

EASTLEIGH BOROUGH COUNCIL

**Town and Country Planning Act 1990 (As Amended by the Planning
and Compensation Act 1991) – Section 78**

LOCAL PLANNING AUTHORITY'S (LPA) STATEMENT OF CASE

**Planning appeal against refusal of: Construction of Residential
Care Community comprising a 69-bed care home (Use Class C2)
and 5 x 2-bedroom close care cottages (Use Class C3 age
restricted), with associated access, internal access road, parking,
landscaping and infrastructure.**

Land adjoining 4 Brookfield, Providence Hill, Bursledon

Appeal by Colton Care Ltd

Planning Inspectorate Reference: APP/W1715/W/25/3366480

Eastleigh Borough Council Reference: F/24/97312

July 2025

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1. Introduction and background to appeal

- 1.1 The appeal application was received by the Council on 29th April 2024 and registered as valid on the same date. It was given a reference number of F/24/97312. The application was publicised and all the necessary statutory and non-statutory consultations were carried out.
- 1.2 The proposed scheme was amended during the course of the application, which included a reduction in the size of the care home from 73-beds to 69-beds. Other amendments included a reduction in the size of the south-eastern projecting wing of the care home, reduction in the number of south facing second floor windows, and amendments to landscaping. The amended description of development was as follows: *Construction of residential care community, comprising a 69-bed care home (Use Class C2) and 5 x 2-bedroom close care cottages (Use Class C3 age restricted), with associated access, internal access road, parking, landscaping and infrastructure.*
- 1.3 The care home would be located on the eastern side of the site with a roughly L-shaped layout and a height of up to 4-storeys. The dwellings would be located on the western side of the site. Vehicle access would be from Providence Hill, via a new bellmouth vehicle entrance. An existing vehicle access point adjacent to No. 4 Brookfield would also be retained, and this would be where the main pedestrian entrance into the site is located. The scheme would include 34 parking spaces, 4 of which would be on land adjacent to No.4 Brookfield and the rest being within the main site.
- 1.4 The application was resolved to be refused at the Bursledon, Hamble and Hound (BHH) Local Area Committee on 21 November 2024. A copy of the committee report and committee minutes were provided with the appeal questionnaire. The decision notice was issued on 29 November 2024 and the reasons for refusal were as follows:
 1. The proposed care home, due to its excessive height and bulk and close proximity to the rear garden boundaries of Nos.1-4 Brookfield, would represent a visually dominant, overbearing and intrusive form of development when viewed from the adjacent rear gardens, resulting in an unacceptable impact on the amenities of the existing residents. The proposal would therefore be contrary to Policy DM1 of the Eastleigh Borough Local Plan (2016-2036).
 2. The proposed development would have insufficient on-site parking and would result in the loss of existing parking for adjacent residents, which would result in increased pressure for parking on Providence Hill, leading to increased highway safety risks from

obstructions caused by unauthorised parking. The proposal would therefore be contrary to Policy DM13 of the Eastleigh Borough Local Plan (2016-2036).

3. Insufficient information has been provided to demonstrate that a care home of the proposed scale would not place undue pressure on healthcare services in the local area. The proposal is therefore contrary to Policy S10 of the Eastleigh Borough Local Plan (2016-2036).
4. Due to the speed and volume of traffic on Providence Hill, the increased level of vehicles entering and leaving the site from the proposed new access for such a large scale development, would pose increased risk to highway safety on the local highway network, contrary to Policy DM13 of the Eastleigh Borough Local Plan (2016-2036).
5. In the absence of developers contributions towards public art, community infrastructure, public open space, sustainable transport and a traffic regulation order, the development would not make provision for the infrastructure improvements necessitated by the proposed development. The proposal would therefore be contrary to Policy DM38 of the Eastleigh Borough Local Plan (2016-2036).
6. In the absence of mitigation, the development would fail to offset its impacts on the European protected sites from nutrient loading and recreational pressure. The proposal would therefore be contrary to Policy DM11 of the Eastleigh Borough Local Plan (2016-2036) and The Conservation of Habitats and Species Regulations 2017.

- 1.5 Following the refusal of the appeal application, a revised application (hereafter referred to as the 'revised scheme'), for a 68-bed care home and 3 cottages was submitted to the Local Planning Authority on 31 March 2025 (application ref. F/25/99169). This revised scheme followed a similar layout to the refused scheme in terms of building positions, access and landscaping, but proposed a reduced height and mass for the care home and a reduced number of cottages (5 reduced to 3). The reduction to the mass and height of the care home along with a further set back from the boundaries with the neighbouring residents, 1-4 Brookfield, was considered to address the previous concerns relating to impact on residential amenity. The reduced scale of development also allowed for the provision of additional on-site parking and retention of an existing area of land used for parking by neighbouring residents, addressing concerns about displaced parking and highway safety. This revised scheme was resolved to be permitted at the BHH Local Area Planning Committee on 19 June 2025, subject to completion of a S106 legal agreement to secure developer contributions and mitigation of impacts on European protected sites. The LPA is currently working with the applicant on the completion of the S106 Agreement. A copy of the Committee Report for the revised scheme is provided at **Appendix 1**.

- 1.6 Previous planning history on the site comprised two residential led schemes, one for a veterinary surgery and 14 dwellings which was refused in 2023 (ref. F/22/93160), and one for 20 dwellings that was withdrawn in 2020 (ref. O/17/80899).

2. Site and Surroundings

- 2.1 A detailed description of the appeal site is set out in the Committee Report, which was submitted with the appeal questionnaire. A brief summary is provided below.
- 2.2 The application site is located on the north-east side of Providence Hill (A27) and is roughly triangular in shape with land levels sloping down from west to east and south to north. The site extends to the rear of four existing dwellings, Nos. 1-4 Brookfield, at its eastern end. The next nearest neighbouring properties are located in Goslings Turning to the north. There are mature trees bordering the northern, south-western and part of the eastern site boundaries, some of which are subject to Tree Preservation Orders. There is a stream adjacent to the northern boundary and the Windmill Fields Site of Importance for Nature Conservation (SINC) lies to the east. The site also borders the Bursledon Windmill Conservation Area, which incorporates the Grade II* listed Bursledon Windmill and Grade II listed Granary. The area surrounding the site is predominantly residential in character, with the exception of a telephone exchange building adjacent to the eastern site boundary.

3. Development Plan Policy

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act states as follows: *"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise"*.
- 3.2 The Development Plan for the Borough of Eastleigh is the Eastleigh Borough Local Plan (2016-2036), which was adopted in April 2022, and the Hampshire Minerals and Waste Plan (October 2013).
- 3.3 The Adopted Local Plan
- 3.4 A full list of all the relevant planning policies of the Eastleigh Borough Local Plan are provided within the Statement of Common Ground and copies were submitted with the appeal questionnaire.
- 3.5 The key policies for the determination of this appeal are considered to be Policy S1 (Sustainable development), and those listed in the reasons for

refusal, notably Policy DM1 (General criteria for new development), DM11 (Nature conservation), DM13 (General development criteria – transport), and DM38 (Funding infrastructure). Although not specifically referenced in the reasons for refusal, Policy DM14, which relates to parking, is also considered to be a key relevant policy in the determination of this appeal.

- 3.6 Policy DM1 sets out general criteria that should be met for all new developments. This includes ensuring that development does not have an unacceptable impact on, and where possible enhances, residential amenities of both new and existing residents. Point (c) of the policy also emphasises that new development should: *'take full and proper account of the context of the site including the character, appearance and land uses of the locality or neighbourhood, and be compatible with adjoining uses and be well integrated with these in terms of mass, scale, materials, layout, density, design and siting, both in itself and in relation to adjoining buildings, spaces and views.'*
- 3.7 Policy DM11 relates to nature conservation and the need to ensure that international, national and local nature conservation designations are protected, conserved and enhanced.
- 3.8 Policy DM13 outlines the criteria for considering transport matters in new development. It states that access arrangements for new development must not cause or increase danger to road users or have a significant detrimental impact on the operation or safety of the highway network. Parking requirements are set out in Policy DM14, which states that new residential development will be required to provide off-highway parking which is adequate in terms of highway safety/ traffic management.
- 3.9 Policy DM38 relates to the provision of infrastructure necessitated by new development. The policy states that development will be permitted provided that arrangements have been made for the provision of, or contributions to the improvement of, any infrastructure, services, facilities or amenities necessitated by the proposed development.
- 3.10 A list of relevant Supplementary Planning Documents is also set out in the Statement of Common Ground and where relevant these are referred to in this statement of case.

Hampshire Minerals and Waste Plan (October 2013)

- 3.11 The Hampshire Minerals and Waste Plan covers the plan period from 1 January 2011 to 31 March 2030. The appeal site falls within the Hampshire Minerals and Waste Consultation Area (MWCA) due to the presence of underlying sand/gravel. Policy 15 of the Hampshire Minerals and Waste Plan seeks to protect resources from sterilisation by non-minerals

development over 3ha in size. Hampshire County Council was consulted during the application process but provided no comments. However, as the appeal site is below 3ha, it was determined that there would not be any implications in relation to minerals safeguarding.

4. National Planning Policy

- 4.1 The National Planning Policy Framework (NPPF) (Dec 2024) sets the Government's planning policies for England and how it expects them to be applied. The NPPF is a significant material consideration when making planning decisions. Sections of the NPPF considered most relevant to the determination of this appeal are summarised below.

Achieving sustainable development

- 4.2 The NPPF states in paragraph 2 that *"Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise"*.
- 4.3 Paragraph 11 states that *"Plans and decisions should apply a presumption in favour of sustainable development" and "For decision-taking this means:*
c) approving development proposals that accord with an up-to-date development plan without delay;
d) 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 this Framework that protect areas or assets of particular importance provides a strong 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 this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 4.4 Footnote 7 of the NPPF confirms that the policies referred to in point (i) includes those relating to habitats. This is of relevance to this appeal where it is identified that it would have adverse impacts on the integrity of European protected sites without sufficient mitigation. This matter is addressed in Section 5 of this statement of case.
- 4.5 Footnote 8 clarifies that policies are considered out of date for applications involving the provision of housing where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, which is currently the case for Eastleigh Borough Council. The most recent housing land supply calculations have determined that Eastleigh can achieve 4.1

years supply of housing when applying the 5% buffer, which falls below the five year supply requirement. A copy of the latest published calculations are provided at **Appendix 2**. Paragraph 11(d) of the NPPF therefore applies to the consideration of this appeal. In relation to part (i) of this paragraph, the appeal scheme has the potential to impact on European protected sites (as discussed in Section 5 of this Statement), and if these impacts are not satisfactorily addressed then this would provide a strong reason for refusing the scheme. If the impacts on European protected sites can be satisfactorily mitigated, then it is necessary to consider whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, as per part (ii) of paragraph 11(d).

Achieving well-designed places

- 4.6 Paragraph 131 of the NPPF highlights that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, and that good design is key to sustainable development and helps make development acceptable to communities. Paragraph 135 sets out specific points that should be taken into account in decision making, which includes (among other matters) ensuring that development: (a) *'will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development'*; and (f) *'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users...'*
- 4.7 In paragraph 137, community engagement is highlighted as an important element of design evolution for new developments. It states that: *'Applicants should, where applicable, provide sufficient information to demonstrate how their proposals will meet design expectations set out in local and national policy, and should work closely with those affected by their proposals to evolve designs that take account of the views of the community'*.
- 4.8 Paragraph 139 of the NPPF makes it clear that development that is not well designed should be refused.

Promoting sustainable transport

- 4.9 Section 9 of the NPPF relates to sustainable transport and notes that addressing transport issues are fundamental to delivering well-designed and sustainable places. This involves (among other matters), ensuring that streets, parking and other transport considerations are integral to the design of a scheme. Paragraph 116 states that: *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative*

impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios’.

5. Reasons for Refusal

- 5.1 This section addresses the reasons for refusal, addressing the harm and the conflict with the development plan. It also provides a response to the Appellants Statement of Case where relevant.

Reason for Refusal 1

- 5.2 This reason for refusal relates specifically to the impact of the proposed care home on the amenities of the residents of Nos. 1-4 Brookfield, which are two pairs of semi-detached properties located directly adjacent to the application site on the south-east side. These properties front onto Providence Hill and have rear gardens extending to the north-east, with a significant drop in ground level from the rear of the houses to their north-eastern garden boundaries. This change in land level is shown clearly in the Section Plan submitted with the appeal application, ref. 6185-WLA-A-ZZ-XX-DR-A-0050 Rev. D, and is included in **Appendix 3** for reference.
- 5.3 Site visits to the gardens of Nos. 1, 2, 3 and 4 Brookfield were carried out by the planning officer during the application process and by members of the Council's planning committee prior to the committee meeting (committee site visit date, 15 November 2024). Site photographs are provided in **Appendix 4**, which include those taken looking from the site towards the neighbouring rear gardens, and from the rear gardens looking towards the appeal site. From these site visits it was noted that the majority of the gardens of these properties appeared well used by the occupants of the dwellings, including the lowest areas immediately adjacent to the boundary with the appeal site. For example, the rear part of the garden of No.2 Brookfield was used for sitting out, and there is an area for children's play at the end of the garden of No.1. The photographs also show how some parts of the gardens are quite exposed to the appeal site due to the nature of the boundary treatment, particularly the lower parts of the gardens of Nos. 1 and 2 Brookfield. The extent of the outlook over the appeal site from No.4 Brookfield, which would be impacted by the presence of the care home building from both the north and west sides, is also clearly demonstrated in the photographs. The LPA considers that a true impression of the potential impact on the amenity of these neighbours at 1-4 Brookfield can only be gained by visiting their gardens and would therefore invite the Inspector to do so (subject to agreement with the owners).
- 5.4 The appellant has emphasised in their submission how the guidance in the Council's Quality Places Supplementary Planning Document (SPD) has been followed in designing the scheme, notably in relation to the separation distance between buildings. The relevant section of the SPD is

found on page 32 of the document (extract included at **Appendix 5**). It is stated here that at the rear of dwellings, a high standard of privacy is required for the windows of living rooms and outdoor private garden space. The associated diagram notes that a back to back separation distance of 22m minimum is required, with an additional 5m for each additional storey. It is also stated that 'beyond a distance of about 35m, reasonable privacy is achieved by remoteness'. The LPA acknowledges that the distance of around 38m (as shown on the Section Plan), that would be achieved between the rear elevations of the Brookfield properties and the south elevation of the care home would meet the separation distance guidance in the SPD in terms of back to back distances between properties. However, the proposal is for a care home of a substantially greater scale to the neighbouring dwellings and there are significant levels changes between the sites that need to be taken into account. It is not considered that the assessment of the impact on the amenity of the Brookfield properties can be made based on the separation distances alone.

- 5.5 Whilst there would be a separation distance of around 38m between the proposed and existing buildings, the distance from the rear garden boundaries of the neighbouring properties to the care home would be much less, measuring between 13m and 19m. As the Section Plan shows, the rear part of the gardens of these properties would be roughly at the same level as the upper ground floor of the care home, with the building then extending a further 3 storeys (approx. 13m) in height above this level. This part of the care home building would have a significant width, extending alongside the full rear garden boundaries of Nos. 2, 3 and 4 Brookfield (and to a lesser extent No.1), and then wrapping around alongside part of the western boundary of No.4. Taking account of the combination of the height and width of the building, and the land levels of the neighbouring gardens, it is the LPA's view that the building would appear excessively dominant, overbearing and intrusive, significantly impacting on the ability of the neighbouring residents to enjoy their private gardens.
- 5.6 It is acknowledged that the proposed scheme would include new tree planting adjacent to the garden boundaries to seek to soften and screen views of the development, but to some extent the fact that this is required emphasises that there is an impact that needs to be reduced. It is also important to note that any such planting would take time to establish and given the scale of the care home it is likely that its presence would still be apparent in views between and above the trees. The provision of new tree planting is not considered sufficient to mitigate the impact caused by a building of such a large scale so close to the rear gardens of the neighbouring properties.
- 5.7 By submitting a revised scheme, the appellant acknowledged the issues raised in the first reason for refusal and showed how the impact on the

amenities of the Brookfield residents could be addressed with a reduced mass and height of the care home. They worked closely with the neighbouring residents and local planning authority in preparing the revised scheme, taking a collaborative approach in line with guidance set out in the NPPF. The way in which the revised scheme reduced the impact on the neighbouring residents was explained in detail with supporting diagrams and drawings in Section 5 of the Design and Access Statement submitted with that scheme, an extract of which is included at **Appendix 6**. In the concluding paragraph to Section 5 (page 40), clay render images are provided to compare the revised scheme with the appeal scheme, and it is stated that: 'The overall impression is of a smaller built form and a much reduced impact upon the neighbouring properties'. This statement therefore indicates an acknowledgement that the previous scheme (now subject to this appeal) would have a much greater impact on the amenities of the neighbouring residents.

- 5.8 Taking account of the points raised above, the LPA considers that the amenities of the neighbouring residents would be significantly and adversely impacted by the proposed development, in direct conflict with Policy DM1 of the Local Plan, which is underpinned by the design objectives of the NPPF.

Reason for Refusal 2

- 5.9 This reason for refusal relates to a lack of on-site parking and displaced parking and the resulting impacts on highway safety.
- 5.10 A calculation of the parking requirement for the proposed development, in accordance with the Council's Adopted Parking Standards, is set out in paragraphs 176 to 177 of the Committee Report and is summarised in table 1 below.

Table 1: Parking requirement

	Adopted Parking Standard requirement	Calculation	Total
Care Home	1 space per staff member 1 space per 6 bedrooms	20 staff on site at any one time: $1 \times 20 = 20$ 69 bedrooms: $69/6 = 11.5$, rounded up to 12	32
Dwellings	1.5 spaces per dwelling (unallocated)	$1.5 \times 5 = 7.5$, rounded up to 8	8
			40

- 5.11 The proposed development would provide 34 parking spaces in total, which would comprise 28 for the care home and 6 for the houses. This level of on-site provision therefore constitutes a shortfall of 6 spaces against the Council's Adopted Parking Standards.
- 5.12 In addition, the residents of Nos. 1-3 Brookfield currently use a section of land adjacent to No.4 Brookfield to park their cars, with the area accommodating up to 4 vehicles. It is understood that the use of this land for parking was the result of a private agreement with the previous landowner, but the land is now within the ownership of the appellant. The appellants have emphasised that they could choose to restrict access for parking at any time and this is acknowledged by the Local Planning Authority. However, the fact is that (at the time of writing this statement), access to this parking area has not been restricted and it is currently still used for parking by the Brookfield residents. If this parking area were no longer available, there would be up to 4 further cars that would be displaced from the site to park elsewhere on the local road network.
- 5.13 To seek to justify the reduced parking provision against the Council's Parking Standards, the appellants noted that the level of parking was consistent with that at other care homes in their ownership and appropriate for their operational needs. They also submitted a Green Travel Plan to promote alternative means of transport for staff. On the first point, although the level of parking may be similar to that at other Colton Care developments, the LPA does not know the individual characteristics of those sites in terms of matters such as accessibility to public transport and availability of street parking or public car parks. With regard to public transport, the nearest bus stops to the appeal site are on Providence Hill around 450m to the south-east of the site entrance (Dodwell Lane). These serve First Bus routes X4 and X5 providing links between Portsmouth and Southampton, each with a 40 minute service during the week. The nearest railway station is Bursledon but this is over 1km away from the site and only provides an hourly train service and there are no connecting bus links. The Chartered Institute of Highways and Transportation (CIHT) 'Planning for Walking' document (2015) notes that for accessing bus stops in residential areas, people will typically walk up to 400m, and for railway stations this increases to 800m (section 6.4, page 30, extract in **Appendix 7**). The bus stop locations in this case are therefore slightly beyond the distance considered reasonable to expect people to walk to. Whilst it is accepted that bus travel would be an option for staff and visitors, given the distance of the nearest bus stop from the site, and the lack of other public transport options, it is not considered that the availability of public transport provides sufficient justification for a reduced parking provision for the development.

- 5.14 In terms of parking opportunities outside of the site, the only available unrestricted on-street parking in the immediate vicinity of the appeal site is a layby in front of the Brookfield properties. Due to the tapered shape of this layby it can only formally accommodate 4 cars. Providence Hill is a classified A road (A27), which provides a key route towards the city of Southampton and accommodates a high volume of traffic. Other than the layby in front of the Brookfield properties, there is no on-street parking along the part of Providence Hill adjacent to the application site, and cars are frequently seen parked on the grass verges which risks causing obstruction to the free flow of traffic and users of the footways. Photographs showing examples of verge parking on Providence Hill next to the site are provided in **Appendix 4**. Concerns about an increased risk of verge / obstructive parking were also raised in some of the representations, indicating that this is a common occurrence.
- 5.15 The next nearest available unrestricted on-street parking can be found in Windmill Lane to the west of the site and Oakley Vale to the east. If parking in Windmill Lane, the walk from a parked car to the main pedestrian entrance to the appeal site would be over 300m. From Oakley Vale, the walking distance would be shorter but would be uphill. There is also no guarantee that there would be parking spaces available in those streets, and the distances to the appeal site would be longer if parking had to be found further along these streets or further afield. Goslings Turning to the north of the appeal site is a private road and therefore provides no availability for public parking. Parking in other streets is therefore unlikely to be considered convenient for staff and visitors of the care home, therefore if on-site parking were full, the risk is that people would choose to park unlawfully on Providence Hill rather than park further afield, exacerbating the issues already occurring with unauthorised and obstructive parking on this classified road. Although the Appellant agreed to fund a Traffic Regulation Order on Providence Hill, this would only relate to the area adjacent to the new site entrance and would not prevent unauthorised parking along the wider stretch of Providence Hill adjacent to the site.
- 5.16 In summary, when considering the combined impact of the lack of on-site parking for the proposed development and the displacement of up to 4 cars that currently park on the application site, along with the lack of parking availability in the vicinity of the appeal site, it is considered that the risk of additional obstructive parking on Providence Hill would be significantly increased, impacting on the safety of highway users. The scheme therefore conflicts with the objectives of Policies DM13 and DM14 of the Local Plan and the objectives of the NPPF.

Reason for Refusal 3

- 5.17 Reason for refusal 3 related to concerns about increased pressure on healthcare services as it was considered that insufficient information had been provided at the time of the application to address this point. However, when the revised planning application was subsequently submitted (ref. F/25/99169), this included a Healthcare Impact Briefing Note (May 2025), which set out further detailed information about how the care home would operate and the measures that would be in place to seek to reduce pressure on local healthcare services. This document is provided at **Appendix 8**. As detailed in paragraphs 174 to 178 of the committee report to the revised scheme (**Appendix 1**), this further information was considered sufficient to determine that the development would not lead to undue pressure on local healthcare services. As the size of the care home in terms of room numbers is similar in both the appeal scheme and the revised scheme, the LPA considers that reason for refusal 3 has been addressed and will not be pursuing it as part of this appeal. The appellants have been informed of this decision.

Reason for Refusal 4

- 5.18 The LPA has considered the matters raised in this reason for refusal further, taking account of the comments of the Highway Authority to the appeal application in specific reference to traffic generation. The LPA has determined that the main concern relating to highway safety is that of increased risk of obstructive parking as per the matters detailed in reason for refusal 2. The LPA has therefore made the decision not to pursue reason for refusal 4 and the appellants have been informed.

Reason for Refusal 5

- 5.19 In accordance with Policy DM38, and other relevant policies of the Eastleigh Borough Local Plan, there is a requirement for planning obligations to secure on and off-site provision of facilities and infrastructure. These are either made necessary by the development, or are required to mitigate against the increased pressure on existing facilities or the need for additional facilities resulting from the proposed development.
- 5.20 For the appeal scheme, in accordance with the Council's Planning Obligations SPD and the requirements of the Local Highway Authority, contributions are requested towards the following: community infrastructure improvements; public open space and play provision; public art; sustainable transport; and a traffic regulation order. Contributions towards monitoring for Biodiversity Net Gain have also been requested in line with guidance recently implemented by the Council, as provided in **Appendix 9**. A draft of the Heads of Terms is included as an appendix to the Statement of Common Ground and the LPA is working with the appellant to complete

the S106 Agreement.

- 5.21 The planning obligations are justified in the guidance contained within the following documents:
- The NPPF;
 - Policies DM1, DM11, DM13, DM33 and DM38 of the Eastleigh Borough Local Plan;
 - Eastleigh Borough Council Planning Obligations Supplementary Planning Document (SPD), July 2008;
 - Eastleigh Borough Council Public Art Strategy 2023-2028
 - Hampshire County Council's Guidance on Planning Obligations and Developer Infrastructure Contributions (December 2023);
 - The requirements of Regulation 122 of the Community Infrastructure Levy Regulations; and
 - Biodiversity Planning Guidance Note (Eastleigh Borough Council, July 2025)
- 5.22 The scale of the financial contributions has been calculated in accordance with the various Council and County Council documents as listed above. Further justification for the contributions and details of what they would be spent on will be set out in a CIL Compliance Document prior to the Hearing.
- 5.23 It is noted that Hampshire County Council, as Highway Authority, would need to be party to the agreement. Should a S106 Agreement be completed in accordance with the required timescales, then this would address reason for refusal 5.
- 5.24 If a S106 Agreement is not completed, then the Council would maintain that the development would have an unacceptable, adverse impact on local infrastructure, services and facilities and the appeal should be dismissed.

Reason for Refusal 6

- 5.25 As explained in the Officer's committee report, the appeal site lies within the catchment areas for the Solent and New Forest European protected sites, where new residential and overnight stay development can result in harmful impacts due to increased recreational pressure. The appeal site also has the potential to result in harmful impacts on the Solent protected sites from increased nutrient output. These impacts are required to be mitigated in order to avoid harm to the integrity of the protected sites, to comply with The Conservation of Habitats and Species Regulations 2017. As no mitigation was in place at the time of the application determination, it was determined that the development would have the potential to harm the protected sites as set out in reason for refusal 6.
- 5.26 The European protected sites relevant to this appeal are as follows:

- Solent and Dorset Coast SPA
- Portsmouth Harbour SPA and Ramsar Site
- Chichester and Langstone Harbours SPA
- Solent Maritime SAC
- Solent and Southampton Water SPA
- New Forest SAC, SPA and Ramsar Site

5.27 As part of the application process, the LPA prepared an Appropriate Assessment, which was submitted to Natural England on 2 August 2024. A copy of the Appropriate Assessment is provided at **Appendix 10**. This sets out the proposed mitigation for recreational and nutrient impacts as follows:

- Payment of financial contributions towards the Solent Recreation Mitigation Strategy (Bird Aware Solent, 2024);
- Payment of financial contributions towards the Eastleigh Borough Council Interim New Forest Mitigation Strategy;
- Purchase of nitrate credits in accordance with the Eastleigh Nutrient Neutrality Offset Scheme.

5.28 Natural England responded to the LPA's Appropriate Assessment on 3 September 2024 and a copy of the response is provided at **Appendix 11** for reference. Copies of the mitigation strategies are provided at **Appendix 12**. Natural England has raised no objection to the proposed mitigation for Solent recreational impacts and nutrient impacts, but raised concerns about the effectiveness of the Council's Interim New Forest Mitigation Strategy. An objection from Natural England is therefore maintained, on the basis that they cannot conclude that the development would have no adverse effect on the integrity of the New Forest designated sites. It is the Council's view that its Interim New Forest Mitigation Strategy is robust and that compliance with the strategy would ensure no adverse impacts on the integrity of the New Forest protected sites. Therefore, subject to securing the required mitigation via S106 Agreement, reason for refusal 6 would be addressed.

5.29 If the S106 Agreement is not completed and mitigation is not secured, then the appeal scheme would result in likely significant effects on the integrity of the European protected sites, contrary to The Conservation of Habitats and Species Regulations 2017 and Policy DM11 of the Eastleigh Borough Local Plan.

6. Other matters – drainage

6.1 The proposed drainage strategy for the appeal scheme was revised during the course of the application process to address comments raised by relevant consultees, including the Lead Local Flood Authority. At the time the Committee Report was prepared, it was understood that the strategy

was agreed and a condition was recommended for implementation of the strategy in accordance with the latest version (Condition 10 as set out in the Committee Report). However, following issue of the decision on the appeal scheme, a further consultation response was received from the Lead Local Flood Authority, in which some further comments were raised about the strategy that required addressing. This response is included at **Appendix 13** for reference. Therefore, should the appeal be allowed, there would be a requirement for some further updates to the drainage strategy and the LPA considers that this could be addressed through a suitably worded planning condition (noting that an updated drainage strategy taking account of these points was agreed with the LLFA for the revised scheme). A draft list of suggested conditions is included as an appendix to the Statement of Common Ground, which includes revised wording for Condition 10 to cover this requirement (in the event the appeal is allowed).

7. Planning Balance and Conclusion

- 7.1 Sections 70(2) and 79(4) of the Town and Country Planning Act 1990, and Section 38(6) of the Planning and Compulsory Purchase Act 2004, require the appeal to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 7.2 As Eastleigh Borough Council cannot currently demonstrate a five year housing land supply, then subject to impacts on European protected sites being satisfactorily mitigated, the appeal falls to be determined in accordance with paragraph 11(d)(ii) of the NPPF. This requires an assessment of whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 7.3 In this case, as identified in this statement of case, the appeal scheme would result in adverse impacts on the amenity of neighbouring residents due to the height, bulk and proximity of the care home to neighbouring gardens, and would result in highway safety impacts due to a lack of on-site parking and displaced parking.
- 7.4 The LPA acknowledges that the appeal scheme would provide older persons accommodation for which there is a recognised need within the Borough. There would also be benefits in terms of employment provision, increased local spend, local infrastructure improvements, and biodiversity net gain. However, an alternative scheme could provide similar benefits, and in this case the revised scheme (F/25/99169), for which the Council has already given a resolution to grant permission, would deliver substantially the same benefits without giving rise to the same level of

harm. When compared to the revised scheme, the appeal scheme would only provide 2 additional dwellings and 1 additional care home bedroom, which would represent a minimal addition to the Borough's housing and accommodation needs.

- 7.5 It is therefore concluded that the identified adverse impacts would significantly and demonstrably outweigh the benefits and, in line with paragraph 11(d)(ii) of the NPPF, the appeal should be dismissed.