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1. Correspondence with Agent

Between 6 February 2023 to 20 February 2023, officers sent the agent a number of emails requesting documents or information that was missing from his submission.

Some of the requested documents and information were received on 14 March 2023 and further documents and information were sent after officers chased for this information. This has led to a number of documents not having been able to be considered within the officer report and they are now reported to the Committee by way of the Addendum.

2. Submission of Planning Statement

Following the officer's report being written, the agent submitted a Planning Statement and appendices to the Local Planning Authority. The Planning Statement confirms the proposal is for a care home of circa 60 bedrooms and 35 later living bungalows.

Officer Comments on the Planning Statement

Noise

The agent has raised a number of points in relation to the previous objection relating to the impact of noise upon residents. It is correct that the Council's Environmental Health Officer (EHO) saw the impact was acceptable, subject to conditions. However, these conditions did not meet the tests associated with imposing conditions, as set out within the National Planning Policy Framework (NPPF). As these conditions could not be imposed, officers were not confident

that the impact of noise would be acceptable and this equated to one of the reasons for refusal.

The Council has since contracted a new EHO who was able to recommend conditions which were enforceable and complied with the tests outlined in the NPPF. On this basis, officers have withdrawn their objection, subject to these conditions being imposed in the event of the application being recommended for approval. Despite the agent's reasoning for officers' incorrect assessment of the refused application, officers were correct to refuse an application where they could not be confident that conditions could be imposed to mitigate the impact.

Other Sites

Within his statement, the agent has discounted a number of sites where reference has been drawn in the original application and which officers have considered in the current application.

The agent states application 20/00913/OUT does not sustain the Council's position as it was approved by Members going against officers' advice due to the level of need identified. This is incorrect. Application reference: 17/00877/OUT (a previous application on the site) was refused by the Committee and allowed at appeal. Application reference: 20/00913/OUT was refused by the Committee but was not appealed. This application and appeal is still relevant as it demonstrates that the district is able to accommodate the 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 through developments such as this.

The agent considers application reference: 20/01041/REM to predate the 2017 assessment and to have been accounted for in the 2017 needs assessment/figures. This would only be correct if the care home had been built at the time. The care home is currently under construction and therefore also goes some way in meeting the need arising for new communal accommodation.

The agent considered application reference: 17/00102/FUL to be discounted as there is "no certainty regarding viability or implementation". The agent has no evidence to support this and the scheme is currently under construction. It is therefore still considered to go some way to accommodating the need arising for new communal accommodation.

3. Older Persons Need Assessment

In support of their application, the agent has now submitted an Older Persons Needs Assessment prepared by Tetlow King Planning dated December 2022.

This report provides a needs assessment which greatly differs from the Council's evidence base of the strategic housing market assessment (SHMA) and emerging SEHNA. Officers at the Council do not have the specialist knowledge of how the methodology differs between the agent's needs assessment and the SHMA/emerging South Essex Housing Needs Assessment (SEHNA). On this basis, officers are not in a position where they can comment on this needs assessment.

The consultants who have prepared the SHMA and emerging SEHNA have been contacted to help inform officers' opinion. However, due to the late submission of this document, the consultant has not been able to provide commentary in time to report this to the Committee.

To ensure that this information can be thoroughly considered by officers it is recommended that the application be deferred. An updated recommendation will be included at sub heading 8.

4. Submission of Flood Risk Assessment

The agent has now submitted a flood risk assessment (FRA) and drainage strategy.

This FRA was prepared as part of the previous application on the site (70-bed care home, 35 affordable homes, 30 lifetime homes) and has not been updated to reflect the current proposal (60-bed care home and 35 later living homes).

As identified within the officer report, although the proposed development has been indicatively shown within Flood Zone 1, the site is over 1ha in scale and an FRA that complies with paragraph 167 of the NPPF is therefore required.

Whilst the EA has been consulted on the FRA and raises no objection, the Local Planning Authority (LPA), in consultation with the Lead Local Flood Authority (LLFA), must assess its compliance with paragraph 167 of the NPPF.

The development would comply with paragraph 167 (a), (b), (d) and (e). However, paragraph 167(c) requires the incorporation of sustainable drainage systems and the current drainage strategy is not reflective of the existing proposal. In addition, as the application is for major development it is required

by Policy DM28 of the Development Management Plan and paragraph 169 of the NPPF to incorporate sustainable drainage systems.

Following submission of the FRA, the LLFA provided an initial response which requested additional information from the agent. These questions were sent to the agent on Thursday 2^d March but no response has yet been received.

However, on the basis that an FRA has been submitted, it is recommended that the reason for refusal relating to flood risk be revised as follows were Members minded to refuse the application:-

2. There is a lack of sufficient information which has been submitted with the Flood Risk Assessment and Drainage Strategy. 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.

5. Additional Comments from Arboricultural Officer

Given the submission of the FRA, the Council's Arboricultural Officer was consulted on the drainage strategy to ensure they were content with its relationship to the tree belt that runs along the east-west stream.

The Council's Arboricultural Officer has confirmed that the two drainage pipes shown to go through the tree belt into the east-west stream could be conditioned to use trenchless methods (i.e., moling below the rooting zone). The Council's Arboricultural Officer has also stated that the construction, banking/bunds/buttress of the ponds and removal/storage of soil would need addressing but this could be conditioned to be submitted as part of any reserved matters application were one to come forward.

The officer report concluded that, as the layout is not for determination, amendments could be made to the scheme through a reserved matters application to ensure the development was outside of any root protection areas (RPA). On the basis of the updated consultation response, the conclusion reached within the officer's report is not changed.

6. Heads of Terms

As outlined within the officer's report, the agent had not confirmed a mechanism to secure the affordable housing requirement or RAMS payment and this led to the formation of reasons for refusal 2 and 5.

On 14 March 2023, the agent confirmed via email that he agreed to the following Heads of Terms:-

- Delivery of 35% affordable housing with an 80:20 split (only applicable to the market housing)
- RAMS payment of £4819.85 (£137.71 per new dwelling)

Since the publication of the officer's report, a consultation response was received from the NHS which requested the sum of £32,600 to be secured through a S106 agreement to mitigate the impact of the development upon the local health services. The agent has agreed that this could be provided as an additional heads of term.

As such, were the application being recommended for approval, there would be a suitable mechanism in place to secure the delivery of the affordable housing, RAMS payment and NHS contribution. The reasons for refusal relating to these matters can therefore be omitted and this will be updated in the revised recommendation in sub heading 8.

7. Additional Consultation Comments

Rayleigh Town Council:

RTC objects to the application due to the site being located on Green Belt land and the over development of the site to create a care home. There are major concerns that the site would only have one access for residents, visitors, employees and deliveries.

The site is located on a busy highway and residential area, adjacent to a major junction on a bus route. The access will cause an impact to the nearby bus stop and vehicle layby.

The Town Council would further highlight that the creation of such a facility will have a serious impact on the local infrastructure and on the availability of access to public health services in the immediate vicinity.

NHS:

No objection, subject to securing a contribution of £32,600 through a S106 agreement.

ECC Lead Local Flood Authority:

Before drawing a conclusion, we would request the below additional information is provided:

- Please may you clarify how the later living dwellings to the east of the site will receive adequate treatment.
- Please may you clarify how the access road will receive sufficient treatment and whether you know at this stage if it is intended to be adopted by Highways
- Please may you indicate the anticipated traffic movements per day of the site.

RDC Arboricultural officer:

No objection to the drainage strategy, subject to a condition requiring trenchless methods are used for the drainage pipes. The construction, banking/ bunds/ buttress of the ponds and removal/storage of soil will need addressing also but this can be conditioned or requested as part of the reserved matters.

One neighbour comment has been received from the following address:-

Eastwood Road: No. 268

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

- Eastwood Road is extremely busy, which is hazardous to pedestrians which will be made worse by the proposal. There would be a large number of construction vehicles and workers on site. The construction period will be lengthy and cannot be considered temporary.
- The lack of parking facilities the plan involves will pose long term issues with the number of visitors, both new residents and residents of the proposed care home.
- Our understanding is that the existing layby would be impacted by the changes. This is essential for both neighbours and visitors.

- Concerns around local drainage and flood risks. Adding more residential homes and a care home is of great concern.
- Loss of trees and local wildlife.
- Increased light pollution.
- The development would have a huge impact on outlook from our property and would mean our garden and the back of our house would be viewed by all the homes at the end of the plan and those in the 2.5 storey care home would overlook our garden.
- The development would have a severe impact on our lives and mental health.

8. Revised Recommendation

As discussed above, in light of the additional information received and to allow for officers to duly consider this information with the assistance of consultees, officers recommend that this application be deferred.

Members are reminded that were they minded to uphold the officers' original recommendation, the reasons for refusal should be amended to reflect the submission of a flood risk assessment (sub heading 4) and agreement of the heads of terms (sub heading 6) which would result in the removal of reasons for refusal numbers 2 and 5, leaving a total of 3 reasons for refusal relating to Green Belt, flooding and the TPO oak tree.