

Application No: 22/4203N

Location: Parkside, BUNBURY LANE, BUNBURY, CW6 9QZ

Proposal: Outline permission for demolition of one dwelling and erection of up to 25 entry-level homes (First Home dwellings), access off Bunbury Lane and all other matters reserved

Applicant: Roger Ryder

Expiry Date: 24-Jan-2023

SUMMARY

As noted above there is clear conflict between Policies SC5 & SC6 of the CELPS and the NPPF for this type of affordable housing. Planning law requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. In this instance given the absence of reference to this type of housing within the CELPS weight should be given to material considerations. Given the support for this type of housing within the NPPF and the absence of any evidence suggesting the need for this type of housing has already been met within the borough it is considered that the proposal is acceptable in principle.

The proposal would be contrary with BNP Policy H2 as it would be over the 15 dwellings threshold and would be co-located with another consented development.

The development would provide benefits in terms of providing 100% entry level homes, a form of affordable housing and the delivery of economic benefits during construction and through the spending of future occupiers.

The development would have a neutral impact subject to conditions upon flooding, living conditions, design, highway safety, air quality, open space, NHS, education and contaminated land.

On balance the benefits of the scheme primarily by proving entry level homes, is considered to outweigh the harm though co-location and a higher concentration of properties in this part of the village.

As such it is considered that the development constitutes sustainable development and should therefore be approved.

RECOMMENDATION
APPROVE

REASON FOR REFERRAL

The application is referred to committee as it exceeds 20 dwellings.

PROPOSAL

Outline permission is sought for the demolition of one dwelling and erection of up to 25 entry-level homes (First Home dwellings), access is included off Bunbury Lane and all other matters reserved.

SITE DESCRIPTION

The application site currently houses an existing dwelling off Bunbury Lane, Bunbury and an associated paddock. The area is predominantly residential area with properties both sides and front with open land to the rear.

The application site is flat and boundary treatment consists of a mixture 2m high planting and post and rail fencing. There are trees located to the northern boundary of the site.

The site is located in the Open Countryside as designated by the Local Plan and Neighbourhood Plan.

RELEVANT HISTORY

21/2010N – Outline planning application for demolition of one dwelling – Refused for the following reasons 28-Jul-2021 (dismissed at appeal)

1. *The proposed residential development is unsustainable because it is located within the Open Countryside and does not meet any of the exceptions noted for development within Open Countryside and is contrary to Policies PG6 (Open Countryside), SD1 & SD2 (Sustainable Development in Cheshire East) & SE2 (Efficient Use of Land) of the Cheshire East Local Plan Strategy, Policies H1 (Settlement Boundary) & H2 (Scale of Housing Development) of the Bunbury Neighbourhood Plan, Saved Policy RES5 (Housing in the Open Countryside) of the Crewe and Nantwich Local Plan, the Bunbury Village Design Statement and the principles of the National Planning Policy Framework, which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use.*

2. *The proposed development would result in some landscape harm for all but one receptor with some adverse effects and for most receptors the longer-term visual effects will remain adverse. This proposal is also an outline application and so while the existing western hedgerow and northern boundary trees may be retained, it is impossible to determine what tree planting or planting generally may be achieved, what the final layout might be and how effective that may be on minimising the landscape effects that the proposals may have – on both the peripheral residential development, but also on the immediate rural landscape. Therefore the proposal in its current form is contrary to Policies SE4 (The Landscape) & PG6 (Open Countryside) of the Cheshire East Local Plan, Policy ENV4 (Landscape Quality, Countryside and Open Views) of the Bunbury Neighbourhood Plan, the Bunbury Village Design Statement and the NPPF.*

3. *The application site includes historic evidence of roosting bats. No bat activity survey has been provided to establish the presence/likely absence of roosting bats. Therefore, insufficient information has*

been provided within the application and the development is contrary to Policy SE3 of the Cheshire East Local Plan Strategy, NE.9 of the Crewe and Nantwich Replacement Local Plan and the NPPF.

14/5255N – Detailed planning application for the proposed development of 52 dwellings, access and public open space – refused and dismissed at appeal 19th October 2016

1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policies NE2 (Open Countryside) and RES5 (Housing in the Open Countryside) of the Crewe and Nantwich Replacement Local Plan, Policy PG5 of the emerging Cheshire East Local Plan Strategy – Submission Version and the principles of the National Planning Policy Framework which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. As such it creates harm to interests of acknowledged importance.

2. The Local Planning Authority considers that the scale of the proposed development would be premature following the publication consultation draft of the Bunbury Neighbourhood Plan. As such, allowing this development would prejudice the outcome of the neighbourhood plan-making process and would be contrary to guidance contained at Paragraph 216 of the NPPF and guidance contained within the NPPG.

14/4880S – Screening Opinion for 50 residential units, open space and access – approval not required
31-Oct-2014

NATIONAL & LOCAL POLICY

National Policy

The National Planning Policy Framework establishes a presumption in favour of sustainable development. Of particular relevance are paragraphs:

- 11. Presumption in favour of sustainable development.
- 59. Delivering a Sufficient Supply of Homes
- 124-132. Achieving well-designed places
- 170-177 Conserving and enhancing the natural environment

Cheshire East Local Plan Strategy – Adopted Version (CELPS)

- MP1 – Presumption in Favour of Sustainable Development
- SD1 – Sustainable Development in Cheshire East
- SD2 – Sustainable Development Principles
- SE1 – Design
- SE2 – Efficient Use of Land
- SE3 – Biodiversity and Geodiversity
- SE4 – The Landscape
- SE5 – Trees, Hedgerows and Woodland
- SE6 – Green Infrastructure
- SE9 – Energy Efficient Development,
- SE12 – Pollution, Land Contamination and Land Instability
- SE13 – Flood Risk and Water Management

PG1 – Overall Development Strategy
PG2 – Settlement Hierarchy
PG6 – Open Countryside
PG7 – Spatial Distribution
SC4 – Residential Mix
IN2 – Developer Contributions
CO1 – Sustainable Travel and Transport
CO4 – Travel Plans and Transport Assessments
SC5 – Affordable Homes
IN1 – Infrastructure
IN2 – Developer Contributions
SC2 – Indoor and Outdoor Sports Facilities

Relevant policies of the Site Allocations and Development Policies Document (SADPD);

PG8 Development at Local Service Centres
PG9 Settlement Boundaries
PG11 Greenbelt Boundaries
GEN 1 Design Principles
ENV 1 Ecological Network
ENV 2 Ecological Implementation
ENV 3 Landscape Character
ENV5 Landscaping
ENV6 Trees, Hedgerows and Woodlands
ENV 7 Climate change
ENV16 Surface Water Management and Flood Risk
HOU1 Housing Mix
HOU3 Self Build and Custom Build Dwellings
HOU 8 Space, accessibility and wheelchair housing standards
HOU10 Backland Development
HOU12 Amenity
HOU13 Residential Standards
HOU14 Housing Densities
HOU16 Small and Medium Sites
INF3 Highways Safety and Access
INF 9 Utilities
REC 2 Indoor sport and recreation implementation
REC 3 Open space implementation

Bunbury Neighbourhood Plan (The original Bunbury NDP was made on the 29 March 2016. This plan still remains a part of the overall development plan for Cheshire East until it is revoked and superseded by the modified plan which is currently out for consultation)

H1 – Settlement Boundary
H2 – Scale of Housing Development
H3 – Design
LC1 – Built Environment
LC2 – Backland Development
ENV4 – Landscape Quality, Countryside and Open Views

BIO 1 – Biodiversity

Supplementary Planning Documents:

Cheshire East Residential Design Guide SPD (Parts 1 and 2)
The EC Habitats Directive 1992
Conservation of Habitats & Species Regulations 2010
Development on Backland and Gardens
National Planning Practice Guidance
Bunbury Village Design Statement
Housing SPD

CONSULTATIONS

CEC Highways: No objection subject to condition requiring the access works to be complete prior to commencement of development.

CEC Environmental Health: No objection subject to conditions/informatives offered in all other regards such as working hours, lighting, electric vehicle charging, piling, dust and contaminated land

CEC Flood Risk: No objection subject to condition requiring the development to be carried out in accordance with the FRA and requiring a detailed drainage strategy

CEC Public Right of Way (PROW): No objection subject to informative note reminding the applicant of their obligations to the PROW

CEC Housing: No objection

CEC Public Open Space: Needs on site provision or contribution towards amenity and play, recreation & outdoor sport & allotment/food growth

United Utilities – No objection subject to conditions regarding a drainage strategy

VIEWS OF THE PARISH/TOWN COUNCIL

Bunbury Parish Council – Objects on the following grounds:

- Nothing has changed since appeal decision
- Conflicts with CELPS & Neighbourhood Plan
- No presumption in favour of entry level units
- Limited employment in the village
- Limited bus service
- Narrow pavements
- Flooding/drainage issues
- Impact on amenity
- Impact on trees

Spurstow Parish Council – Objects on the following grounds:

- Sited within open countryside
- Would impact the rural nature of Spurtow
- Contrary to previous appeal decisions
- Exceeds the 80 dwelling figure in the Neighbourhood Plan Policy H1
- Exceeds the 15 dwelling figure in the Neighbourhood Plan Policy H2
- Access/highway safety concerns

REPRESENTATIONS

135 letters of objection have been received which raise the following issues;

- The proposal has not overcome the harm identified by the planning inspector for the refused scheme
- Harm to rural character of the village
- Loss of open countryside
- Contrary to Policies H1 and H2 of the BNP as the village has already accommodated 108 dwellings well over the 80 threshold and would result in co-location to the site to the north at Oak View
- Presumption in favour of sustainable development does not apply
- Highways safety impacts
- Harm to amenity through overbearing, overlooking and loss of light
- Noise and disturbance from vehicles for the dwellings adjacent to the access point
- Vibrations during construction/damage to neighbouring properties
- No unmet needs for entry level housing
- Impact on house value
- Harm to wildlife
- Drainage issues
- Pressure on existing services/infrastructure within the village
- Development is not needed given that Cheshire East have a 5 year housing land supply
- Would set precedent for future housing development

APPRAISAL

Principle of Development

The site lies largely in the Open Countryside as designated by the Adopted Cheshire East Local Plan, where policy PG6 states that within the Open Countryside only development that is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Exceptions may be made where there is the opportunity for limited infilling in villages; the infill of a small gap with one or two dwellings in an otherwise built-up frontage elsewhere, affordable housing (in accordance with Policy SC6) or where the dwelling is exceptional in design and sustainable development terms.

The proposal seeks new housing which is not one of the acceptable forms of development in open countryside. The exceptions are addressed below:

limited infilling in villages

It is not considered that the proposal complies with the exception relating to limited infilling in villages as the site is not located within a village settlement boundary but seeks to extend the existing cluster of ribbon development further into the open countryside to the south and west and thus appears more an isolated development which is set away from the main built form to the north. Given the location of the site outside of a village with no built form to west and south, it is not considered to comprise limited infilling as there is no gap in which to infill. The scale of development is also not considered to be limited as it would result in a larger intensity of development at this particular location which is predominantly ribbon development generally 1 row of properties deep.

The proposal is not considered to constitute limit infilling in a village as it is not identified within Policy PG10 of the SADPD.

Infill of a small gap with one or two dwellings in an otherwise built up frontage elsewhere

The site has no development to the south and west with this land being open baring non-permanent strictures as noted above. As such there is no gap between buildings in which to be considered either a small gap which is capable in being infilled.

Therefore, the proposal is not considered to constitute infilling of a small gap in an otherwise build up frontage.

Exceptional in design

The proposal is not considered to be on any exceptional design nor has the application been put forward as such and therefore such does not comply with this part of the policy exception.

Affordable housing in accordance with the criteria contained in Policy SC 6 'Rural Exceptions Housing for Local Needs'

In terms of affordable housing, the proposal seeks to provide entry level homes which is considered a form of affordable housing so complies with the first part of this exception. Therefore the proposal needs to be considered against Policy SC6.

Policies SC5 (Affordable Housing) and SC6 (Rural Exception Sites) are silent when dealing with entry level homes.

Reference to this type of housing is however contained within the 2018 NPPF update which first introduced entry-level exceptions sites into national planning policy. Paragraph 72 of the NPPF (2021) states that:

Local planning authorities should support the development of entry-level exception sites, suitable for first time buyers (or those looking to rent their first home), unless the need for such homes is already being met within the authority's area. These sites should be on land which is not already allocated for housing and should:

a) comprise of entry-level homes that offer one or more types of affordable housing as defined in Annex 2 of this Framework; and

b) be adjacent to existing settlements, proportionate in size to them (35)¹, not compromise the Protection given to areas or assets of particular importance in this Framework (36), and comply with any local design policies and standards

First Homes exception sites

In May 2021, a Written Ministerial Statement (“WMS”) was published by the Minister of State for Housing and this introduced a new form of affordable housing called First Homes. The WMS confirmed that from July 2021, a home meeting the criteria of a first home is to be considered to meet the definition of affordable housing as set out in Annex 2 of the NPPF (see also criteria a of NPPF para 72 as quoted above).

The WMS also confirmed that the entry-level exceptions site policy in the NPPF was to be replaced from July 2021 with a ‘First Homes exception sites’ policy due to concerns that the entry-level exceptions site policy had not delivered affordable housing to the extent originally envisaged.

Local Authorities are therefore encouraged to support the development of First Homes exception sites, suitable for first-time buyers unless the need for such homes is already being met within the local authority’s area.

The WMS includes various criteria for First Homes exceptions sites including that they should:

- be adjacent to existing settlements, be proportionate in size to them, not compromise the protection given to areas or assets of particular importance in the National Planning Policy Framework and comply with any local design policies and standards.
- be discounted by a minimum of 30% against the Market Value (set by an independent registered valuer).
- be sold to a person or persons meeting the First Homes eligibility criteria.
- be at a price no higher than £250,000 after the discount has been applied.
- be secured via a S106 legal agreement which secures the delivery of first homes and ensures that a legal restriction is registered onto a First Home’s title on its first sale and discount is ensured in perpetuity.

The WMS also states that First Homes should, as a matter of course, comply with any other applicable planning policies and / or building regulations.

Planning Practice Guidance

Planning Practice Guidance was last updated in December 2021 to include further guidance on First Homes, including the qualifying and eligibility criteria. As an exception site, the guidance states that First Homes exception sites can come forward on unallocated land outside of a development plan. The PPG

35 Entry-level exception sites should not be larger than one hectare in size or exceed 5% of the size of the existing settlement.

36 i.e. the areas referred to in footnote 7. Entry-level exception sites should not be permitted in National Parks (or within the Broads Authority), Areas of Outstanding Natural Beauty or land designated as Green Belt.

includes model clauses for S106 obligations including exceptions sites. The PPG also states that a developer should be able to show that the homes they intend to sell as First Homes will meet the criteria.

The Development Plan

Planning law requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations include national planning policy as identified above.

The development plan currently includes:

- The Local Plan Strategy (“LPS”)
- Site Allocations and Development Policies Document (“SADPD”)
- Saved policies from the Cheshire Waste and Minerals Local Plan (not relevant to this proposal)
- The Bunbury Neighbourhood Plan (“BNP”)

By virtue of the fact that the LPS was adopted prior to the introduction of entry-level exceptions sites in the NPPF 2018 or first homes via the WMS, there are no policies in the LPS specifically relating to entry level exceptions sites or first homes. The SADPD was also submitted for examination before the publication of the WMS. Under transitional arrangements, there was no requirement to address this form of development in the SADPD. The development plan does not reflect national policy for First Homes.

The LPS affordable housing requirement of 7,100 new homes over the plan period does not contain within it a specific requirement for First Homes and without this it is difficult to evidence whether need is being met. To date there have been no planning applications granted for first home developments in the Borough. A pilot scheme funded by Homes England is currently envisaged to deliver 17 dwellings on the Broadmeadow Park site in Sandbach.

The Council has recently adopted its Housing Supplementary Planning Document in July 2022. In respect of First Homes exceptions sites, the SPD states:

‘The First Homes Written Ministerial Statement and PPG have also introduced a First Homes Exception sites policy. Full details of the First Homes Exception Sites policy can be found in the Written Ministerial Statement and PPG and are not repeated here. From 28 June 2021, the Council will consider planning applications for the development of First Homes Exception Sites in accordance with the Written Ministerial Statement and PPG as a material consideration in decision making as references are not currently included in the development plan. The Council will consider the extent to which the proposal complies with national planning policy and whether the introduction of First Homes has any unacceptable impacts, with reference to existing local plan policies in the borough’.

Assessment against the NPPF and Ministerial Statement

In accordance with para 72 of the NPPF footnote 35 the site is not larger than 1 hectare and would not exceed 5% of the size of the existing settlement, nor is it located within a National Park, AONB or Green Belt.

In accordance with the Ministerial Statement the proposal would be located adjacent to an existing settlement, would be proportionate to the size of the existing settlement, would not prejudice protection

of assets, design would be secured at reserved matters stage and tenure would be secured by way of Section 106 Agreement.

Principle conclusion

As noted above there is clear conflict between Policies SC5 & SC6 of the CELPS and the NPPF for this type of affordable housing. Planning law requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. In this instance given the absence of reference to this type of housing within the CELPS weight should be given to material considerations. Given the support for this type of housing within the NPPF and the absence of any evidence relating to need it is considered that the proposal is acceptable in principle.

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy support.

BNP

Policy H1 of the BNP advises that Planning permission will be granted for a minimum of 80 new homes to be built in Bunbury in the period from April 2010 to March 2030. Development in the Neighbourhood Plan Area will be focused on sites within or immediately adjacent to Bunbury village, with the aim of enhancing its role as a sustainable settlement whilst protecting the surrounding countryside.

Policy H2 also advises that new development will be supported in principle provided that it is small scale, and in character and when dealing with greenfield sites only a maximum of 15 new houses on any one available and deliverable greenfield site immediately adjacent to the village. Such developments should not be co-located with other new housing developments unless there are demonstrable sustainable benefits from doing so.

As part of the previously refused that was dismissed at appeal, the planning inspector considered the proposal against policies H1 & H2 concluding that *"...although it may result in more than 80 houses being provided within the plan area, as this is not an upper limit this would not be unacceptable. As such, the proposal would comply with the aims and requirements of BNP Policies H1 and H2."*

Whilst the current proposal seeks 10 additional dwellings, following the inspector's conclusion that the figure of 80 is clearly not a sealing point, the same conclusion can only be reached here. Therefore, the proposal complies with Policy H1. It is also noted that this policy is being removed under the initial draft revision of the BNP, although this draft is still under consultation and as such carries very limited weight.

The proposal at 25 dwellings, would be over the 15 dwellings threshold for greenfield sites as contained in Policy H2 of the BNP and would be co-located to a consented site to the north known as Oak Gardens. However, the inspector in refusing the appeal scheme did not find any conflict with Policy H2 in relation to co-location advising that *"the proposal would comply with the aims and requirements of BNP Policies H1 and H2"*.

This is clearly an important consideration for this scheme and given that the current proposal relates to the same site, it is only logical that the same conclusion should be reached here.

It is also considered that any partial conflict with Policy H2 needs to be weighed in the overall planning balance against the benefits of the proposal and the support for this type of housing within the NPPF.

Again it is also noted that this policy is being removed under the initial draft revision of the BNP, although this draft is still under consultation and as such carries very limited weight.

Housing Land Supply

The Council has deliverable supply of housing land in excess of the minimum of 5 years required under national planning policy and the latest published position can be found in the Council's Housing Monitoring Update Report.

The 2020 Housing Delivery Test Result was published by the Department for Levelling Up, Housing & Communities on the 14 January 2022 and this confirmed a Housing Delivery Test Result of 300% for Cheshire East.

A less than five year deliverable housing land supply or under-performance gauged through the Housing Delivery Test can result in relevant policies concerning the supply of housing being considered out-of-date with the consequence that the 'tilted balance' at paragraph 11 of the NPPF is engaged. However, because of the Council's strong performance, the 'tilted balance' is not engaged by reference to either of these

Affordable Housing

This is a full application for up to 25 dwellings (net total increase 24 dwellings as it seeks to remove the existing dwelling) and as per Policy SC5 there is a requirement for 30% of dwellings to be provided as affordable dwellings with a split of 65/35 between social rented and intermediate housing.

However, in this instance all the units would provide entry level homes and thus seeks 100% affordable housing provision. The Council do not have any evidence that need for this type of housing has been met within Cheshire East.

The exact mix and location of the affordable dwellings can be detailed in the Reserved Matters application, with the provision secured as part of a S106 Agreement.

Education

The development of up to 25 applicable dwellings is expected to generate:

- 5 - Primary children (25 x 0.19)
- 4 - Secondary children (25 x 0.15)

The development is expected to impact on secondary school places in the locality (there are no capacity issues at local primary schools). Contributions which have been negotiated on other developments are factored into the forecasts both in terms of the increased pupil numbers and the increased capacity at primary and secondary schools in the area because of agreed financial contributions. The analysis undertaken has identified that a shortfall of secondary school places remains.

The Service acknowledges that this is an existing concern, however the 4 secondary age children expected from this development would exacerbate the shortfall.

To alleviate forecast pressures, the following contributions would be required using the below formula as this is subject to the final number of houses being delivered:

£17,959 per secondary pupil place

Provision would be secured as part of a S106 Agreement.

Health

The South Cheshire Commissioning Group (SCCG) has devolved powers to act on behalf of the NHS. In order to mitigate the impact of this development a contribution has been requested and this will be secured as part of a S106 Agreement. The requested contribution is as noted in the table below to support the development as they consider this planning application will have a direct impact on health care provision within the Primary Care Network boundary of Rural Alliance.

<u>No. of Beds</u>	<u>Amount of Occupants</u>	<u>Correlating Cost</u>
1 bed unit	1.4 persons	£612 per 1 bed unit
2 bed unit	2.0 persons	£875 per 2 bed unit
3 bed unit	2.8 persons	£1,225 per 3 bed unit
4 bed unit	3.5 persons	£1,531 per 4 bed unit
5 bed unit	4.8 persons	£2,100 per 5 bed unit

As a result, the contribution is considered to be both reasonable and necessary and should be secured by way of section 106 agreement.

Open Space

Policy SE6 requires major developments (10 or more) to provide open space in line with Table 13.1. The minimum requirement of 65m² per dwelling consisting of children's play space, amenity green space, food growth and green infrastructure connectivity should be provided on site. The Councils Open Space Officer would expect to see a LAP laid out for young children and sufficient open space for informal recreation in line with the above.

The indicative layout shows that the development would provide open space to the south of the site.

The Councils Open Space Officer has concerns with the amount of Open Space being provided as the habitat plan shows amenity areas equating to verges and planting as part of an acceptable landscape scheme. It does not provide open space in line with policy SE6. However, as the plan is only indicative it is only showing one possible way in which the site could be developed, and it is considered that that a revised scheme based on a maximum of 20 dwellings could provide the required open space provision.

The Policy requires onsite provision in the first instance. However, contributions could be sought for offsite enhancements to mitigate the impact of the development. Contribution requirements are as follows:

Combined amenity and play	-	£3,000 per dwelling
Recreation & Outdoor Sport	-	£1,000 per dwelling

Allotment/food growth - £562.50

It should also be noted a complete review of the Play Pitch Strategy is currently taking place which will form the Playing Pitch and Outdoor Sport Strategy. The PPOS considers additional sports to the original PPS such as tennis, bowling, archery, baseball/softball and athletics. When adopted the additional sports may support active lifestyles within Bunbury.

This will be secured via a S106 Agreement.

Location of the site

Both policies SD1 and SD2 of the CELPS refer to supporting development in sustainable locations. Within the justification text of Policy SD2 is a sustainable development location checklist.

In this instance no such assessment has been provided with the application. The facilities in the locality are based in the village approx. 400m away to the north. The bus based on the D and G Bus Timetable website, shows that the bus stop at the Co-op located 400m to the north has a service No.70 to Nantwich running x2 services a day Monday to Friday, x2 services Saturday and no services on Sunday.

The nearest bus stop is sited 400m away to the north. This distance is within the acceptable walking distance of 500m as noted in Policy SD2, although the frequency of this service is limited.

As a result, on balance the site would appear to meet a number of threshold contained with Policies SD1&SD2 in terms of locational sustainability.

Nevertheless, locational sustainability is not the determinative factor in its own right.

Residential Amenity

The main residential properties affected by this development are those located to the north and east off Bunbury Lane

The proposal has been submitted in outline form with siting and appearance a reserved matter, however an illustrative plan has been provided which shows one way in which the site could be developed. This shows housing located close to existing properties to the north and eastern boundaries of the site. The plots to the eastern boundary are shown as being 13.5m between main face to side elevations (0.5m shy of required 14m interface) and 19m between main face elevations (2m shy of required 21m interface). It also shows plots to the northern boundary being sited 21m between main face elevations and plots to the south being sited 14m between side elevations.

Some of the plots would need to be revised to increase interface distances and garden areas, this would be addressed at reserved matters stage. However, it does highlight the concern that the site is not large enough to accommodate up to 25 houses given the need to provide the required interface distances, appropriate garden sizes, avoiding shading by existing trees, appropriate amount of public open, space relevant road infrastructure to serve the site, parking areas, planting etc. Therefore, it is considered that the site is overdeveloped/too high density for up to 25 dwellings. It is accepted that the inspector did not find harm in this regard for the scheme subject to appeal, however that was for a scheme of just 15 houses thus less built form/intensity of development to the 25 dwellings currently being proposed.

It would however appear that the site could accommodate up to 20 dwellings as this would remove 5 properties from the layout, which the site would appear to be able to accommodate and provide the relevant amenity, open space and infrastructure requirements.

Therefore, subject to condition limiting the number of dwellings to up to 20 (which has been agreed by the applicant), it is considered that the proposal could be accommodated without causing significant harm to living conditions. Nevertheless, the full amenity impacts will not be known until reserved matters stage.

Amenity to proposed occupants

Most of the plots would appear capable of providing at least the recommended minimum garden area of 50sqm as noted in the SPD. However, some plots would be shy of this at 40sqm. Again, this would be addressed at reserved matters stage but highlights the above concern regarding the ability to accommodate up to 25 units, hence 20 appears more appropriate.

No information has been provided to consider room sizes/access for all, this would be dealt with at reserved matters stage.

Therefore, the proposal complies with Policies HOU12.

Space, Accessibility and Wheelchair Housing Standards

Policy HOU8 of the SADPD states that in order to meet the needs of the Borough's residents and to deliver dwellings that are capable of meeting people's changing circumstances over their lifetime, the following accessibility and wheelchair standard will be applied to major developments;

- a) At least 30% of the dwellings in housing developments should comply with the requirements of M4(2) Category 2 of the Building Regulations regarding accessible and adaptable dwellings; and
- b) At least 6% of the dwellings in housing developments should comply with the requirement m4 (3)(2)(a) Category 3 of the Building Regulations regarding wheelchair adaptable dwellings.

As layout would not be known until reserved matters stage this can be secured by condition.

Contaminated Land

The application is for new residential properties which are a sensitive end use and could be affected by any contamination present. As such Environmental Health Officers have requested conditions dealing with contaminated land.

Highways

Sustainable access

There is existing pedestrian infrastructure providing access to the wider Bunbury area including to the local centre with a number of destinations including a local retail shop.

It is noted that the footways are narrow at parts, and that the bus service is limited and not practical for a lot of uses, but the proposed development is small and the principle of development, from a highway's perspective, was acceptable for the previous two applications one of which was significantly larger.

Safe and suitable access

Visibility splays reflecting both the speed limit and those agreed with the previous applications have been provided and are also acceptable. To accommodate the splays it has been proposed to build out the footway at the access site frontage. The resultant carriageway width will remain above 6m and is considered sufficient, and the details of the proposal will be subject to a Road Safety Audit if the application is approved.

Network Capacity

The proposal is small and will generate approximately 10 to 15 vehicle trips during the peak hour, and the traffic generation therefore does not raise concern, and again is significantly less than one of the previous proposals.

Conclusion

As a result, the Councils Highways Engineer has raised no objection subject to condition requiring the proposed access works to be complete prior to commencement of development.

The proposal will not result in any significant harm to the existing highway network.

Landscape

The application site is formed by Parkside – a residential property located along Bunbury Lane along with an agricultural field which is located to the rear of parkside. The Ecological Appraisal notes a hedgerow along the northern boundary and western boundary and three mature Oak trees along the northern boundary. The site is bound to the east and north by existing residential dwellings; to the south and west is the wider rural landscape.

The Councils Landscape Officer raised concerns about the impact of the proposal on the local landscape character as part of the previously refused scheme. However the planning inspector did not find any landscape harm advising “...*the appeal site is a small area relative to the village and its surroundings, and I find its contribution is therefore limited. The proposed residential development, although significantly changing the character of the field, would not change the appearance of any surrounding land and as such there would be only a very limited effect on the character and appearance of the surrounding area as a whole*” he therefore concluded “*the proposal would not, by way of its location and the loss of the rural character on site, unacceptably affect the character and appearance of the surrounding area and landscape*”.

Whilst this proposal is for 10 additional dwellings, given the inspectors comments about the landscape impact of the site being limited and that the proposal relates to the same site the same conclusion can only be reached here. The proposal therefore complies with Policies SE4 & ENV3.

Trees

Selected individual and a group of trees within the site are afforded protection by the Cheshire East Brough Council (Bunbury – Land west of Bunbury Lane) Tree Preservation Order. Trees are afforded consideration under Policy SE 5 of the Local Plan and are therefore material to this application.

Policy SE 5 of the LPS and ENV6 of the SADPD require that retained trees should be successfully integrated into the development design and take into account the ultimate mature size of trees and their relationship to buildings and private amenity space to avoid future conflict with residential amenities.

An illustrative plan is provided as part of the Design and Access Statement showing protected trees located adjacent to the northern boundary within gardens of Plots 11, 12 and 16.

BS5837:2012 Trees in relation to design, demolition and Construction – Recommendations identifies at para 5.2 Constraints posed by Trees that all relevant constraints including Root Protection Areas (RPAs) should be plotted around all trees for retention and shown on the relevant drawings, including proposed site layout plans. Whilst the draft layout plan appears to show proposed buildings outside a defined root protection area, above ground constraints have not been taken into account as part of the layout design

Here, the retention of mature high canopy mature trees within residential gardens are likely to lead to conflicts where they dominate plots and to unreasonable shading and loss of light to private amenity space and rooms

This issue is considered in BS5837:2012 Section 5.3.4 and is a key factor to be factored into the design to reduce the risk of requests for felling and / or sever pruning by future occupiers. Such applications are difficult to defend at appeal should they be refused when trees are retained in such close proximity as to cause shading to a large part of the plot. The problems related to buildings and spaces around them having low daylight and sunlight levels is well known and has been the subject of specific guidance in; government circulars; Chartered Institute of Building Service Engineers (CIBSE), British Standards Institute (BSI) and Building Research Establishment (BRE) guidance. All the guidance as a whole points to the need to have sufficient daylight and sunlight both within and around buildings and that this should be part of the site planning for development

The final design should therefore seek to ensure that adequate provision is made for the long-term sustainable retention of trees, by their incorporation within areas of open green space or within gardens of sufficient size that they can be accommodated.

As the site plan provided is indicative only final layout would not be known until reserved matters stage however it appears that the proposal could be accommodated without undue harm to existing trees on site.

The proposal therefore complies with Policies SE5 & ENV6.

Design

Policy SE1 (Design) of the CELPS states that development proposals should make a positive contribution to their surroundings. Policy RES.11 states that development should respect the setting, design, scale, form and materials of the original dwelling.

In this instance as the application has been submitted in outline form, no details of design, appearance or layout have been provided and thus such impacts would be addressed at reserved matters stage.

Access

The site is a back land site accessed from Bunbury Lane on the southern approach to the village and this single point of access is accepted.

Site Layout and Density

The indicated density of over 31dph on this edge of village site, located predominantly outside of the settlement boundary, is considered too high in design terms and that the arrangement and density of the blocks would be out of context with the existing urban grain of Bunbury.

Whilst the 'outward looking' layout is appreciated, with the site forming the rural edge of the village, the density to the western boundary, is too high. This is further exacerbated by the form of two short, terraced blocks and the preponderance of frontage parking which would lead to vehicles dominating the street scene. A thinning out of the homes on this boundary would enable side parking and reduce the dominance of cars in the streetscape. There is guidance on settlement edges included in the Cheshire East Borough Design Guide (Vol 2, ii|62-82, pp. 22-23) and on block forms and urban grain (Vol 2, ii|27-34, pp 19-20).

Whilst at this stage the house type designs are not known, the inclusion of corner turning and/or dual aspect blocks is recommended at key locations such those at the gateway to Bunbury Lane and those addressing what appears to be a raised platform junction to the south of the site. It appears that the units shown as 'F' may appear to fulfil this function.

Scale and Massing

It is appreciated that the details re. scale and massing will be addressed at Reserved Matters stage but the indication of a maximum of 2-storey development is considered appropriate in this location in design terms. Massing is more problematic with the terraced forms described above.

Streets

Going forward, streets will need to be designed in accordance with the Cheshire East Borough Design Guide (CEBDG, 2017i) both in terms of design and materiality. Materials palettes for hard surfacing can be found in Vol2 of the CEBDG, on page 52.

Parking

Again, this is only indicative at this stage, but whilst resident parking numbers appear to be broadly adequate there appears to have been no consideration of visitor parking which can, if positioned well, serve to reduce the informal 50:50 kerb/verge parking that can affect the quality of the place. There is also a sense that parking does dominate the development, with a predominance of frontage bays.

Bin and Cycle Storage

As outlined in the Cheshire East Borough Design Guide Vol 2 (CEC, 2017i, ii|119-123, p.30) how this is handled should be detailed in planning applications. As this is an outline application the brief statement in the DAS (p.13) is sufficient but more information will need to be provided through Reserved Matters. At present it is felt that adequate refuse, recycling and cycle storage would be difficult to deliver successfully with the number of properties proposed.

Architecture and Materials

As an Outline application little detail is provided as would be expected, but it is reassuring to see some contextual analysis and reference to the CEBDG and it would be expected that this appreciation of context is continued through the detailed design stages.

Conclusion

It should be noted that the proposal has been submitted in outline form so the final design/layout will not be addressed at reserved matters stage. However, concerns are raised regarding the number of units proposed for this out of settlement site given the need to have regard to local context and density, along with the need to provide the requires parking areas, open space, garden areas etc.

It is however considered that the site could accommodate a smaller number of dwellings. Therefore, it is suggest that any approval should limit the maximum number of dwellings to 20, which can be secured by condition.

Ecology

Hedgerows

Native species hedgerows are a priority habitat and hance a material consideration. There are existing hedgerows on two of the site's boundaries. Based on the location of the hedgerows on site it appears feasible for these to be retained. However, if any existing hedgerow is lost as part of the detailed design for the site, then adequate compensatory planting must be provided at the reserved matters stage.

Grass snake

This species is known to occur in close proximity to the application site. The habitats on site however provide only limited opportunities for this species. The potential impacts of the proposed development are therefore limited to the risk of grass snake entering the site during the construction phase. This impact can be mitigated through the implementation of 'Reasonable Avoidance Measures'. If planning consent is granted, the Councils Ecologist recommends that a condition be attached that requires the submission and implementation of a Method Statement of Reptile Reasonable Avoidance measures with any future reserved matters application.

Bats

Historic evidence of roosting bats was recorded during the initial surveys of the buildings on site. No evidence of bat roosting was however recorded during the subsequent bat activity surveys. The Councils Ecologist therefore advises that roosting bats are not reasonably likely to be directly affected by the proposed development.

Excessive lighting however has the potential to have an adverse impact upon roosting bats that may commute or forage on site. If outline consent is granted a condition would be required to ensure that a suitable lighting strategy is submitted with any future reserved matters application.

Great Crested Newts and Badger

The Councils Ecologist advises that these species are not reasonable likely to be affected by the proposed development.

Biodiversity net gain

In accordance with Local Plan policy SE3(5) all development proposals must seek to lead to an overall enhancement for biodiversity.

To increase the biodiversity value of the developed site the application is supported by outline proposals for the creation of grassland habitats and scrub planting within the open space area of site.

In order to assess the overall loss/gains of biodiversity the applicant has submitted an assessment undertaken in accordance with the Defra Biodiversity 'Metric'. The metric shows that the proposed development would deliver a net gain for biodiversity. There is a possibility that the grassland creation proposed on site may not achieve its target condition, however, even with the target condition lowered the calculation still shows that the development would result in a net gain for biodiversity.

Conclusion

Subject to the conditions listed below, the proposal can be accommodated without any significant ecological harm and complies with Policies SE3, ENV1, ENV2.

- Submission and implementation of a Method Statement of Reptile Reasonable Avoidance Measures in support of any future reserved matters application.
- Each reserved matters application to be supported by a detailed lighting scheme designed to minimise impacts upon bats.
- Habitat Creation method statement and 30-year management plan submitted with reserved matters application to reflect biodiversity metric calculations submitted with outline application.
- Submission with reserved matters application of a strategy for the incorporation of ecological features (bird boxes etc.)

Flood Risk

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps and the site area is under 1 hectare, therefore no Flood Risk Assessments required.

The Councils Flood Risk Team have been consulted and have raised no objection subject to conditions requiring the development to be carried out in accordance with the approved outline drainage strategy and requiring an overall detailed strategy.

United Utilities have been consulted and have raised no objection subject to conditions regarding foul and surface water drainage and SUDS.

As a result, it is not considered that the proposal would pose any significant drainage/flood risk issues and drainage details could be secured by condition.

OTHER

The majority of neighbour responses have been addressed in the report above. The following issues remain which will be addressed below:

- Noise and disturbance from vehicles for the dwellings adjacent to the access point – it is not considered that the proposed 25 dwellings would pose any significant harm by reason of noise/disturbance, not was this deemed to be an issue by the planning inspector for the refused scheme
- Vibrations during construction/damage to neighbouring properties – Env Health have requested details of piling which would prevent harm from vibrations. Damage to property would be a civil matter.
- Impact on house value – this is not a consideration relevant to the determination of a planning application
- Would set precedent for future housing development – each case has to be assessed on its own merits
- Lack of meaningful consultation from the applicant – this would not be a reason to withhold planning permission and the Council has undertaken a round of consultation as per the Development Management Procedures Order

PLANNING BALANCE

As noted above there is clear conflict between Policies SC5 & SC6 of the CELPS and the NPPF for this type of affordable housing. Planning law requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. In this instance given the absence of reference to this type of housing within the CELPS weight should be given to material considerations. Given the support for this type of housing within the NPPF and the absence of any evidence suggesting the need for this type of housing has already been met within the borough it is considered that the proposal is acceptable in principle.

The proposal would be contrary with BNP Policy H2 as it would be over the 15 dwellings threshold and would be co-located with other consented development.

The development would provide benefits in terms of providing 100% entry level homes, a form of affordable housing and the delivery of economic benefits during construction and through the spending of future occupiers.

The development would have a neutral impact subject to conditions upon flooding, living conditions, design, highway safety, air quality, open space, NHS, education and contaminated land.

On balance the benefits of the scheme primarily by proving entry level homes, is considered to outweigh the harm though co-location and a higher concentration of properties in this part of the village.

As such it is considered that the development constitutes sustainable development and should therefore be approved.

RECOMMENDATION:

APPROVE subject to the following conditions and S106 Agreement with the following Heads of Terms:

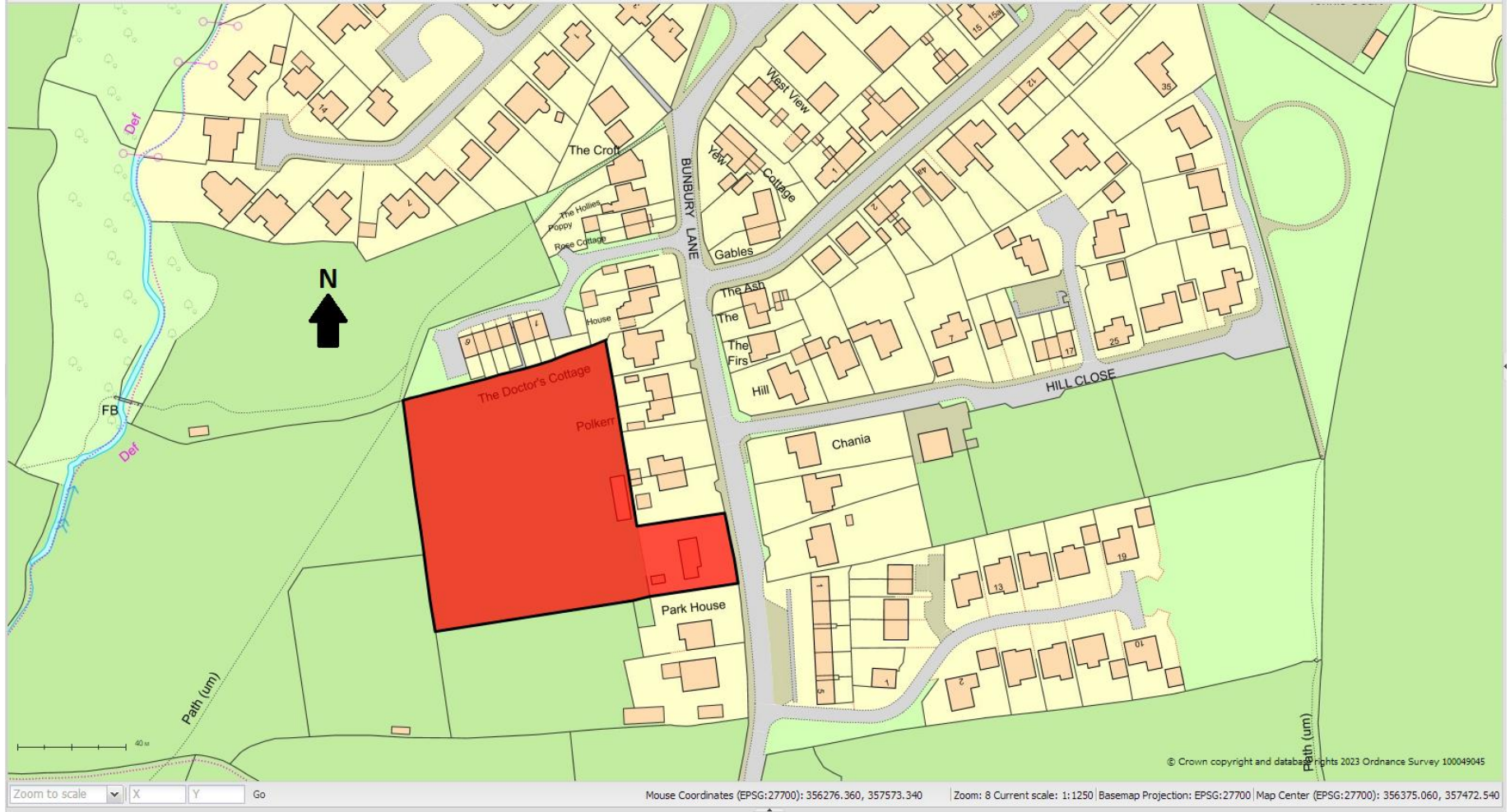
- 1) Approved Plans
- 2) Time limit
- 3) Materials
- 4) Compliance with FRA
- 5) Submission of a Drainage strategy
- 6) SUDS
- 7) Submission and implementation of a Method Statement of Reptile Reasonable Avoidance Measures
- 8) detailed lighting scheme designed to minimise impacts upon bats and neighbouring properties.
- 9) Habitat Creation method statement and 30-year management plan
- 10) Strategy for the incorporation of ecological features (bird boxes etc.)
- 11) The access works should be complete prior to commencement of development
- 12) Piling details
- 13) Boiler details
- 14) Electric Vehicle Charging details
- 15) Contaminated land – risk assessment
- 16) Contaminated land – verification
- 17) Contaminated land – soil
- 18) Contaminated land – unexpected contamination
- 19) Maximum of 20 dwellings
- 20) Reserved matters to include 30% accessible and adaptable dwellings
- 21) Reserved matters to include 6% wheelchair adaptable dwellings

S106	Amount	Triggers
Affordable Housing	100% on site provision	In accordance with phasing plan.
Education	£17,959 per secondary pupil place	To be paid prior to the occupation of the 10th dwelling
NHS	1 bed – £612 2 bed – £875 3 bed – £1225 4 bed – £1531 5 bed – £2100	To be paid prior to the occupation of the 10th dwelling
POS	Combined amenity and play £3,000 per dwelling Recreation & Outdoor Sport £1,000 per dwelling Allotment/food growth £562.50 per dwelling	To be paid prior to the occupation of the 10th dwelling

In order to give proper effect to the Board`s/Committee`s intent and without changing the substance of its decision, authority is delegated to the Head of Planning (Regulation) in consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice.

Should the application be subject to an appeal, the following Heads of Terms should be secured as part of any S106 Agreement:

S106	Amount	Triggers
Affordable Housing	100% on site provision	In accordance with phasing plan.
Education	£17,959 per secondary pupil place	To be paid prior to the occupation of the 10th dwelling
NHS	1 bed – £612 2 bed – £875 3 bed – £1225 4 bed – £1531 5 bed – £2100	To be paid prior to the occupation of the 10th dwelling
POS	Combined amenity and play £3,000 per dwelling Recreation & Outdoor Sport £1,000 per dwelling Allotment/food growth £562.50 per dwelling	To be paid prior to the occupation of the 10th dwelling



OFFICIAL