed measures over 1ha meaning that although it would be within Flood Zone 1, a Flood Risk Assessment is required.
- 3.88 The objectives of a site specific flood risk assessment are to establish:-
- whether a proposed development is likely to be affected by current or future flooding from any source;
 - whether it will increase flood risk elsewhere;
 - whether the measures proposed to deal with these effects and risks are appropriate.
- 3.89 No Flood Risk Assessment (FRA) has been submitted with the scheme and it can therefore not be determined that the proposal would not successfully mitigate against flood risk nor would it not increase flood risk elsewhere.
- 3.90 Furthermore, Policy ENV4 of the Core Strategy and Paragraph 169 of the NPPF require major developments to incorporate sustainable drainage systems (SuDS). These systems should a) take account of advice from the lead local flood authority; b) have appropriate proposed minimum operational standards; c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and d) where possible provide multi functional benefits. SuDS are designed to control surface water run off close to where it falls.
- 3.91 However, no Drainage Strategy or SuDS have been proposed and it can therefore not be demonstrated that the proposal would be able to sufficiently deal with the surface water run off that would likely result from the development. The Lead Local Flood Authority has been consulted on the application and has raised a holding objection due to the lack of drainage strategy.
- 3.92 Whilst an FRA and drainage strategy were submitted with the previously refused application, the context of the application has changed with the removal of the 35 affordable homes from the proposal and 35 later living dwellings now being proposed in place of the 30 lifetime homes previously considered. The FRA and drainage strategy have not been amended and re-submitted with the submission of the current application to reflect this change and therefore the accurate impact of the proposal with regard to flooding and surface water drainage cannot be sufficiently assessed.

Anglian Water

- 3.93 Anglian Water has raised no objection to the site's connection to the used water sewerage network, subject to a condition being imposed requiring a scheme for the on site foul water drainage works to be submitted. This

condition would be imposed were the application being recommended for approval.

Ecology

- 3.94 Policy ENV1 of the Core Strategy identifies that the Council will maintain, restore and enhance sites of international, national and local nature conservation importance. Policy DM27 of the Development Management Plan states that proposals for new development should not cause harm to priority species and habitats. Similarly, paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by (amongst other things) minimising impacts on and providing net gains for biodiversity.
- 3.95 A preliminary ecological appraisal has been submitted with the application. The appraisal was prepared by Hybrid Ecology and dated December 2021. The on site presence of species is likely to be significant at site level only due to the limited and maintained nature of the habitats. The appraisal has concluded that there is a lack of evidence of legally protected or priority species.
- 3.96 The site contains an area of orchard and abuts a woodland which have been identified as Priority Habitats. The appraisal notes that the orchard trees are in declining condition and the habitat does not meet the traditional orchard Priority Habitat criteria. The development would retain a buffer from all boundary vegetation which would be dictated by a tree survey.
- 3.97 The stream running through the centre of the site has been identified as a habitat. The appraisal has stated the stream would be protected from pollution during the development phase. The vegetation, including the mature trees, surrounding the stream would be protected from physical damage by establishing a Construction Exclusion Zone. The appraisal also outlines that this wildlife corridor should be protected from light spill arising from any new external lighting. These measures could be secured through conditions requiring lighting strategy and construction environmental management plan if the application were being recommended for approval.
- 3.98 The on site pond is a small ornamental pond with a low suitability score as a habitat for use by great crested newts. The appraisal has therefore considered that great crested newts are unlikely to be present or affected by the development.
- 3.99 All buildings included within the red lined site were subject to a Preliminary Roost Assessment and the buildings were not found to contain features suitable for roosting bats, nor was any field evidence seen alluding to roosting behaviour.
- 3.100 The out buildings, trees and boundary vegetation hold potential for nesting birds. The appraisal therefore recommends that any work that could impact an

active nest be carried out between October and February inclusive. Where this is not possible, an ecologist will be required to carry out a check for active nests and advise on suitable monitoring where nests are found.

- 3.101 Natural England has not raised an objection to the scheme, subject to a Habitats Regulation Assessment (HRA) being completed and any relevant mitigation being obtained where necessary. The below section will look at the HRA and mitigation.
- 3.102 Paragraph 174 (d) of the Framework requires development to provide net gains for biodiversity. As such, the appraisal has recommended the following biodiversity enhancements:-
- retention of linear habitats;
 - areas of grassland capable of being managed to provide flowering species for pollinators included;
 - garden fence lines made penetrable to hedgehogs;
 - at least 10 No. Woodstone bird boxes provided;
 - at least 10 No. bat boxes provided; and
 - the small pond could be enhanced for wildlife by enlarging and planting, or a new pond could be created on a boundary.

Off Site Ecological Impacts

- 3.103 In addition, 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).
- 3.104 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.
- 3.105 A Local Planning Authority may only agree to grant planning permission after having ascertained that the development will not adversely affect the integrity of the European site; this can include consideration of proposed mitigation secured. The Local Planning Authority is required by law to have regard to guidance provided by Natural England.

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- 3.106 The closest European designated sites are found along the District's coast, which consist of the Crouch and Roach Estuaries (Mid-Essex Coast Phase 3 (SPA) (Ramsar) (SSSI) and the Essex Estuaries (SAC). It is the Council's responsibility to undertake an 'appropriate assessment', as required by the Habitat Regulations.
- 3.107 To accord with NE's requirements and standard advice and Essex Coastal Recreational Disturbance Avoidance and Mitigation Strategy (RAMs) Habitat Regulations Assessment (HRA) record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European Site in terms of increased recreational disturbance.
- 3.108 The current proposal has been considered in respect of the Habitat Regulations, taking account of advice submitted by Natural England and the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) developed by Essex County Council which seeks to address impacts (including cumulative impacts) arising from increased recreational activity. The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) was adopted by Rochford District Council on 20 October 2020. Advice from Natural England in August 2018 has been followed and the HRA record template completed. This SPD requires mitigation to be provided in the form of a financial contribution per dwelling of £137.71.
- 3.109 The agent was contacted on 17 February 2023 regarding this mitigation requirement to agree it as part of a heads of terms were the application recommended for approval. However, no response was received. Whilst agreement was provided with the previously refused scheme the Council must receive such certainty as part of the current application under consideration in order to ensure such mitigation would be provided at the site.
- 3.110 Due to the lack of a mechanism to secure the contribution to mitigate the impacts of recreational pressure, the local authority cannot be satisfied that the proposal would not result in an adverse effect on the integrity of the Zone of Influence. Had such mitigation been in place, then cumulatively with the assessment above, the proposal could have been considered to have no implications on conservation objectives. However, no mitigation has been provided. A decision has been upheld and the appeal dismissed at the sites of Ricbra, Lower Road in Hockley (Reference: APP/B1550/W/20/3244558) and No. 36 Larkfield Close in Rochford (Reference: APP/B1550/W/21/3267169) for a similar scenario.
- 3.111 Based on the precautionary principle, it is considered that the proposed scheme would be likely to have a significant adverse effect on the SAC and SPA due to the potential increased disturbance through recreational activity. The proposal would therefore fail to comply with the requirements of the Regulations. It would also fail to accord with Policy ENV1 of the Rochford District Council Local Development Framework Core Strategy which seeks to maintain, restore and enhance sites of international, national and local nature

conservation importance. It would also be contrary to Paragraph 175(a) of the Framework which states that where significant harm to biodiversity resulting from a development cannot be adequately mitigated, then planning permission should be refused.

Trees

- 3.112 Policy DM25 of the Development Management Plan requires new development to conserve and enhance existing trees and states that where new development would adversely affect existing trees, it will only be permitted where it can be demonstrated that the reasons for the development outweigh the need for their retention. Policy DM25 is clear that where development would result in the unavoidable loss or deterioration of existing trees, then appropriate mitigation measures need to be implemented to offset any identified impact. The benefit of trees to residential developments has also been recently emphasised in national planning policy which now requires tree lined streets.
- 3.113 An Arboricultural Impact Assessment has been submitted with the application which has been prepared by Sharon Hosegood Associates and dated December 2021.
- 3.114 The Arboricultural Report concludes that the site has capacity for the development whilst adhering to the following principles:-
- Room provided for the off site trees and hedges to grow unimpeded;
 - The retention and sensitive management of the trees along the stream which are now subject to TPOs;
 - Protection of trees, woodlands and hedges to be retained in accordance with BS 5837: 2012; and
 - An increase in tree numbers and species diversity as part of the landscaping scheme, including orchard trees in rear gardens to reference the site's current and former use.
- 3.115 The Council's Arboricultural Officer considers the loss of the ornamental trees acceptable, subject to suitable replacement mitigation of native stock and focus on connectivity to the existing habitats and tree belts.
- 3.116 The previous scheme raised concern with the construction of the access over the TPO tree on Eastwood Road. This reason for refusal was worded as follows:-

'Insufficient information has been submitted with the application to assess the impact of the access upon the TPO tree (T77) on Eastwood Road. As such, it is not apparent where the access would be positioned in relation to the RPA of T77 and what mitigation would be required in order to retain the tree. It is therefore not clear whether the access is viable with the oak tree retained and

whether it would need to be removed. The development would therefore fail to comply with Policy DM25 and the aims of the NPPF in respect of the importance of street trees.'

- 3.117 In light of this, an additional plan (drawing no. FW2282-SK01 REV I1) has been submitted to profile the root protection area of this TPO tree. This plan demonstrates the proposed impermeable area within 12m of the tree RPA.
- 3.118 However, as part of a consultation response to the previous application, Essex County Council (Place Services) provided officers with information on the health of this tree. The Council's Arboricultural Officer has raised concern that even with a suitable method statement, the proposal would expediate the decline of the tree. There is some decay in the tree which is located toward the east of the stem and this would be in close proximity to the proposed works. It is inevitable that root loss would occur to the eastern aspect to facilitate the construction of the access. The Council's Arboricultural Officer has raised objection to the development on the basis that the proposed access would put pressure on the tree through root loss leading to its decline. The proposed development would therefore be considered to have a negative impact upon a TPO tree, contrary to Policy DM25 of the DMP.
- 3.119 The submitted arboricultural impact assessment refers to the previous layout plan and has not been updated to reflect the revised proposal. The Arboricultural Officer has stated that they require a layout plan reflective of the proposal which shows all trees and root protection areas accurately plotted. An accurate plan would identify special construction techniques such as hand excavation, no dig construction and special foundation designs. As an accurate plan has not been submitted, the impact of the revised proposal cannot be exactly determined.
- 3.120 However, this is an outline application with all matters reserved except for access. The layout plan is indicative and how this would work with trees on site and adjoining to the site would be for determination at a reserved matters stage. The quantum of development is not a set value at this point and this could vary if a reserved matters application was submitted. There is sufficient information to understand where existing trees are and the constraints associated with them for an outline application. This is also relevant with regard to the siting of the SUDs scheme which would need to take into consideration the RPA of any TPO trees with regard to any necessary pipe work. However, due to the fact that layout is not for consideration at this stage and the quantum of dwellings is not set, it is considered that there is sufficient space within the site to accommodate the SUDs scheme without causing detriment to TPO trees.
- 3.121 As the layout plan is indicative, any further reserved matters application would need to ensure that the eastern aspect tree belt, central tree belt along the stream, southern section tree belt and western aspect trees are all maintained and provided sufficient distance from the development. The Council's Arboricultural Officer considers that there would be sufficient space on the site

to modify the drawings to ensure all root protection areas (RPA) are avoided and all shading and tree nuisance is prevented from causing a significant nuisance on the proposed dwellings and their gardens.

- 3.122 The Council's Arboricultural Officer considers the loss of the ornamental trees acceptable, subject to suitable replacement mitigation of native stock and focus on connectivity to the existing habitats and tree belts.

Air Quality

- 3.123 Paragraph 186 of the Framework outlines that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants taking into account the cumulative impacts from individual sites in local areas.
- 3.124 Policy DM29 of the Development Management Plan 2014 is reflective of this and advises that major developments are required to submit an air quality assessment with their application to determine the potential cumulative impact of additional transport movements on potentially significant road junctions.
- 3.125 An Air Quality Assessment dated 27 July 2022 (document number J0675/1/F1) has been submitted.
- 3.126 The Air Quality Assessment states that the predicted concentration of NO₂, PM_{2.5} and PM₁₀ are all below the air quality assessment levels and the impact would therefore be negligible. The Council's Environmental Health Officer has been consulted on the application and upon review of the submitted information raised no objection to the application, concluding that the development would not cause any new exceedances of the air quality objectives. As such, the proposal is considered compliant with Policy DM29.

Education and Healthcare

- 3.127 Policy CLT4 of the Core Strategy recognises that healthcare facilities are a critical component of community infrastructure and require residential development of over 50 dwellings to be accompanied by a Health Impact Assessment. The proposed development has shown indicatively 35 dwellings and a 70-bed care home.
- 3.128 The NHS has been consulted on the application. Officers are still awaiting a response from the NHS as to whether the development would trigger its infrastructure requirement. Members will be updated on this via the Addendum.
- 3.129 In conjunction with ECC, the Council carefully monitor the supply and demand of primary school and secondary school places, as well as early years and childcare facilities. Policies CLT2 and CLT3 of the Core Strategy 2011 outline that contributions will be sought to increase the capacities of existing schools and childcare facilities where this is required.

- 3.130 ECC Infrastructure Service (Education) has been consulted on the application and has confirmed that at this time there are surplus places in the area and there is no case for a financial contribution from this development.

Open Space and Play Space

- 3.131 Policy DM1 (vii), Policy CLT5 and Policy CLT7 of the Core Strategy 2011 requires that new development provides local open space requirements including play space. Albeit such details have not been included at this stage, there would be sufficient space within the application site, as demonstrated by the indicative layout, to allow for open space and play space within the scheme. The details of which could be conditioned and agreed at reserved matters stage if the application were being recommended for approval.

Renewable Energy

- 3.132 Policy ENV8 of the Core Strategy relates to on site renewable and low carbon energy generation. It requires that developments of five or more dwellings secure at least 10% of their energy from decentralised and renewable or low carbon energy sources, unless this is not feasible or viable.
- 3.133 Whilst no details of how the development would achieve these levels of renewable energy have been provided, a condition could be imposed requiring these details were the application being recommended for approval.

Light Pollution

- 3.134 Policy DM5 of the Development Management Plan 2014 sets out that proposed schemes must be appropriately designed and installed to minimise the impact of light pollution on residential and commercial areas, important areas of nature conservation interest, highway safety and the night sky through avoiding unnecessary light spillage. Albeit no such details have been submitted with the current application, a condition could be imposed requiring the lighting details of the scheme proposed and during construction to be agreed were the application being recommended for approval.

4 CONSULTATIONS AND REPRESENTATIONS

Anglian Water

- 4.1 Due to lack of information, the applicant has not identified a connection point into the Anglian Water network. Therefore, the development has the potential to have an unacceptable risk of flooding/or pollution from the network.
- 4.2 The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable due to no strategy being included within the planning documents.

Cadent Gas

- 4.3 No objection.

Environment Agency

- 4.4 No comment.

Essex County Council Highway Authority

- 4.5 Following discussion with the ECC Passenger Transport team they requested that the existing stop be re-provided to the west of the site location; this would ensure that the spacing between bus stops is commensurate with the recommended distance for accessibility to stops (400m) and provide more equal spacing with stop provision along Eastwood Road. The southern side of Eastwood Road has considerable highway boundary area to facilitate its construction without impacting on access/parking arrangements for existing residential properties. The removal of a lay by on the northern side also enables buses to stop in carriageway and promote sustainable transport to ensure vehicles are not delayed trying to re-enter vehicle flows. The following condition is recommended:-

Prior to commencement of the development, the existing west bound bus stop immediately to the east of the site access shall be relocated to the west of a site on Eastwood Road with associated raised kerbs, shelter, flagpole and ancillary infrastructure at a location agreed with the Highway Authority. The existing layby shall be removed and fully reinstated with upstand kerb, associated verge, footway and lining. The existing layby on the east bound stop opposite the site access shall also be removed and fully reinstated with raised kerbs, associated verge, footway and lining. Details to be agreed with the Planning Authority in consultation with the Highway Authority. All improvements shall be completed at the expense of the developer and to the satisfaction of the Highway Authority

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

- 4.6 No objection from a highway and transportation perspective. The impact of the proposal is acceptable, subject to conditions outlined within the letter.

Essex County Council Lead Local Flood Authority

- 4.7 Holding objection as the information provided does not allow us to assess the development.

Essex County Council Infrastructure

- 4.8 ECC Education have no comments for this application.

Essex Police

- 4.9 There is insufficient detail supplied to allow an informed decision. Essex Police recommend that the developer seeks to achieve the Secure by Design – Homes accreditation in respect of the proposed development.

Natural England

- 4.10 No objection, subject to the securing of RAMS payment.

Place Services Specialist Archaeological Advice

- 4.11 No objection, subject to conditions.

Place Services Urban Design Advice

- 4.12 No objection; additional comments provided within letter.

Rochford District Council Arboricultural Officer

- 4.13 The TPO oak tree adjacent to the proposed access is in a condition such that any further pressure would likely expedite the decline. Any further root loss would have a negative impact upon the tree and it is inevitable that root loss on the eastern aspect would occur to facilitate the construction of the access.
- 4.14 There is sufficient space on the site that the development could be accommodated outside of the RPA of TPO trees. However, I would be concerned of any pipework or construction work that would go through the roots of the TPO trees to accommodate a drainage strategy and a method statement for this would be required.

Rochford District Council Environmental Health Officer

- 4.15 No objection, subject to conditions regarding lighting, noise and dust for inclusion in any reserved matters application.

Southend Airport Safeguarding

- 4.16 No objection, subject to conditions.

Neighbour Representations

- 4.17 53 comments have been received from the following addresses:-

Bartletts; No. 1

Eastwood Road; Nos. 262, 264, 267A, 268A, 272, 274, 276, 278, 282, 282A, 284, 286, 288, 288A, 302A, 310, 317, 335, 335A

Kenmar Close; No. 3

The Laurels; No. 7

South View Close; Nos. 2, 14 (two letters), 16, 23, 30 (two letters), 31, 49, 53, 55 (two letters), 57

York Road; No. 31

No address (18 letters)

4.18 In the main, the comments received can be summarised as follows:-

- The development would cause problems with the vehicle access to Eastwood Road.
- Would cause issues with local infrastructure (e.g. GPs, schools, dentists).
- The proposal would be built on Green Belt land.
- Increase of traffic will increase risk of accidents and pollution.
- There is sufficient accommodation for older people within the area which is shown by the closure of Frances Cottee Lodge in Clarence Road.
- Would increase flood risk.
- Moving of the bus stop means it would not pick up residents for No. 20 bus.
- Would cause noise and light pollution to the detriment of neighbours.
- The access would have a detrimental impact on the TPO tree on the access.
- Would have an impact on wildlife and protected habitats.
- The submitted access plan / RPA plan does not correctly show all hardstanding and the calculations are therefore incorrect.

5 EQUALITY AND DIVERSITY IMPLICATIONS

5.1 An Equality Impact Assessment has been completed and found there to be no unlikely impact (either positive or negative) on protected groups as defined under the Equality Act 2010.

6 CONCLUSION

6.1 The proposed development is recommended for refusal for the reasons set out in the report.



Phil Drane

Director of Place

Relevant Development Plan Policies and Proposals

National Planning Policy Framework 2021

Core Strategy Adopted Version (December 2011) Policies H1, H2, H3, H4, H5, GB1, ENV1, ENV3, ENV4, ENV8, ENV9, CLT2, CLT3, CLT4, CLT5, CLT7, T1, T3, T5, T6

Development Management Plan (December 2014) Policies DM1, DM2, DM4, DM5, DM10, DM25, DM27, DM29

Supplementary Planning Document – Essex Coast Recreational disturbance Avoidance and Mitigation Strategy – May 2020

Background Papers:-

None.

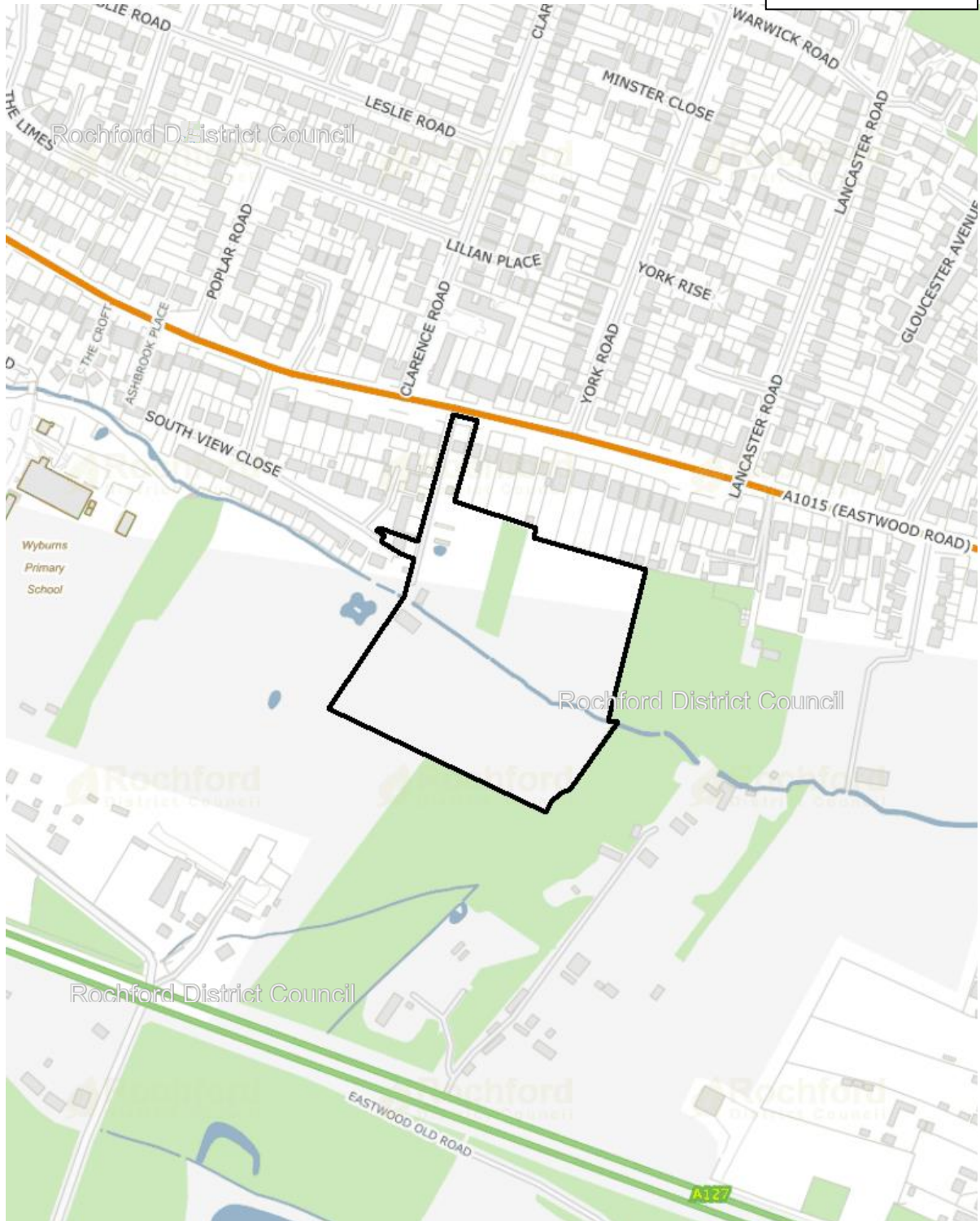
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