

**20/01128/OUT**

**LAND WEST OF CAR PARK, CHERRY ORCHARD JUBILEE COUNTRY PARK, CHERRY ORCHARD WAY, ROCHFORD**

**OUTLINE APPLICATION WITH ALL MATTERS RESERVED FOR CONSTRUCTION OF A VISITOR CENTRE CONTAINING: RECEPTION AREA, TOILETS, CAFÉ, DISPLAY/EDUCATION SPACE**

**APPLICANT: CHERRY ORCHARD HOMES AND VILLAGES - MR NEIL RYAN**

**ZONING: METROPOLITAN GREEN BELT**

**PARISH: ROCHFORD PARISH COUNCIL**

**WARD: ROCHE SOUTH**

## **1 RECOMMENDATION**

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

That planning permission be approved, subject to the following conditions:

- (1) No development shall commence before plans and particulars showing precise details of access, appearance, landscaping, layout and scale of the site (herein after called the "Reserved Matters") have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

REASON: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 (as amended) and to enable the Local Planning Authority to secure an orderly and well-designed development in accordance with the character of the locality.

- (2) Application for approval of all "Reserved Matters" referred to in Condition 1 above shall be made to the Local Planning Authority before the expiration of three years from the date of this planning permission. The development hereby permitted shall be begun before the expiration of three years from the date of this permission or two years from the date of the final approval of "Reserved Matters", whichever is the later.

REASON: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 (as amended).

- (3) No works above ground shall take place until written details or samples of all materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to the Local Planning Authority for approval in writing. The development shall be carried out in accordance with the approved materials.

REASON: In the interest of the character and appearance of the area in accordance with policy DM1 of the Development Management Plan and the NPPF.

- (4) Prior to occupation of the building hereby approved plans and particulars showing precise details of the hard and soft landscaping which shall form part of the development hereby permitted have been agreed in writing by the Local Planning Authority. Any scheme of landscaping details as may be agreed in writing by the Local Planning Authority, which shall show the retention of existing trees, shrubs and hedgerows on the site and include details of:

- a schedule of species, size, density and spacing of all trees, shrubs and hedgerows to be planted (to compensate for the loss of trees arising from the development);
- existing trees to be retained;
- areas to be grass seeded or turfed, including cultivation and other operations associated with plant and grass establishment;
- paved or otherwise hard surfaced areas;
- existing and finished levels shown as contours with cross-sections if appropriate;
- minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc);
- existing and proposed functional services above and below ground level (e.g. drainage, power and communication cables, pipelines, together with positions of lines, supports, manholes etc)

shall be implemented in its entirety during the first planting season (October to March inclusive) following commencement of the development, or in any other such phased arrangement as may be agreed in writing by the Local Planning Authority. Any tree, shrub or hedge plant (including replacement plants) removed, uprooted, destroyed, or be caused to die, or become seriously damaged or defective within five years of planting shall be replaced by the developer(s) or their successors in title with species of the same type, size and in the same location as those removed in the first available planting season following removal.

REASON: To enable the Local Planning Authority to retain adequate control over the landscaping of the site, in the interests of visual amenity.

- (5) Prior to development a scheme for the protection of the existing trees has been submitted to and approved in writing by the Local Planning Authority. Such a scheme will comply with the provisions of BS5837:2012 (Trees in relation to design, demolition and construction). The approved scheme for the protection of the existing trees shall be implemented before development commences and be maintained in full until the development has been completed.

REASON: To ensure protection during construction works of trees, hedges and hedgerows which are to be retained on or near the site in order to ensure that the character and amenity of the area are not impaired. To comply with policy DM25 of the Development Management Plan.

- (6) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Greenlight Environmental Consultancy Ltd., January 2021) as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities and works shall be carried out in accordance with the approved details.

REASON: To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority Habitats and Species).

- (7) Prior to the commencement of the development a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority.

The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.

- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To conserve protected and priority species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority Habitats and Species).

- (8) Prior to slab level, a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority. The content of the Biodiversity Enhancement Strategy shall include the following:
- a) Purpose and conservation objectives for the proposed enhancement measures;
  - b) detailed designs to achieve stated objectives;
  - c) locations of proposed enhancement measures by appropriate maps and plans;
  - d) persons responsible for implementing the enhancement measures;
  - e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

REASON: To enhance Protected and Priority Species/Habitats and allow the LPA to discharge its duties under s40 of the NERC Act 2006 (Priority Habitats and Species).

- (9) Prior to occupation, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other

external lighting be installed without prior consent from the Local Planning Authority.

REASON: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority Habitats and Species).

- (10) Prior to the construction above, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

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

- (11) Prior to the commencement of the development, a pre-construction survey for badger activity including the presence of setts shall be undertaken. If signs of activity are found then a badger survey shall be submitted to the Local Planning Authority for consideration. Any works undertaken shall be in accordance with the details agreed through the survey.

REASON: To conserve protected and priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority Habitats and Species).

## **2 PLANNING APPLICATION DETAILS**

### **Site Description and Context**

- 2.1 The site is situated to the west of the car park within Cherry Orchard Jubilee Country Park. The area of land identified is free from built form and is open land. Cherry Orchard Jubilee Country Park is designated Green Belt and Open Space and is situated within the Upper Roach Valley. The site falls within Flood Zone 1, land at the lowest risk of fluvial and tidal flooding.

### **Description of the Proposal**

- 2.2 Outline planning permission, with all matters reserved, is sought for the principle of a single storey modular building to use as a visitor centre within Cherry Orchard Jubilee Country Park. The proposed visitor centre is shown to comprise educational space, reception/office and retail space and cafeteria with associated kitchen.

- 2.3 The outline application procedure allows for applicants to identify specific matters for consideration which include the principle of the development, access, appearance, landscaping, layout and scale.
- 2.4 The applicant has identified that this application is to consider the principle of development only. The consideration of access, appearance, landscaping, layout and scale will form the subsequent reserved matters application should outline planning permission be granted for the proposal. Nevertheless, all material planning considerations are relevant, where applicable, to this application. The application has been supported by an indicative floor plan (Drawing No.270).

#### **Relevant Planning History**

- 2.5 No relevant Planning History.

### **3 MATERIAL PLANNING CONSIDERATIONS**

#### **Principle of the Development and Green Belt Issues**

- 3.1 The application site is located within the extent of the Metropolitan Green Belt as set out in Rochford District Council's Development Plan, adopted Allocations Proposals Map (2014). This means that Green Belt restrictions to development would apply to the application site now and would likely still apply in the future.
- 3.2 Policy GB1 of Rochford District Council's Development Plan, Core Strategy (2011) seeks to direct development away from the Green Belt as far as practicable and prioritise the protection of the Green Belt based on how well the land helps achieve the purposes of the Green Belt, whilst allowing rural diversification in appropriate circumstances. This policy pre-dates the NPPF but can still attract weight in proportion to its consistency with the NPPF. This policy reflects the aims of those parts of the NPPF which seek to protect the Green Belt from inappropriate development. However, it does not reflect the exceptions listed within the NPPF where development can be appropriate and therefore a material consideration.
- 3.3 Chapter 13, paragraph 133 of the NPPF states that the Government attaches great importance 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 their permanence.
- 3.4 Paragraph 143 of the NPPF confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 3.5 Paragraph 144 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. '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.

- 3.6 Turning to paragraph 145 of the NPPF, it establishes that the construction of new buildings in the Green Belt is inappropriate subject to a number of exceptions. These exceptions include allowance, subject - where appropriate - to certain criteria being satisfied, for new buildings. Exception (b) specifically allows for provision of appropriate facilities in connection with the existing use of land for outdoor recreation, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The proposed new building would be used for an educational and recreational purpose in association with Cherry Orchard Jubilee Country Park. It is therefore considered that, in principle, the construction of a new building on this site to provide an appropriate facility in connection with the existing use of Cherry Orchard Jubilee Country Park for outdoor recreation would fall within exception b) as set out in paragraph 145 of the NPPF.
- 3.7 The NPPF identifies the fundamental aim of the Green Belt as *“to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”*. The Green Belt has both a spatial and a visual dimension and the impact on openness has to take account of both. In a spatial sense, any building on land that was previously free of development will have some impact on the openness of the Green Belt. In assessing the harm to openness in a visual sense, the impact on openness may be greater if the site is particularly visible and open to boundaries. The character of the existing site and surroundings will influence the degree of harm to the Green Belt by way of visual intrusion.
- 3.8 The proposed building would be sited in close proximity to the car parking area at Cherry Orchard Jubilee Country Park. The proposed building would be a single storey timber-framed prefabricated eco-friendly building. The proposed building would be attached to a plinth foundation pad system and would be of a sustainable construction. As a consequence of the siting, scale, appearance and materials, the proposed building would be modest and suitable for this context, as it assimilates with the backdrop of the surrounding area. It is considered that the proposed building would not create urban sprawl and would not have a greater significant impact on the openness of the Green Belt and what harm that would result would be outweighed by the public benefit that would arise in enhancing the open space. The proposal would therefore not impinge on the fundamental aims of the Green Belt whereby it would maintain its openness complying with the NPPF and policy GB1 of the Core Strategy.

#### Layout, Scale and Appearance

- 3.9 Policy CP1 of the Core Strategy and policy DM1 of the Development Management Plan are applicable to the consideration of design. These coupled with the NPPF aim to ensure good design, taking into account matters including architectural style, layout, materials, visual impact and height, scale and bulk.

- 3.10 The plans and images submitted as part of this application are indicative in nature. The indicative floor plan shows four rectangular shaped pods attached to one another sited to the west of the car park in Cherry Orchard Jubilee Country Park. Each pod is single storey, oval in appearance, clad in laminated plywood with a green living roof. The proposal is an eco-friendly highly sustainable building.
- 3.11 It is therefore considered that constructing an eco-friendly building of this nature, in this location, would not be harmful to the character of the area. The development would accord with policy CP1 of the Core Strategy and policy DM1 of the Development Management Plan and the NPPF.

#### Access

- 3.12 Policies DM1 of the Development Management Plan require sufficient car parking whereas policy DM30 of the Development Management Plan aims to create and maintain an accessible environment, requiring development proposals to provide sufficient parking facilities having regard to the Council's adopted parking standards.
- 3.13 In accordance with paragraph 109 of the NPPF, it must be noted that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 3.14 The indicative floor plan shows the proposed building west of the car parking area. Vehicular access is gained off Cherry Orchard Way into an existing informal car parking area. The proposal would not alter the existing vehicular access into the Country Park and does not propose to include additional car parking.
- 3.15 The proposed development is considered to be acceptable and would not have a detrimental impact upon highway safety complying with DM30 of the Development Management Plan.

#### Landscaping

- 3.16 The site is also allocated as open space and in the Upper Roach Valley. Policy CLT5 of the Core Strategy encourages provision of public conveniences and public art within public open spaces. Additionally, the preamble to policy URV1 of the Core Strategy states that the Upper Roach Valley represents an opportunity to provide recreational activities in close proximity to the main residential settlements. Both these policies would be applied to the development and support the principle of a visitor centre.
- 3.17 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 is of great importance.



Paragraph 127 of section 12 of the NPPF sets out a criterion for new developments which should:

- a) function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) be visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

3.18 The proposed building would be a single-storey eco-friendly modular building which is of a modern appearance. The modern architectural style would result in a visually distinctive development of merit providing a high quality materials palette was used. The indicated living roof would be positive in terms of environmental sustainability and increasing opportunity for biodiversity. High quality soft landscaping is highlighted as a feature of the scheme including tree planting. Although no details of a soft landscaping scheme have been provided at this stage, this could be developed to enhance the scheme further and thus a planning condition is recommended to request further landscaping details.

#### Ecology

3.19 Paragraph 175 of the NPPF states *“local planning authorities should apply the following principles:*

- a) *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused...*”

3.20 Policy DM27 of the Development Management Plan states *“proposals should not cause harm to priority species and habitats identified under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. Development will only be permitted where it can be demonstrated that the justification for the proposal clearly outweighs the need to safeguard the nature conservation value of the priority habitat, and/or the priority species or its habitat.”*

- 3.21 The Preliminary Ecological Appraisal (Greenlight Environmental Consultancy Ltd., January 2021) has been reviewed relating to the likely impacts of development on designated sites, protected species and priority species and habitats. It is satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on protected and priority species and habitats and, with appropriate mitigation measures secured, the development can be made acceptable.
- 3.22 The mitigation measures identified in the Preliminary Ecological Appraisal (Greenlight Environmental Consultancy Ltd., January 2021) should be secured and implemented in full. This is necessary to conserve and enhance protected and priority species. It is recommended that these are collated in a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) and secured as a condition of any consent. This should also include the details of the pre-commencement badger survey recommended in the Preliminary Ecological Appraisal (Greenlight Environmental Consultancy Ltd., January 2021).
- 3.23 The proposed reasonable biodiversity enhancements are considered acceptable; these have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the NPPF. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured as a condition of any consent.
- 3.24 The Essex County Council – Place Services, Ecologist has raised no objection and confirms the mitigations proposed would lessen any impact such that the proposal is acceptable subject to conditions based on BS42020:2013.

#### **4 CONSULTATIONS AND REPRESENTATIONS**

##### **RDC Arboricultural and Conservation Officer**

- 4.1 No trees are to be directly affected by the proposal, only those newly planted trees near to the previous parking access from plant/ delivery access.
- 4.2 A condition should be applied that all trees indirectly affected by either access or the build are to be protected by means of Heras fencing as per BS 5837 2012.

##### **ECC Place Services Ecology**

- 4.3 No objection is raised and confirms the mitigations proposed would lessen any impact such that the proposal is acceptable, subject to conditions based on BS42020:2013.

**ECC – Archaeology**

- 4.4 The Historic Environment Record shows that there are no archaeological features directly impacted by the proposed development. Therefore, no archaeological recommendation is being made on this application.

**Anglian Water**

- 4.5 The foul drainage from this development is in the catchment of Rochford Water Recycling Centre that will have available capacity for these flows.
- 4.6 Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. There has been no foul water drainage strategy submitted in support of this application. We therefore request a condition requiring an on-site drainage strategy.
- 4.7 We have no objection, subject to a condition requiring a scheme for on-site foul water drainage works.

**Neighbour Representations**

Friends of Cherry Orchard Park

- 4.8 We welcome a Visitor Centre situated at the location shown on the map and the facilities it would offer all park users and would like Planning Services to consider our concerns as follows:
- i. It is our preference that a Visitor Centre will provide some financial advantage for the upkeep and maintenance of the park.
  - ii. We would like confirmation that the proposed site for a Visitor Centre is as shown on the attached image (page 2) which overlays the plan on a Google Maps image of the park. It is clear in the image that the building does not impinge on the new path provided by The Friends.
  - iii. Any damage caused to the new path during construction of a Visitor Centre must be made good at the time.
  - iv. The proposed Visitor Centre should be in keeping with its surroundings.
  - v. Access - Improved access will be required for pedestrians into the park to meet current accessibility standards and encourage alternatives to using cars. At present access on foot to the east end of the park is by steep concrete stairs one end and a narrow restrictive gate at the other. There is no safe footpath along the new access road. Accessibility standards must also apply to the new building and its interior/facilities.

- vi. The problem of subsidence in the car park must be resolved and a new surface installed and maintained to cope with higher usage.
- vii. Will RDC require the developer to maintain the building?

**5 EQUALITY AND DIVERSITY IMPLICATIONS**

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

**6 CONCLUSION**

- 6.1 The application has been assessed against relevant planning policies and national guidance and is considered to be, on balance, acceptable subject to conditions.



Marcus Hotten

Assistant Director, Place and Environment

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**Relevant Development Plan Policies and Proposals**

National Planning Policy Framework (2019) – Protecting Green Belt Land

Rochford District Council Core Strategy (2011) – CP1, GB1, GB2

Rochford District Council Development Management Plan (2014) – Policy DM1, DM25, DM27, DM31

Rochford District Council Local Development Framework Allocations Plan (February 2014)

Parking Standards Design and Good Practice (2010)

**Background Papers**

None.

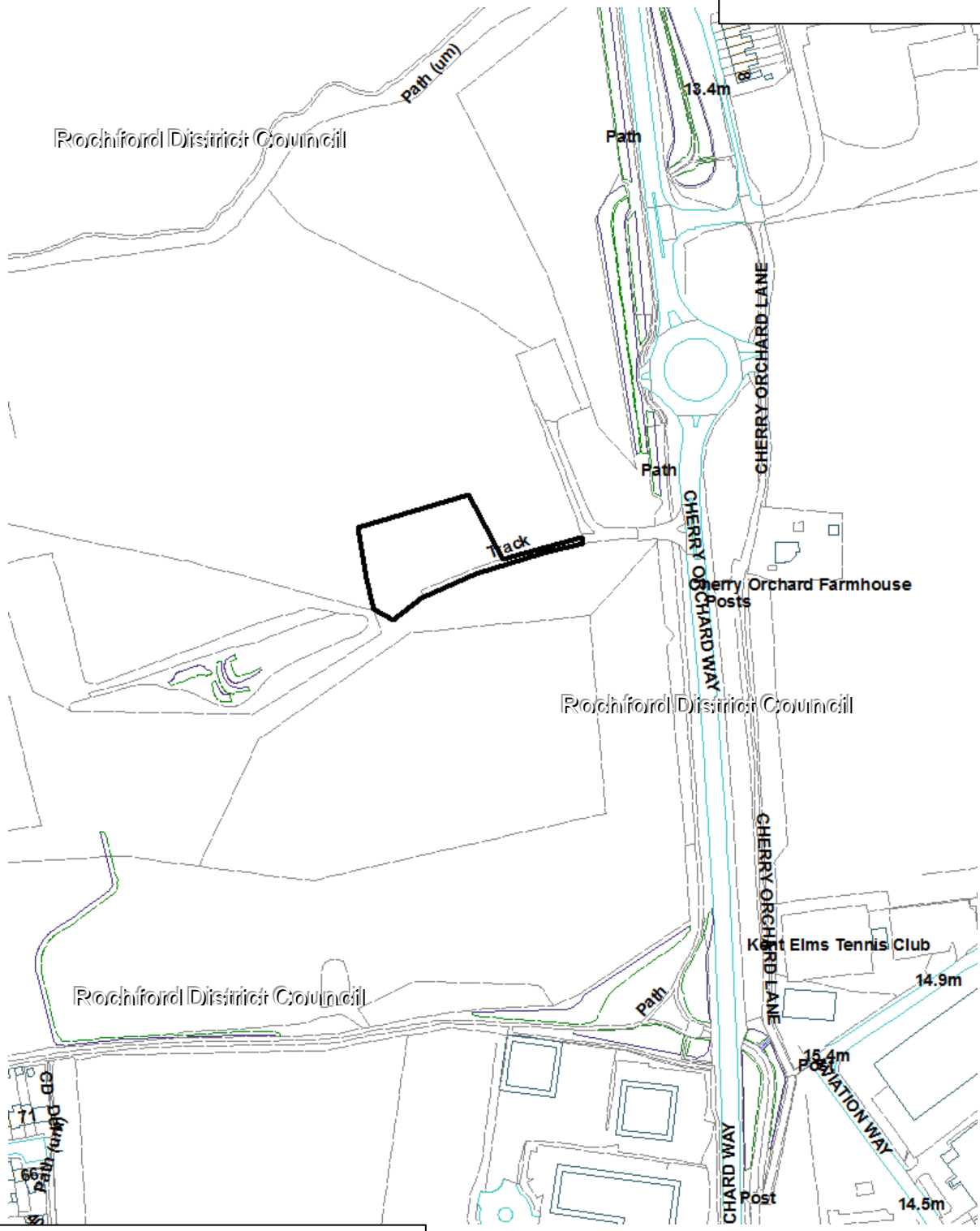
For further information please contact Katie Ellis on:-

Phone: 01702 318188

Email: [Katie.ellis@rochford.gov.uk](mailto:Katie.ellis@rochford.gov.uk)

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