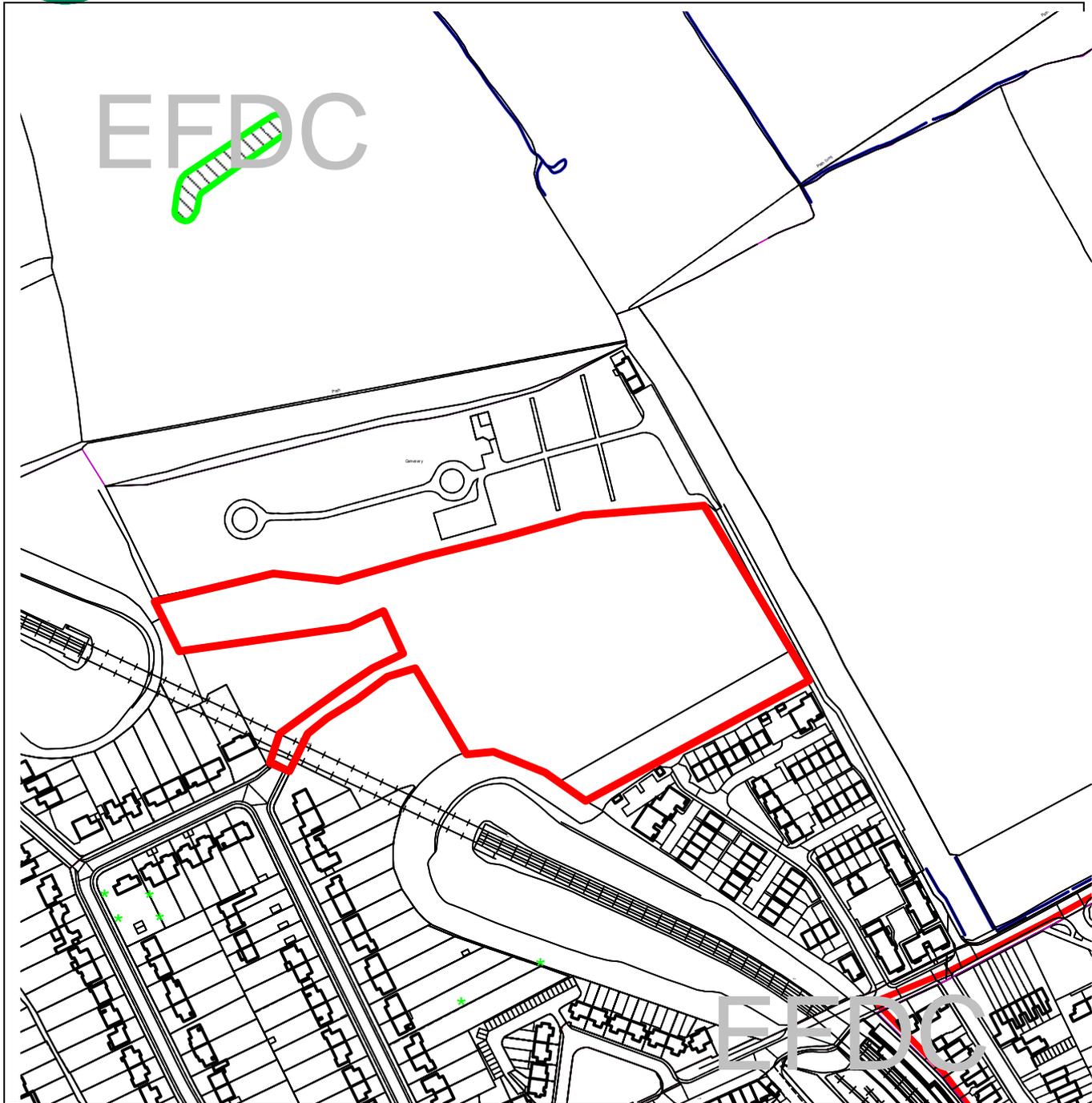




# Epping Forest District Council



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Application Number:	EPF/1182/18
Site Name:	Land west of Froghall Lane Chigwell Essex
Scale of Plot:	1:3200

**Report Item No: 9**

<b>APPLICATION No:</b>	EPF/1182/18
<b>SITE ADDRESS:</b>	Land west of Froghall Lane Chigwell Essex
<b>PARISH:</b>	Chigwell
<b>WARD:</b>	Grange Hill
<b>APPLICANT:</b>	MPM Limited
<b>DESCRIPTION OF PROPOSAL:</b>	Hybrid application requesting full planning permission for an assisted living development comprising of apartments and integrated communal and support facilities; landscaped residents' gardens; staff areas; refuse storage; construction of a new site access; a sustainable urban drainage system; a new sub-station and associated infrastructure and services, and outline planning permission for a 0.45 hectare extension of the cemetery. *** AMENDMENT: THE ABOVEMENTIONED DEVELOPMENT PROPOSALS HAVE BEEN REVISED INVOLVING THE REDUCTION IN PROPOSED RESIDENTS CAR PARKING. THE PROPOSALS REDUCE RESIDENTS PARKING PROVISION FROM 105 SPACES TO 66 SPACES. A FURTHER 19 ADDITIONAL SPACES ARE PROPOSED FOR STAFF AND VISITOR USE RESULTING IN A TOTAL PARKING PROVISION OF 85 SPACES. ***
<b>RECOMMENDED DECISION:</b>	Grant Permission (Subject to Legal Agreement)

**Click on the link below to view related plans and documents for this case:**

[http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=608757](http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=608757)

**CONDITIONS CONDITIONS AND REASONS RELATING TO THE FULL PLANNING PERMISSION**

1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.

2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos:

PL-ST-000 Rev D; PL-ST-600 Rev F; PL-ST-601; SK-124 Rev E; PL-GA-00 Rev B; PL-GA-001 Rev B; PL-GA-100 Rev B; PL-GA-101 Rev A; PL-GA-601 Rev F; PL-GA-602 Rev F; PL-GA-603 Rev F; PL-GA-604 Rev C; PL-GA-605 Rev C; PL-GA-606 Rev C; PL-GA-610 Rev B; PL-GA-611 Rev B; PL-GA-612 Rev A; PL-GA-613 Rev A; PL-GA-620 Rev C; PL-GA-621 Rev B; PL-GA-622 Rev B; PL-GA-623 Rev B; PL-GA-630 Rev B; PL-GA-631 Rev A; PL-GA-632 Rev A; PL-GA-633 Rev A; PL-GA-640 Rev B; PL-GA-641 Rev A; PL-GA-642 Rev A; PL-GA-643 Rev A; PL-GA-700 Rev C; PL-GA-

701 Rev B; PL-GA-810 Rev A; PL-GA-811 Rev A; PL-GA-812; PL-GA-813 Rev A; PL-GA-820; PL-GA-821 Rev A; PL-GA-822 Rev A; PL-GA-823 Rev A; PL-GA-830 Rev A; PL-GA-831 Rev A; PL-GA-832; PL-GA-833; PL-GA-840 Rev A; PL-GA-841; PL-GA-842 Rev A; and PL-GA-843

- 3 Prior to any above groundworks, details and location of the parking spaces (including garages) equipped with active and/or passive Electric Vehicle Charging Point(s) shall have been submitted to and approved in writing with the Local Planning Authority (LPA), unless otherwise agreed in writing with the LPA. The installation of EVCP shall be completed in accordance with the approved details and made operational prior to first occupation. The details shall include:
- Location of active and passive charging infrastructure;
  - Specification of charging equipment; and
  - Operation/management strategy. The council will expect that a management plan for the charging points is set out clearly. This will address:
    - a) Which parking bays will have active and/or passive charging provision, including disabled parking bays;
    - b) How charging point usage will be charged amongst users;
    - c) The process and the triggers for identifying when additional passive charging points will become activated; and
    - d) Electricity supply availability. The electricity supply should be already confirmed by the Network Provider so that the supply does not need to be upgraded at a later date.
- 4 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
1. The parking of vehicles of site operatives and visitors
  2. Loading and unloading of plant and materials
  3. Storage of plant and materials used in constructing the development
  4. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  5. Measures to control the emission of dust and dirt during construction, including wheel washing.
  6. A scheme for recycling/disposing of waste resulting from demolition and construction works.
  7. Tree protection measures.
- 5 Prior to the first occupation of the development the proposed access from Woodland Road into the site shall be fully implemented and maintained as such in perpetuity.
- 6 There shall be no vehicular access to the proposed development from the existing access off of Mount Pleasant Road, except for Emergency Service Vehicles, unless otherwise agreed in writing with the Local planning Authority.

- 7 Prior to the first occupation of the proposed development, the Developer shall be responsible for the provision and implementation, per dwelling, of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council.
- 8 No construction shall take place within 5m of the water main. Information detailing how the developer intends to divert the asset / align the development, so as to prevent the potential for damage to subsurface potable water infrastructure, must be submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any construction must be undertaken in accordance with the terms of the approved information. Unrestricted access must be available at all times for the maintenance and repair of the asset during and after the construction works. Reason: The proposed works will be in close proximity to underground strategic water main, utility infrastructure. The works has the potential to impact on local underground water utility infrastructure. Please read our guide 'working near our assets' to ensure your workings will be in line with the necessary processes you need to follow if you're considering working above or near our pipes or other structures. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes> Should you require further information please contact Thames Water. Email: [developer.services@thameswater.co.uk](mailto:developer.services@thameswater.co.uk)
- 9 No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement. Reason: The proposed works will be in close proximity to underground water utility infrastructure. Piling has the potential to impact on local underground water utility infrastructure. Please read our guide 'working near our assets' to ensure your workings will be in line with the necessary processes you need to follow if you're considering working above or near our pipes or other structures. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>. Should you require further information please contact Thames Water. Email: [developer.services@thameswater.co.uk](mailto:developer.services@thameswater.co.uk)
- 10 The development be carried out in accordance with the flood risk assessment (Symmetrys Limited - Land to the West of Froghall Lane, Essex, Ref 2015121-AH, 12th April 2017) and drainage strategy (Drawing number 2015121-100-P7) submitted with the application unless otherwise agreed in writing with the Local Planning Authority.
- 11 A sensitive lighting scheme in accordance with Bat Conservation Trusts guidelines will be submitted to EFDC for approval.

- 12 A biodiversity enhancement plan including but not limited to; the location and type of five integrated bat boxes (those which are built into the brickwork or masonry or the development); the location and type of five bird boxes; the location of habitat piles suitable for hedgehogs, reptiles and invertebrates.
- 13 A precautionary approach will be adopted when clearing the site with respect to reptiles. The details of which can be found in the ecological appraisal.
- 14 No removal of hedgerows, trees or shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.
- 15 The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground) for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the local planning authority which:  
Provide details on all structures Provide details on the use of tall plant and scaffolding Accommodate the location of the existing London Underground structures Demonstrate access to elevations of the building adjacent to the property boundary with London Underground can be undertaken without recourse to entering our land Demonstrate that there will at no time be any potential security risk to our railway, property or structures Accommodate ground movement arising from the construction therefore Mitigate the effects of noise and vibration arising from the adjoining operations within the structures .The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.
- 16 The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site.
- Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the Local Planning Authority contacted and a scheme to investigate the risks and / or the adoption of any required remedial measures be submitted to, agreed and approved in writing by the Local Planning Authority prior to the recommencement of development works.

Following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.

- 17 No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other minor artefacts and structures, including signs and lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.
- 18 Tree protection shall be implemented prior to the commencement of development activities (including demolition) in accordance with the submitted Tree Survey/ Arboricultural Method Statement reports unless the Local Planning Authority gives its prior written approval to any alterations. Tree protection shall be installed as shown on Arbor Cultural drawing number TPP-01 rev A dated 12/04/2017.
- 19 No construction works above ground level shall have taken place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the Local Planning Authority, in writing, prior to the commencement of the development. The development shall be implemented in accordance with such approved details.
- 20 Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.
- 21 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

22 Prior to any above groundworks, a strategy to facilitate super-fast broadband for future occupants of the site shall have been submitted to and approved in writing by the Local Planning Authority (LPA). The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway, unless evidence is put forward and agreed in writing by the LPA that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure. The development of the site shall be carried out in accordance with the approved strategy unless otherwise agreed in writing by the LPA.

**CONDITIONS RELATING TO THE OUTLINE PLANNING PERMISSION**

23 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission or two years from the approval of the last of the reserved matters as defined in condition 24 below, whichever is the later.

24 Prior to commencement of the development, details of the layout, scale and appearance of any building(s), the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to the Local Planning Authority for approval before the expiration of three years from the date of this permission, and the development shall be carried out in accordance with the details so approved.

25 The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans: PL-ST-000 Rev D

26 No preliminary ground works shall take place until a flood risk assessment and management and maintenance plan shall be submitted to and approved by the Local Planning Authority prior to commencement of development. The assessment shall include calculations of increased run-off and associated volume of storm detention using WinDes or other similar best practice tools. The approved measures shall be carried out prior to the substantial completion of the development and shall be adequately maintained in accordance with the management and maintenance plan.

27 No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be

submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.

*This application is before this Committee since it is an application that is considered by the Service Director (Planning Services) as appropriate to be presented for a Committee decision (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council).*

### **Foreword**

**Members should note that this application was withdrawn from the 29<sup>th</sup> May 2019 meeting agenda pending the conclusion of matters relating to the 'Chigwell allocated sites' at the local plan examination and, at the time, the unresolved effects of air pollution on the EFSAC.**

**With regard to the first point, the local plan examination concluded that the site allocation defined in Policy P 7(B)(iv) as CHIG.R4 (also shown in Map 5.13) would remain 'in principle' unaltered, save for modifications to related explanatory supporting text.**

**In terms of addressing the effects of air pollution on the EFSAC, an interim strategy was adopted by the Council in February 2021 that will allow for appropriate mitigations to be secured in the event a development scheme is resolved to grant planning permission.**

### **Description of Site**

The application site comprises approximately 2.8 hectares of land situated west of Froghall Lane, between Chigwell Cemetery to the north and recent residential development to the south. The northern part of the site extends up to land that is part of the Central Line railway and over approximately 30m of a public footpath that heads north beyond the cemetery from Mount Pleasant Road (PROW 302\_125). The remainder of the site, other than a section for a proposed access road off Mount Pleasant Road, is set approximately 100m east of the existing turning head between 33 and 35 Mount Pleasant Road.

Land levels fall significantly from the main eastern site boundary to Froghall Lane. The change in levels is 9m across a distance of 175m. Levels in the north west corner of the site fall to the north, dropping approximately 1.5m over a distance of 30m.

The application site is entirely within the Green Belt. It is not in a conservation area and there are no preserved trees at or adjacent to the site. The entire site and adjacent land is in Flood Risk Zone 1.

Presently, the land is unused, appearing as scrubland.

## **Description of Proposal**

Hybrid application requesting:

1. Full planning permission for an assisted living development comprising of apartments and integrated communal and support facilities; landscaped residents gardens; staff areas; refuse storage; construction of a new site access; a sustainable urban drainage system; a new sub-station and associated infrastructure and services, and;
2. Outline planning permission for a 0.45 hectare extension to Chigwell Cemetery.

The land the Outline component of the proposal only relates to the northern part of the site, west of a point approximately 70m west of Froghall Lane. The applicant does not propose to develop that part of the proposal beyond this seeking Outline consent. Rather, it is proposed to transfer ownership of the land to Chigwell Parish Council who own and manage the existing cemetery. The Applicant offers to do this in a S106 agreement. Thereafter, it would be up to the Parish Council to pursue the detail of the proposed cemetery extension through an application for approval of reserved matters.

The remainder of the site, some 2.34 hectares, relates to the full planning application component.

The site would be laid out as 5 buildings, identified as blocks A, B, C, D and E. They would have 4 floors containing a mix of one and two bedroom apartments. The development would include a total of 105 apartments comprised of 87 two-bedroom and 18 one-bedroom apartments. The buildings would be arranged around a central landscaped area and linked by footpaths which also connect to parking areas. Car parking would be provided towards the edges of the site within a landscaped setting. Following discussions with officers, the original quantum of car parking (and layout) has been amended comprising a reduction from 135 parking spaces to 85 parking spaces in total. The rationale underpinning this is discussed further in the relevant section of this report.

Access to the site would be via Woodland Road to the south. It is also proposed to access the site from Mount Pleasant Road. To facilitate that the application proposes the construction of a 100m long access road from the turning head at Mount Pleasant Road to the western part of the site. It would be 5.2m wide and, together with all roadways on the site, would be a shared surface.

Blocks B, D and E would stand alone in the central and eastern part of the full application site. In addition to the apartments, a disability buggy/cycle store, plant room and small communal lounge would be provided in the ground floor.

Blocks A and C would be sited on higher land at the western part of the site. They would also have 4 floors but are called lower ground floor, upper ground floor, first and second floors rather than ground, first, second and third as in the other three blocks. The lower ground floor would contain two apartments in addition to a disability buggy/cycle store, plant room and small communal lounge. More extensive communal facilities would also be provided at lower and upper ground floor in both buildings. They are indicated on the submitted plans as larders and Wellness rooms. The submitted planning statement states the community facilities provided would also comprise of a library, restaurant, gym and cinema.

The community facilities rooms would extend beyond each building on both ground floor levels such that they form a two-storey link between the blocks. The link building would also

contain a reception/office area. The reception would face towards the central landscaped area, but also be accessed through the link building from a parking area west of it.

Each Block would be designed to have steeply pitched roofs with prominent asymmetric gable features, the gables also forming parapets. Ridge heights would vary, typically be between 15.5m and 17.5m above ground level. They would be finished in a mix of materials, indicated as follows: block masonry at ground/lower ground floor levels; brick and render at upper floors; zinc as a roof covering.

### Planning Obligations

In addition to the transfer of land to Chigwell Parish Council for an extension to Chigwell cemetery, the Applicant has committed to provide the following financial contributions to be secured by way of a S106 agreement:

1. £1,700,000 contribution towards the provision of affordable housing in the District (an increase from the previous £1,000,000 offer);
2. £52,500 contribution towards the running costs of the Chigwell Hoppa Bus scheme;
3. £24,909 contribution towards the provision of primary health care services; and
4. A contribution towards the implementation of measures to mitigate the impact of the development on air quality within the Epping Forest Special Area of Conservation amounting to £35,175 (105 units x £335).

In addition to the above, the following non-financial related planning obligations to be included are:

1. Restriction of residential occupation to persons of 60 years of age and above only; and
2. Restriction of onsite recreation/leisure and dining facilities for use by resident occupiers only.

### Relevant History

EPF/3386/16 - Hybrid application requesting:

1. Full planning permission for an assisted living development comprising of apartments and integrated communal and support facilities; landscaped residents gardens; staff areas; refuse storage; construction of a new site access; a sustainable urban drainage system; a new sub-station and associated infrastructure and services, and;
2. Outline planning permission for a 0.45 hectare extension to Chigwell Cemetery.

*Refused (9 October 2017) on the basis that:*

1. the proposal as a whole is inappropriate development in the Green Belt and that the proposed buildings would be harmful to openness; and
2. the proposal makes insufficient contribution towards the provision of off-site affordable housing the proposal fails to make appropriate provision for affordable housing.

The scheme was due to be considered at Plans South on 20 March 2019 with an Officers recommendation for refusal – it was withdrawn by the applicant for further negotiations to take place.

## **Development Plan**

Section 38(6) Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan currently comprises the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006).

The following policies within the current Development Plan are considered to be of relevance to this application:

CP1	Achieving Sustainable Development Objectives
CP2	Protecting the Quality of the Rural and Built Environment
CP3	New Development
GB2A	Development in the Green Belt
GB7A	Conspicuous Development
H4A	Dwelling Mix
H5A	Provision for Affordable Housing
H6A	Site Thresholds for Affordable Housing
H7A	Levels of Affordable Housing
H8A	Availability of Affordable Housing in Perpetuity
H9A	Lifetime Homes
NC1	SPA's, SAC's and SSSI's
U3B	Sustainable Drainage Systems
DBE1	Design of New Buildings
DBE4	Design in the Green Belt
DBE5	Design and Layout of New Development
DBE6	Car Parking in New Development
DBE8	Private Amenity Space
DBE9	Loss of Amenity
LL3	Edge of Settlement
L11	Landscaping Schemes
ST1	Location of Development
ST2	Accessibility of Development
ST4	Road Safety
ST6	Vehicle Parking
I1A	Planning Obligations

## **Epping Forest District Local Plan Submission Version (2017) (LPSV)**

Although the LPSV does not currently form part of the statutory development plan for the district, on 14 December 2017 the Council resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The LPSV has been submitted for Independent Examination and hearing sessions were held on various dates from February 2019 to June 2019. On the 2nd August, the appointed

inspector provided her interim advice to the Council covering the substantive matters raised at the hearing and the necessary actions required of the Council to enable her to address issues of soundness with the plan without prejudice to her final conclusions.

The following policies in the LPSV are considered to be of relevance to the determination of this application, with the weight being afforded by your officers in this particular case indicated:

<b>POLICY</b>	<b>WEIGHT AFFORDED</b>
SP1 - Presumption in Favour of Sustainable Development	Significant
SP2 - Spatial Development Strategy 2011-2033	Significant
SP6 - Green Belt and District Open Land	Significant
SP7 - The Natural Environment, Landscape Character and Green and Blue Infrastructure	Significant
H1 - Housing Mix and Accommodation Types	Significant
H2 - Affordable Housing	Significant
T1 - Sustainable Transport Choices	Significant
DM1 - Habitat Protection and Improving Biodiversity	Significant
DM2 - Epping Forest SAC and the Lee Valley SPA	Significant
DM3 - Landscape Character, Ancient Landscapes and Geodiversity	Significant
DM4 - Green Belt	Significant
DM5 Green and Blue Infrastructure	Significant
DM9 - High Quality Design	Significant
DM10 - Housing Design and Quality	Significant
DM11 - Waste Recycling Facilities on New Development	Significant
DM15 - Managing and Reducing Flood Risk	Significant
DM16 - Sustainable Drainage Systems	Significant
DM18 - On Site Management of Waste Water and Water Supply	Significant
DM19 - Sustainable Water Use	Significant
DM20 - Low Carbon and Renewable Energy	Significant
DM21 - Local Environmental Impacts, Pollution and Land Contamination	Significant
DM22 - Air Quality	Significant
P 7 - Chigwell	Significant

#### National Planning Policy Framework (July 2021)

The revised NPPF is a material consideration in determining planning applications. As with its predecessor, the presumption in favour of sustainable development remains at the heart of the NPPF. Paragraph 11 of the NPPF provides that for determining planning applications this means either; (a) approving development proposals that accord with an up-to-date development plan without delay; or (b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development

proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making, but policies within the development plan need to be considered and applied in terms of their degree of consistency with the Framework.

The LPSV identifies the full application site for development of approximately 105 specialist dwellings, allocation reference CHIG.R4. The Plan does not explicitly define 'specialist dwellings'. It is clearly a form of residential use that is distinct from dwellings within Use Class C3. On that basis a general practical approach taken by Officers is to interpret 'specialist dwellings' as meaning any residential use that is not entirely within Use Class C3. CHIG.R4 is the only site allocation in the plan for specialist dwellings.

### **Consultation Carried Out and Summary of Representations Received**

The application has been the subject of 2 separate public consultations.

The first consultation was carried out in May 2018 which included letters to 255 neighbours, site notices and a local press advertisement. On this occasion 11 objections to the development was received from the following addresses:

17 Ash Road, Chigwell  
9 High Elms, Chigwell  
1, 2, 3, 9, 15, 33, 43 & 81 Mount Pleasant Road, Chigwell  
3 Woodland Road, Chigwell

The second consultation followed was carried out to notify the public of amendments to the proposed parking level and associated arrangements. Letters were sent to members of the public that originally expressed their interest in writing including 5 site notices posted in prominent locations surrounding the application site. At the time of writing this report, 6 objections have been received from the following addresses:

9, 11, 15, 33, 61 Mount Pleasant Road Chigwell  
High Elms, Chigwell

The objections raised on both occasions are listed below:

1. Insufficient contribution towards affordable housing.
2. Inappropriate development in the Green Belt that is harmful to its openness. No very special circumstances in favour of the development exist.
3. Loss of a green field.
4. Dramatic and overwhelming visual impact in a largely open valley, appearing as a housing estate. Views across the land will therefore be diminished.
5. The height of the proposed buildings does not fit in with the character of the locality,
6. Does not address 'rights' connected with the public footpath.
7. Generation of an unsustainable increase in traffic that local roads could not cope with.
8. The site would be better accessed from Froghall Lane. It is unclear why that possibility is ruled out.
9. The application does not include any proposal to mitigate obstructive on-street parking on Woodland Road.
10. Planned yellow lines along Woodland Road have not been implemented. If they are not, the development would make access along Woodland Road nigh on impossible.

11. The proposed build should not proceed if the council does not apply waiting restrictions and lighten the congestion along Woodland Road
12. Given the proposed access to the site from Woodland Road, the need for the proposed access off Mount Pleasant Road is questionable while that element of the proposal seems indicative of a preference to access the site from Mount Pleasant Road.
13. Construction traffic access via Mount Pleasant Road would result in contractors parking in that road which, together with construction vehicle movements, will compound the harm caused in the implementation of recent railway works.
14. The movement of construction vehicles may harm properties on Mount Pleasant Road.
15. At present children can safely play in the gardens and pavement but this additional traffic would make this dangerous.
16. Harmful increase in pressure on local health services due to an increase in population from outside of the locality.
17. The environmental impact of the project is substantial. Pollution and CO2 levels will be impaired.
18. Residents of the development will be potential victims of crime and therefore the development is likely to result in an increase in the local crime rate.
19. No need for the form of development proposed. There is sufficient supply of retirement homes in area.
20. There are better places for this type of development.
21. The provision of an extension to Chigwell Cemetery in exchange for a grant of planning permission is outrageous.
22. The proposed works would be likely to cause harm to the railway tunnel that passes under the route of the accessway proposed off Mount Pleasant Road.
23. It would make more sense to link into the new drains built for Woodland Road than run them to Mount Pleasant Road.
24. Grange Hill cannot take anymore large developments such as this.
25. The local infrastructure will not be able to cope.
26. The area frequently suffers from issues with water pressure and further large scale development may well exacerbate the situation.
27. There has already been large scale development in this area in recent years
28. Local residents have not been fully consulted

ESSEX COUNTY COUNCIL (Education Authority)

No objection. No need for any contribution towards education provision.

ESSEX COUNTY COUNCIL (Highway Authority):

The Highway Authority has not objected to the amended reduced parking levels onsite and maintains its previous comments as follows:

*“The Highway Authority has considered the above planning application, visited the site and thoroughly assessed the submitted transport information, including the reduced parking levels, and has concluded that the proposal is not contrary to current National/Local policy and safety criteria.*

*The applicant has submitted a robust Transport Assessment for the proposal and has demonstrated that the impact on the Woodland Rd/Manor Rd junction will be negligible. This is mainly because the future occupiers are highly unlikely to travel during the network peak hours. The parking is considered to be more than sufficient for the development given the location and the good access to other modes of sustainable travel available.*

*Consequently, the Highway Authority is satisfied that the development will not be detrimental to highway safety, capacity or efficiency within Chigwell or on the wider highway network.”*

Conditions and informatises requested.

LONDON UNDERGROUND:

No objection subject to conditions to safeguard the railway.

NATURAL ENGLAND:

No specific comments to make. Reference to standing advice.

NHS – West Essex CCG:

No objection subject to a contribution of £24,909 to offset the consequence for primary care services in the locality.

THAMES WATER:

No objection subject to conditions in relation to construction within the vicinity of a water main.

CHIGWELL PARISH COUNCIL:

**Original consultation response:**

“The Council **SUPPORTS** this application, this proposed development is a good utilisation of low grade Green Belt land, located in an appropriate setting.”

### **Screening Opinion**

The following is an Officers screening opinion under Regulation 7(2) of the Town and country Planning (Environmental Impact Assessment.) Regulations 1999. Such opinions are given where an application that appears to be either a Schedule 1 or Schedule 2 application is submitted that has not been the subject of a prior screening opinion and is not accompanied by an environmental statement for the purposes of the Regulations.

This development is not of a type that falls within Schedule 1 of the Regulations. However, since it amounts to an urban development project on a site that exceeds 0.5 hectares in area it falls within Schedule 2 of the Regulations. Officers therefore have to decide whether an environmental statement is required. Schedule 3 of the Regulations sets out criteria for carrying out that assessment. Having applied the criteria Officers conclude an environmental statement for the purposes of the Regulations is not required for this application.

Notwithstanding that conclusion, Members are advised the Applicant included comprehensive information with the application that assesses the environmental impact of the proposed development. That has been scrutinised by specialist advisors and their conclusions on those matters are set out as appropriate in the issues and considerations section of this report.

## **Main Issues and Considerations**

This application seeks to overcome the reasons for refusal of application EPF/3386/16 and is submitted in response to the allocation of the site for specialist housing in the LPSV.

In summary, it maintains the Council's objection to the previous submission is addressed in two ways. Firstly, by maintaining there has been a material change in planning policy in respect of the application site such that the Green Belt balance is in favour of the proposal; and, secondly, by submitting information with a view to demonstrating the proposal makes an appropriate level of contribution towards affordable housing.

Aside from the main issues of consequence for the Green Belt and requirement for affordable housing, this report will also consider the matters of design and visual impact together with highway considerations. Those matters will be weighed in the Green Belt balance while other matters including, affordable housing and the consequences for the Epping Forest Special Area of Conservation will be considered separately.

### **Consequence for the Green Belt**

The site remains allocated for development of the type the applicant proposes in the full application, that is, 105 units of specialist housing. That would result in a new Green Belt boundary around that part of the site and the site-specific requirements for allocation CHIG. R4 include using existing landscape features to visually define that boundary and strengthening them as required. In that respect the submission includes landscape proposals that are acceptable to the Council's Tree and Landscape Officer and the proposal evidently seeks to ensure the development has a sylvan setting.

Although allocated for development within the LPSV, the application site, together with adjoining land between it and Mount Pleasant Road and land to the north, including Chigwell Cemetery, remain entirely in the Green Belt. That is because, notwithstanding its very advanced stage, the LPSV is not an adopted plan. The relatively recent development to the south also remains within the Green Belt. On that basis, the proposed development in the full application is inappropriate development in the Green Belt that would result in a significant reduction in its openness. The NPPF makes clear that inappropriate development is, by definition, harmful and should not be approved except in very special circumstances.

In relation to the outline proposal for an extension to Chigwell cemetery, the provision of appropriate facilities for cemeteries is one of the exceptions to inappropriate development listed in paragraph 149. That is not to say the cemeteries of themselves are not inappropriate development in the Green Belt. Due to the amount of small scale development, including sometimes substantial structures for marking graves and associated engineering operations including roadways, cemeteries may sometimes appear as urbanising uses that do not preserve the openness of the Green Belt. The current proposal for an extension to Chigwell cemetery, since it is in outline form only, does not include any detail on the layout and design of the extension. That detail would be controlled by way of a condition should Members decide to grant planning permission, giving the Council the scope to ensure any specific proposal does safeguard the openness of the Green Belt. In those circumstances it is concluded the proposed extension to Chigwell Cemetery may be treated as not inappropriate development.

Taken as a whole, therefore, it is concluded the proposal is for a mix of inappropriate and not inappropriate development that, on the greater part of the application site, would be result in a reduction in the openness of the Green Belt.

Such development may only be permitted in **very special circumstances**. Whether such circumstances have been demonstrated is explored below.

### Need for the development

The LPSV and the Council's Infrastructure Development Plan (December 2017) do not propose any increase in cemetery provision within Chigwell. Indeed, they appear silent on the matter of cemeteries. The application does include evidence of need for the expansion of Chigwell Cemetery in the long term, beyond the period the LPSV covers, and Officers agree that need is demonstrated by the evidence. Officers consider it far preferable to expand the existing cemetery rather than create a new one to meet that need. However, the only way of meeting that need which is presently available is through the grant of consent for the proposal as a whole.

In relation to the need for a specialist housing for the elderly, it is clear that the Council proposes to make such provision by way of site allocation CHIG.R4. Moreover, the site allocation is the only such allocation within the LPSV. The Applicant has submitted evidence of the need and Officers do not disagree there is a need and that the need within Epping Forest District is somewhat higher than elsewhere. Census data supports that view.

In making site allocation CHIG.R4 the Council has taken a position that in order to meet that need it is necessary to release Green Belt land. The local plan examination hearing in May 2019 has confirmed the site allocation is justified for inclusion in the LPSV and accordingly does not recommend any further modification to Policy P7 as being prescribed.

In the above circumstances, and given the very advanced stage of the LPSV, it is concluded that significant weight may be given to the site allocation.

### Design and visual impact

There is no material difference in the design and visual impact of the current proposal compared to the previous proposals, which was found to be acceptable in those terms. Following the submission of this application, a minor change was made to the alignment of an internal roadway and adjacent parking spaces to pull them away from the southern site boundary and make better provision for soft landscaping adjacent to that boundary. The assessment of this component of the proposal is therefore essentially the same as that for the refused proposals and reproduced with minor modification below. It is emphasised that the Council's position on this matter was set in its decision to refuse application EPF/3386/16, when no design objection was raised.

Since the cemetery component of the proposal in outline form only, the matter of its design and visual impact cannot be fully assessed at this stage of the planning process. Should consent be given for the proposal that would be considered as part of a submission for approval of reserved matters. In general terms, however, the cemetery would be a low-lying development that would not clearly be seen from any built up area. It would, of course, appear highly visible from PROW 302\_125 since the footpath passes through the western end of the proposed extension to Chigwell Cemetery. However, it is likely a detailed design and layout for the proposal would successfully integrate the footpath therefore its route does not impact on the feasibility of the current proposals.

As a built form, the proposed assisted living development would be well designed and laid out. The proposal is a bold modern design that is focused on a central green space with landscaped parking areas towards the edges of the site. The design of the buildings breaks

up what could otherwise appear excessively bulky by way of an irregular footprint and steeply pitched gabled roofs with eaves at varying heights. A good mix of indicative materials would also assist in breaking up the bulk of the buildings. The buildings would nonetheless have coherent and relatively simple forms. The result would be a bold design in a landscaped setting that would relate well in scale and form to the recent development to the south, the built form most closely associated with it in terms of distance and land level.

The development would appear prominent from the north elevations of buildings to the south, however, given a minimum 30m separation distance that would not cause excessive harm to the visual amenities of the occupants of those buildings. Additional landscaping proposed adjacent to the site boundary will soften the appearance of the development further. No excessive loss of privacy would arise.

The proposal would contrast with the older housing at Mount Pleasant Road. That contrast is appropriate given the distance separating the older housing from the nearest buildings, Blocks A and C, and the drop in levels from Mount Pleasant Road to the buildings, some 6m. The drop in levels is such that the lower third of the buildings would not be seen from ground level at Mount Pleasant Road. No excessive harm would be caused to the visual amenities of houses in Mount Pleasant Road and no loss of privacy would arise.

Visually, the proposed access road linking Mount Pleasant Road to the site would direct the eye to the western entrance to the main reception area and communal facilities of the development as one descends from Mount Pleasant Road to Blocks A and C. The access road would be the natural primary route into the site and in urban design terms is preferable to the proposed primary route off Woodland Road. However, the fact it is not does not make the proposal unacceptable in design terms.

The development would be apparent in long views from the east but the degree of impact is limited. Existing trees would substantially screen views of it from Froghall Lane and particularly from Chigwell Cemetery.

In conclusion, the proposal is acceptable in design terms and would appear as a high quality development. The main visual impact would be on outlook from buildings to the south and their associated gardens/parking areas on the north side of those buildings. The impact on outlook would be significant, particularly to the east where Block E would be sited 30m from the rear elevations of the buildings. However, the degree of harm would not amount to excessive harm to amenity and what limited harm arose would be mitigated by landscaping within the site and on the site boundary.

Clearly, the proposal would cause harm by way of seriously reducing the openness of the site, amounting to an encroachment of the urban area into the countryside. That matter has been considered above in terms of consequence for the Green Belt.

#### Access, parking and highway safety

As with the matter of design, Officer's assessment in relation to access, parking and highway safety is essentially the same as that for the refused application and no highways objection was raised to that scheme in the Council's reasons for refusal of application EPF/3386/16, establishing the Council's position on that matter. An updated assessment of this issue is set out as follows:

The extension to Chigwell Cemetery would be accessed from within Chigwell Cemetery. The Cemetery is accessed off Manor Road via Froghall Lane, a private road that for most of its length is not wide enough for two cars to pass each other. In the very long term that may well

result in a need to resolve potential conflict in vehicle movements along Froghall Lane. For the foreseeable future, however, the proposal would not be likely to generate significant conflict. Since such conflict may arise in the very long term, and may not arise at all, it is unnecessary to deal with that matter now.

The applicant's transport assessment identifies that the primary entrance into the site will be from Woodland Road with a second access from Mount Pleasant road. It anticipates that all trips to/from the site will use the access from Woodland Road although does not provide any further evidence to justify or demonstrate this will be the case. In connection to this, ECC Highways maintains that any grant of planning permission should include planning conditions that restrict the access on Woodlands Road for future residents and their visitors only and the access from Mount Pleasant Road for emergency vehicles. There is planning merit to including these conditions particularly as it would better manage highway safety concerns and the effects on amenity of existing residents from the associated traffic that the development would generate

In relation to parking provision, the applicant originally proposed to provide 132 parking spaces. Officers have since scrutinised this level of provision, particularly in view of the site's accessible location and the environmental related effects of overprovision and requested for this number to be reduced. The applicant has subsequently agreed to providing a lower level of parking equating to 85 parking spaces in total of which 65 spaces would be provided for residents only and the remaining 20 spaces for visitor/staff purposes. Whilst officers (and the applicant) have acknowledged that there are no adopted parking standards applicable to this type of development, it is considered that the reduced level of parking being proposed would strike an equitable balance between the perceived needs of the development and its accessible location. In addition, it is considered that a reduced level of parking would assist in enhancing the open character of the site and aiding efforts of the Council to reduce air pollution effects on both human health and the EFSAC.

Officers have also acknowledged the continued concerns from local residents where even a reduced parking level would not prevent parking in nearby roads. Whilst in theory the effect of reducing car parking provision onsite could result in greater parking in the surrounding roads, this prospect is considered to be made more difficult (and unlikely) given the introduction of resident only parking restrictions in Woodland Road. With regard to parking in Mount Pleasant Road, any potential parking arising as a result of the development (residents and/or visitors) would likely be limited given that the nearest secondary access point is proposed to be controlled for use by emergency vehicles only. Overall, it is considered that a reduced parking level is justified in respect of the aims of current and emerging planning policies.

### Green Belt Balance

Inappropriate development in the Green Belt may only be approved where it is demonstrated material planning considerations outweigh the harm caused by the development and that those considerations are very special. The question of whether material considerations in favour of development are very special therefore only need be assessed following a conclusion that they outweigh the identified harm. Simply outweighing the identified harm is not equivalent to amounting to very special circumstances.

Harm would be caused to the Green Belt by way of the development as a whole being inappropriate, causing a reduction in openness and by conflicting with the purposes of including the land in the Green Belt. At this point it is worth clarifying that despite the local plan examination not raising any in principle objections to the allocation for specialist housing (CHIG.R4) as currently prescribed, the LPSV has not been formally adopted at the time of

writing this report. Therefore on this basis, officers consider that it remains prudent to apply the most stringent assessment of the development's harm on the Green Belt.

Weighed against the identified harm are the benefits of the proposal in meeting the long term need for expansion of Chigwell Cemetery, the need for specialist housing for the elderly and the provisions of the LPSV for meeting such need through site allocation CHIG.R4, which seeks approximately 105 units of specialist housing on the full application site.

In relation to the cemetery point, the need for cemetery expansion in Chigwell is a long-term need, beyond the life of the Local Plan currently being progressed. The proposed cemetery extension would add approximately 80 years additional capacity to Chigwell Cemetery. In the meantime, the existing cemetery has capacity for approximately 25 years of burials before the extension is required. There is the possibility that the expansion could be secured through a future Local Plan process. However, to forego the opportunity available now is likely to result in a lost opportunity. That is because the offer of land for the cemetery is only available in the context of this application in advance of the adoption of the LPSV. As confirmed, given there is no objection to site allocation CHIG.R4, it is likely that it would be carried through into the final adopted version of the plan. In those circumstances, and since neither the LPSV or IPD identifies land for cemeteries in Chigwell, a developer would not be likely to consider it necessary to provide any land for the expansion of Chigwell cemetery. It is therefore concluded the provision for expansion of the cemetery in the application is a material consideration of significant weight.

In relation to the need for specialist housing for the elderly, the LPSV identifies other sites for residential development where, in theory, the need for specialist housing could be met. However, given the additional costs for developing such schemes, generated in part by the need for additional communal space within buildings and the need for larger sites, it is unlikely specialist housing could successfully compete with general housing for appropriate sites. In the circumstances, and given that CHIG.R4 is the only site allocation for specialist housing within the LPSV, it is concluded the need for specialist housing may be given significant weight.

The cumulative benefit of both providing land for Chigwell Cemetery expansion and specialist housing for the elderly in the context of an unopposed site allocation for specialist housing within the LPSV is considered to outweigh the harm the proposal would cause to the Green Belt.

It is therefore necessary to consider whether those material considerations amount to very special circumstances in favour of the development.

These considerations are unique geographically given the Council proposes to meet the need for specialist housing on this particular site alone. The growing need for specialist housing is acknowledged in general and within the site allocation while it is unclear that similar scale proposals for specialist housing could be delivered elsewhere. These considerations are also unique temporally since it is very likely that the land for the full application will be removed from the Green Belt in the short term. On that basis Officer's conclude they amount to very special circumstances that outweigh the harm that would be caused to the Green Belt.

#### Requirement for affordable housing

Adopted planning policy seeks the provision of at least 40% of the total number of dwellings in new residential development as affordable housing in order to meet a shortfall in the provision of such housing in the District. Where it is not appropriate to provide affordable housing on the development site a contribution towards off site provision is an acceptable

alternative. The level of contribution would be determined by an assessment of the viability of the development and the amount of subsidy required for a social housing provider to provide 40% of the number of proposed units as affordable homes.

In this case, notwithstanding that the internal arrangement of the proposed buildings is for apartments, the development would be managed as a whole. The main consequence of that is it would be impractical to provide 40% of the units as general affordable housing.

The Applicant continues to maintain the proposed development is a residential institution within Use Class C2, however, he no longer maintains the proposal is not a form of development from which planning policy seeks affordable housing. In those circumstances little would seem to turn on what Use Class, if any, the proposal is within. This matter was nonetheless considered in the assessment of the previously refused application and it is worth reproducing that assessment here since it amounts to a position the Council has already taken in respect of the proposal.

In support of their contention that the proposal is within Use Class C2, the Applicant previously provided Counsel's opinion, dated 1 August 2014, on the nature of the type of development proposed. The advice was the use is not within Use Class C3. However, it was ambivalent on whether the use falls within Use Class C2 or is in a class of its own, a 'sui-generis' use.

While Officers agreed on the first point, they were not convinced the use proposed falls within Use Class C2. To settle this, Counsel's opinion was sought. The advice given to the Council was that while the proposal does not fall within Use Class C3, it is neither a use within Use Class C2 nor a mixed use comprising of Use Classes C2 and C3 on the basis that none of the apartments would be a Class C3 dwellinghouse. Counsel's advice was therefore that the specific proposal before Members is a 'sui-generis' use.

Officers also sought advice from Counsel on whether adopted planning policy allowed for securing a contribution towards affordable housing in connection with this specific proposal. The advice given is that under adopted policy the apartments could be treated as "housing" and "dwellings" and the application could be treated as one for "residential use" as referred to in the policies.

Counsel pointed out adopted policies do not refer to the C3 Use Class nor do they tie contributions to only C3 dwellinghouses. Furthermore, the adopted policies appear to generally conform to advice in NPPF. Accordingly, there is a reasonable basis for seeking a contribution towards affordable housing in connection with the development proposed.

That position is reinforced by LPSV policy H 2, which requires developments of 11 or more homes or of more than 1000m<sup>2</sup> of residential floorspace to make provision for affordable housing at the same rate that the adopted Local Plan policy does. The Applicant seeks to demonstrate compliance with the policy by demonstrating their offer of a contribution of £1,700,000 towards the provision of off-site affordable housing, (increased after negotiation with officers from an original offer of £488,526, through £1,000,000 and £1,500,00) is in accordance with its requirements. Members are requested to note that despite the original negotiations taking place in 2018, the commentary below still remains relevant and factual to the considerations made at the time and now.

Initially the Applicant submitted a viability study to demonstrate what an appropriate contribution for affordable housing could be. That report, dated 16th May 2018 by GL Hearne, found that *"the residual land value generated by the proposed development is below*

*the Benchmark Land Value based upon what would be considered as an acceptable return for a development of this nature.”* In other words, no affordable housing contribution could be supported and the initial offer of £488,526 was on a without prejudice basis.

(Members are reminded that the proposal was subsequently amended to also include a contribution of £24,909 towards the provision of primary health care services and a contribution of up to £52,000 towards measures for mitigating the impact of the proposal on air quality within the Epping Forest SAC.)

In order to properly advise planning officers on the matter of an appropriate contribution for affordable housing the Director of Communities put the GL Hearn viability assessment to the Council’s viability consultant, Kift Consulting Limited (KCL), for validation. Following their analysis KCL concluded the approach taken by GL Hearn was flawed and therefore KCL would not confirm the validity of the viability assessment. The key difference between GL Hearn and Kift Consulting is the approach to establishing the existing use value of the site for viability assessments.

The establishment of existing use value is a complex matter. In this regard, paragraph 013 of the Planning Practice Guidance issued in 2019, one of a suite of documents supporting the National Planning Policy Framework, states:

***“To define land value for any viability assessment, a benchmark land value should be established on the basis of the existing use value (EUV) of the land, plus a premium for the landowner. The premium for the landowner should reflect the minimum return at which it is considered a reasonable landowner would be willing to sell their land. The premium should provide a reasonable incentive, in comparison with other options available, for the landowner to sell land for development while allowing a sufficient contribution to comply with policy requirements. This approach is often called ‘existing use value plus’ (EUV+).*”**

***In order to establish benchmark land value, plan makers, landowners, developers, infrastructure and affordable housing providers should engage and provide evidence to inform this iterative and collaborative process.”***

In relation to benchmark value, paragraph 014 states:

***“Benchmark land value should:***

- ***be based upon existing use value***
- ***allow for a premium to landowners (including equity resulting from those building their own homes)***
- ***reflect the implications of abnormal costs; site-specific infrastructure costs; and professional site fees and be informed by market evidence including current uses, costs and values wherever possible....***

***Where viability assessment is used to inform decision making under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan....”***

Further guidance on existing use value is given at paragraph 015, which states:

***“Existing use value (EUV) is the first component of calculating benchmark land value. EUV is the value of the land in its existing use together with the right to implement any development for which there are policy compliant extant planning consents, including***

***realistic deemed consents, but without regard to alternative uses. Existing use value is not the price paid and should disregard hope value. Existing use values will vary depending on the type of site and development types.”***

Existing use value + is addressed in paragraph 016, which states:

***The premium (or the ‘plus’ in EUV+) is the second component of benchmark land value. It is the amount above existing use value (EUV) that goes to the landowner. The premium should provide a reasonable incentive for a land owner to bring forward land for development while allowing a sufficient contribution to comply with policy requirements.***

Paragraph 017 addresses the matter of whether alternative uses may be used in establishing benchmark land value. It states:

***“For the purpose of viability assessment alternative use value (AUV) refers to the value of land for uses other than its current permitted use, and other than other potential development that requires planning consent, technical consent or unrealistic permitted development with different associated values. AUV of the land may be informative in establishing benchmark land value. If applying alternative uses when establishing benchmark land value these should be limited to those uses which have an existing implementable permission for that use. Where there is no existing implementable permission, plan makers can set out in which circumstances alternative uses can be used. This might include if there is evidence that the alternative use would fully comply with development plan policies, if it can be demonstrated that the alternative use could be implemented on the site in question, if it can be demonstrated there is market demand for that use, and if there is an explanation as to why the alternative use has not been pursued. Where AUV is used this should be supported by evidence of the costs and values of the alternative use to justify the land value. Valuation based on AUV includes the premium to the landowner. If evidence of AUV is being considered the premium to the landowner must not be double counted.”***

Following the advice of the PPG (then in draft form), KCL produced a validation report dated 16 July 2018 in which it concluded an EUV+ value of £525,980 should be used to represent the land/site value in the viability appraisal. GL Hearn had proposed a different land value (Residual Land Value rather than EUV+) of £4,216,893 with very different implications for the viability of the development and the potential for the development to contribute to affordable housing. GL Hearn’s viability assessment concluded *“the proposed scheme contained within the application produces a Residual Land Value below what is considered an appropriate Benchmark Land Value for this type of development”*, essentially maintaining the proposal is significantly unviable, resulting in a deficit of £6.2m. KCL disagreed, finding it would generate sufficient surplus to enable it to provide a commuted sum of £4,503,358 and remain financially viable with a remaining surplus of £117,880.

GL Hearn subsequently rebutted KCL’s findings and these were given consideration by KCL following the present PPG advice. That resulted in KCL agreeing a higher EUV+ of £2,145,000. While that would not allow for a policy compliant scheme delivering a contribution equivalent to support 40% affordable housing, KCL found it would support 18% affordable housing and deliver a small surplus of £46,402 which can be used as an additional financial contribution towards affordable housing. KCL therefore concluded a reduced total commuted sum of £2,533,122 can be supported by the proposed development.

GL Hearn submitted a further rebuttal maintaining its original conclusion that the development is not viable to support a contribution towards affordable housing, but noting that notwithstanding their conclusion, the Applicant still offered a contribution of £488,526. One of the points made by GL Hearn relates to whether site allocation CHIG. R4 would be likely to be developed for general residential housing if it were not developed for specialist housing. on the basis of informal pre-application officer advice. GL Hearn maintained general residential development of the site should be treated as a likely alternative use for the land and therefore the land should be given a higher value. Following subsequent discussions with the Planning Policy Team Officers, they reconsidered their informal advice on the basis of a reappraisal of the weight to be given to the site allocation and site specific requirements set out in the LPSV. Officers therefore advised KCL that a general residential development of the CHIG.R4 site would be contrary to the LPSV allocation and the Council would be bound to defend that allocation, especially if it is brought forward into the adopted Local Plan as seems likely. Officers consistently advised KCL it is very unlikely the Council would permit the development of the site for general residential development.

KCL responded to GL Hearn's second rebuttal, concluding it was not persuaded by any of the information contained within it to reconsider their earlier revised conclusion that a reduced total commuted sum of £2,533,122 can be supported by the proposed development. KCL also emphasised that sum would only be equivalent to providing 18% affordable housing rather than the policy requirement for a 40% contribution, but that was all the scheme could viably contribute. On the basis of KCL's advice, Officers continued to seek a total affordable housing contribution of £2,533,122.

The Applicant has carefully considered the position maintained by Officers supported by KCL and responded with a contribution towards affordable housing that is increased from £488,526 to a final offer of £1,700,000. Their original statement is reproduced below setting out the Applicant's final position on the matter of affordable housing and sets out total contributions to be offered in connection with the proposed development (and updated for the new sum):

*"We have been unable to reach agreement on the level of affordable housing contributions that are viable for the scheme. You will recall that our assessment states that no affordable housing contribution is viable on the site, whereas the Kift assessment concludes that a contribution of £2,533,122 is viable.*

*The areas that we have not been able to agree on are as follows:*

- *Inclusion of Ground Rents in the KCL financial appraisal; Site area / inclusion of cemetery land;*
- *GLH adopted BLV; and*
- *Existing Use Value plus a premium EUV+.*

*We have both concluded that it will not possible to be able to reach agreement on this matter and your Committee Report will need to reflect this accordingly. Neither our Planning Statement or Viability Appraisal for this application set out any offer for affordable housing, however, we fully recognise that the Council is seeking to avoid setting a precedent of undermining its affordable housing policy and thus in the interests of securing a consent we are prepared to offer a total off-site affordable housing contribution of £1,700,000. This offer is made without prejudice of our established viability position and this sum of money reflects our motivation to secure a planning permission, rather than any fallibility of the viability appraisal or evidence provided so far. It should be noted that no further increase to this contribution can be made.*

*To summarise our total offer of planning contributions is as follows.*

- *Affordable Housing - £1,700,000.*
- *Provision of approximately 1 acre of land to the Parish Council for the extension of Chigwell Cemetery.*
- *Hopper bus contribution - £52,500. NHS - £24,909.*
- *Epping Forest Air Quality – TBC, but expected to be £52,500.”*

It is recognised the Applicant has moved a considerable distance from their original position, which was that of their last refused application. It is also recognised the offer of a contribution of £1,700,000 would achieve the equivalent of about 16% affordable housing, which is very close to the 18% equivalent the scheme is demonstrably capable of supporting. However, whilst the view from Officers is still that the proposed development can make an affordable housing contribution of £2,329,874 and remain viable, in the current circumstances of disagreement between the two sides on this matter, officers consider that this upgraded offer by the Applicant results in a compromise position between the two parties (who have been unable to agree the viability appraisal for the scheme) and it is one that can be recommended as a way forward. Therefore, these negotiations have overcome the previous reason for refusal by an increase of £700,000 on the previous £1,000,000 sum.

#### Epping Forest Special Area of Conservation

A significant proportion of the Epping Forest Special Area of Conservation (the EFSAC) lies within the Epping Forest District Council administrative area. The Council has a duty under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) to assess whether the development would have an adverse effect on the integrity of the EFSAC. In doing so the assessment is required to be undertaken having considered the development proposal both alone and in combination with other Plans and Projects, including with development proposed within the LPSV.

The Council published a Habitats Regulations Assessment in January 2019 (the HRA 2019) to support the examination of the LPSV. The screening stage of the HRA 2019 concluded that there are two Pathways of Impact whereby development within Epping Forest District is likely to result in significant effects on the EFSAC. The Pathways of Impact are effects of urbanisation with a particular focus on disturbance from recreational activities arising from new residents (residential development only) and atmospheric pollution as a result of increased traffic using roads through the EFSAC (all development). Whilst it is noted that the independent Inspector appointed to examine the LPSV, in her letter dated 2 August 2019, raised some concerns regarding the robustness of elements of the methodology underpinning the appropriate assessment of the LPSV, no issues were identified in relating to the screening of the LPSV or the Pathways of Impact identified. Consequently the Council, as Competent Authority under the Habitats Regulations, is satisfied that the Impact Pathways to be assessed in relation to this application pertinent to the likely significant effects of development on the EFSAC alone and in-combination with other plans and projects are:

1. Recreation activities arising from new residents (recreational pressures); and
2. Atmospheric pollution as a result of increased traffic using roads through the EFSAC.

#### *Stage 1: Screening Assessment*

This application has been screened in relation to both the recreational pressures and atmospheric pollution Pathways of Impact and concludes as follows:

1. The site lies within the 3km - 6.2 km Zone of Influence as identified in the Interim Approach to Managing Recreational Pressure on the Epping Forest Special Area of Conservation' (the Interim Approach) adopted by the Council on 18 October 2018 as a material consideration in the determination of planning applications. Consequently the development would result in a likely significant effect on the integrity of the EFSAC as a result of recreational pressures.

2. The development has the potential to result in a net increase in traffic using roads through the EFSAC.

Consequently, the application proposal would result in a likely significant effect on the integrity of the EFSAC in relation to both the recreational pressures and atmospheric pollution Pathways of Impact.

Having undertaken this first stage screening assessment and reached this conclusion there is a requirement to undertake an 'Appropriate Assessment' of the application proposal in relation to both the recreational pressures and atmospheric pollution Pathways of Impact.

### *Stage 2: 'Appropriate Assessment'*

#### Recreational Pressures

The application proposal has the potential to increase recreational pressures on the EFSAC. However, the Council, through the development of the Interim Approach, has

provided a strategic, district wide approach to mitigating recreational pressures on the EFSAC through the securing of financial contributions for access management schemes and monitoring proposals. Consequently, this application can be assessed within the context of the Interim Approach. In doing so the Council has sought to take a proportionate approach to the securing of such financial contributions, and currently only seeks these from proposals for new homes within 3km of the EFSAC. As the application proposal lies more than 3km from the boundary of the EFSAC there is no requirement to make a financial contribution. Within this strategic context the Council is satisfied that the application proposal would not, as a result, have an adverse impact on the integrity of the EFSAC.

#### Atmospheric Pollution

The application proposal has the potential to result in a net increase in traffic using roads through the EFSAC. However, the Council, through the development of an Interim Air Pollution Mitigation Strategy (IAPMS), has provided a strategic, district wide approach to mitigating air quality impacts on the EFSAC through the imposition of planning conditions and securing of financial contributions for the implementation of strategic mitigation measures and monitoring activities. Consequently, this application can be assessed within the context of the IAPMS. The applicant has agreed to make a financial contribution in accordance with the IAPMS, and is indicated under 'Planning Obligations' section of the report. In addition the application will be subject to planning conditions to secure provision for electric car charging infrastructure for all parking spaces including super-fast broadband to support home based working. Consequently, officers are satisfied that the application proposal would not have an adverse impact on the integrity of the EFSAC subject to the satisfactory completion of a Section 106 planning obligation and the imposition of relevant planning conditions.

In summary, officers are satisfied that, subject to the satisfactory completion of a Section 106 planning obligation and the imposition of relevant planning conditions as set out above, the application proposals would not have an adverse effect on the integrity of the EFSAC.

## Other matters

The proposal would offset the consequence for local healthcare provision by way of an appropriate contribution towards the provision of primary health care services.

The site is within Flood Risk Zone 1, the lowest level of flood risk where development is directed. The Council's Land Drainage Team considers the proposal acceptable, supported by a good FRA. The matter of drainage was also considered by Thames Water, who raise no objection subject to conditions to protect their infrastructure. London Underground similarly considers their infrastructure can be adequately protected by suitable conditions.

There would be adequate provision for the storage and collection of waste.

There is no known archaeology on the proposed development site, or in the immediate vicinity.

In relation to biodiversity at the application site, Countrycare advises the proposal is acceptable subject to an appropriate condition. Sustainability measures such as the provision of electric vehicle charging points (as stated above) and limitations on water usage can be addressed by way of standard conditions once again.

Matters raised by local residents are largely addressed above. Safety is a material planning consideration and as a managed development it is not considered the consequence for crime would be greater than any other residential development. It is therefore concluded there is no substance to the concern that the development would be likely to result in an increase in crime in the locality.

The consequence for amenity and safety as a result of construction works and associated vehicle movements is important to address. This can be done by way of suitable conditions restricting working hours and requiring a construction method statement to be approved prior to works and thereafter adhered to.

## **Conclusion**

The application seeks to overcome the Council's reasons for refusal of application EPF/3386/16 which proposed a near identical development with an increased contribution for offsite affordable housing. That application was refused on the basis of harm to the Green Belt and failure to make proper provision for affordable housing. A significant material change in circumstances since that application was refused is the allocation of the site for specialist housing in LPSV site allocation CHIG.R4, which seeks approximately 105 specialist housing units.

Since the LPSV is not the adopted Local Plan, notwithstanding the allocation of the site for specialist housing within the LPSV, the application site remains within the Green Belt. The outline proposal for an extension to Chigwell Cemetery is not inappropriate development in the Green Belt and, subject to appropriate conditions, would not cause a significant reduction in its openness.

The detailed proposal for an assisted living development is inappropriate development in the Green Belt and would cause significant harm to its openness. However, it is evident from the above analysis that the cumulative impact of material considerations in favour of the development would outweigh the harm that would be caused to the Green Belt. Those material considerations comprise of:

- The provision land for the expansion of Chigwell Cemetery;
- The allocation of the site for specialist housing in the Submission Version of the Local Plan (site allocation CHIG.R4);
- The likelihood of site allocation CHIG.R4 being carried forward into the adopted plan; and
- The fact that the site allocation CHIG.R4 is the only allocation within the LPSV for specialist housing and consequently the primary way in which it is proposed to meet the need for such accommodation.

Those considerations are unique geographically given the Council only identifies this particular site to meet need for specialist housing within the District. The growing need for specialist housing is acknowledged in general and within the site allocation and it is unclear whether similar scale proposals for specialist housing could be delivered elsewhere as windfall developments. These considerations are also unique temporally since it is likely the land for the full application will be removed from the Green Belt in the short term with the consequence that the opportunity to secure an extension to Chigwell Cemetery through a further application is lost. For those reasons it is concluded those material considerations that outweigh the harm the development would cause to the Green Belt amount to very special circumstances.

The proposal is acceptable in all other respects except in respect of the provision it makes for affordable housing. Planning policy seeks an appropriate contribution towards affordable housing in lieu of the provision of 40% of the proposed dwellings as affordable housing, subject to the contribution being viable. Specialist advice to the Council is that the development could support a contribution of £2,533,122 and remain viable. That is at odds with the Applicant's position that the scheme cannot viably support any contribution and with the Applicant's without prejudice offer of a contribution of £1,700,000 towards affordable housing within the District. As is explained in the main body of this report, both the Applicant and the Council's consultants have undertaken considerable work that has resulted in a shift in the Council's position and an offer from the Applicant that goes a significant way towards the providing the sum the Council maintains would be a viable contribution.

In the circumstances, it is recommended that planning permission be granted for the proposal subject to securing the following planning obligations via S106:

- Cemetery land;
- Off-site affordable housing contributions;
- Hopper Bus and NHS contributions;
- Air pollution mitigations towards EFSAC;
- Restriction of residential occupation to persons of 60 years of age; and
- Restriction of use of onsite recreation/leisure and dining facilities for resident occupiers and their visitors only.

Should Members agree with Officers recommendation and decide to grant planning permission it will be necessary to refer the application to the National Planning Casework Unit (NPCU) under the Town and Country Planning (Consultation) (England) (Direction) 2021 since the proposal is a departure from the Green Belt policies of the adopted Local Plan. In the event the NPCU determines that the decision should fall to the Council to make, planning permission shall only be issued subject to the completion of the S106 Agreement as referred above.

***Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:***

***Planning Application Case Officer: Cuma Ahmet***

***or if no direct contact can be made please email:***  
***[contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)***