

Application No: 21/2010N

Location: Land West of Parkside, BUNBURY LANE, BUNBURY, CW6 9QZ

Proposal: Outline planning application for demolition of one dwelling and erection of up to 15 dwellings, access off Bunbury Lane and all other matters reserved

Applicant: Roger Ryder

Expiry Date: 28-Jul-2021

## **SUMMARY**

The proposed development would be contrary to Policies PG6 & SD1 of the CELPS & Policy RES5 of the Crewe and Nantwich Local Plan as the development would result in development in the open countryside and would not meet any of the exceptions noted within open countryside Policy PG6. Given that Cheshire East can demonstrate a 5-year supply of deliverable housing sites, significant weight is given to these factors.

The proposal is also contrary to Policies H1 & H2 of the BNP as the site is not considered to be within or immediately adjacent to Bunbury village, would not enhance its role as a sustainable settlement and does not protect the surrounding countryside. The site would also be co-located with the consented Oak Gardens site to the north-west.

Although there is some conflict between Policy PG6 of the Local Plan and Policies H1 & H2 of the BNP, when this occurs section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. In this instance the Local Plan is the most up to date document and is therefore given more significant weight in the decision-making process.

The proposal would also result in some landscape harm for all but one receptor and there will be adverse effects and for most receptors the longer-term visual effects will remain adverse.

The development would provide limited benefits in terms of open market housing and delivery of economic benefits during construction and through the spending of future occupiers. The proposal would also provide some benefit in terms of affordable housing provision, however the weighting to be attached to this benefit is considered to be limited given the siting within the open countryside and given the strong affordable housing provision within Cheshire East which is exceeding the expected level of provision for the Local Plan period.

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

The proposed development is contrary to the Development Plan. In the light of section 38(6) of the Planning and Compulsory Purchase Act 2004 planning permission should be refused unless material considerations indicate otherwise. It is not considered that the benefits outweigh the adverse impacts and there are no material considerations which outweigh the harm caused. As such it is considered that the development does not constitute sustainable development and should therefore be refused.

## **RECOMMENDATION**

**REFUSE**

## **REASON FOR REFERRAL**

The application is referred to committee at the request of Cllr Pochin for the following reasons;

- 1. The site is outside the settlement boundary of the village and therefore in Open Countryside and is therefore contrary to the CELPS.*
- 2. The LPS has allocated 80 houses to Bunbury between now and 2030; in fact 106 houses have either been built or are in the process of being built or are approved. Therefore this is contrary to the LPS and is not needed.*
- 3. The site would have a negative visible impact on this end of Bunbury village which already has planning permission granted for 45 houses.*
- 4. This application is contrary to the recommendations in the Bunbury NHP.*
- 5. There are highways safety concerns with visibility splays on leaving the site.*
- 6. This is prime agricultural land and is not needed for housing in that CE have proved a 6.4 year land housing supply.*

## **PROPOSAL**

Outline planning application for demolition of one dwelling and erection of up to 15 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

## **RELEVANT HISTORY**

14/5255N – Detailed planning application for the proposed development of 52 dwellings, access and public open space – refused and dismissed at appeal 19<sup>th</sup> 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 (CELP)**

The following are considered relevant material considerations as indications of the emerging strategy:

- 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

### **Crewe and Nantwich Local Plan**

NE.5 (Nature Conservation and Habitats)  
NE.8 (Sites of Local Importance for Nature Conservation)  
NE.9: (Protected Species)  
NE.20 (Flood Prevention)  
BE.1 (Amenity)  
BE.3 (Access and Parking)  
BE.4 (Drainage, Utilities and Resources)  
BE.6 (Development on Potentially Contaminated Land)  
RES.5 (Housing in the Open Countryside)  
RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments)  
TRAN.3 (Pedestrians)  
TRAN.5 (Cycling)

### **Bunbury Neighbourhood Plan (BNP Made 29 March 2016)**

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

### **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, 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 approved outline drainage strategy (Ref: 6561/R1 - completed by Lees Roxburgh) dated April 2021 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 subject to provision of x5 affordable units

**United Utilities** – No objection subject to conditions regarding foul and surface water drainage and SUDS

## **VIEWS OF THE PARISH/TOWN COUNCIL**

Bunbury Parish Council – Objects on the following grounds:

- The development is outside the settlement boundary
- 106 homes have already been committed or built which meets the housing requirement set out in the CELPS
- The proposed widening of the footpath and visibility splays will cause significant issues on Bunbury Lane
- The planning application includes numerous incorrect statements
- Failure to mention the BNP in the planning statement
- No public transport links to wider settlements
- Impacts of the refused scheme still relevant for this smaller proposal
- Site is outside the settlement boundary in the BNP
- Harmful to amenity
- Pedestrian links in the village are narrow
- No mention of climate change credentials/benefits
- Proposal contrary to the Local Plan and BNP
- CIL money would not be spent in Bunbury
- CEC has a 5 year housing land supply so no presumption in favour
- Transport statement inadequate

Spurstow Parish Council – Objects on the following grounds:

- Overlooking of existing properties
- Visible from roads and public footpaths
- Previously refused at appeal and should remain the case given the strong 5 year housing land supply position
- BNP has already exceeded its March 2030 need/limit of 80 houses, since 106 houses have already been built
- Highways safety concerns

## **REPRESENTATIONS**

X108 Letters regarding the following:

- The proposal has not overcome the harm identified by the planning inspector for the refused scheme in terms of harm to the landscape and viewpoints within the village
- 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 accommodate 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
- Affordable housing provision contrary to policy as only 4 proposed
- 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
- Lack of meaningful consultation from the applicant

## **APPRAISAL**

### **Principle of Development**

#### Local Plan Policy PG6

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 or where the dwelling is exceptional in design and sustainable development terms.

#### 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 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 also not considered to present 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.

It is noted that a number of appeal decisions for similar schemes have concluded that the siting within the village boundary should not be the determinative factor as to whether or not a site should be considered within a village and should also consider whether or not it is functionally and visually related to a village.

The site is currently free from permanent built form and is also open to the west and south, thus the site has more visual affinity with the open countryside than the development to the north and therefore is considered visually, functionally and physically related to the wider countryside. It is not part of nor does it relate to the built environment. Therefore, the site is neither functionally nor visually part of a village for the purposes of this assessment.

As such the proposal is not considered to constitute limit infilling in villages.

#### 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 bearing 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 built up frontage.

#### Affordable housing / exceptional in design

The proposal does not seek to provide affordable dwellings in excess of that required by Policy SC5 and 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 policy exception.

#### 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 expands on this advising that new development will be supported in principle provided that it is small scale, and in character with the settlement phased over the period of the Plan and falling within certain categories the most relevant is below:

Greenfield Development – 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.

The Bunbury Neighbourhood Plan was adopted in March 2016 prior to the adoption of the LPS (July 2017). The Neighbourhood Plan at the time of preparation took into account the Crewe and Nantwich Replacement Local Plan 2011 and also the strategic aspects of the emerging Cheshire East Local Plan Strategy (“LPS”).

The LPS is acknowledged in the introduction to the Bunbury Neighbourhood Plan. The Neighbourhood Plan states (page 12) that “delivering a choice of homes to meet Housing Requirements, including low cost market housing, is a key issue and Bunbury recognises the need for a small amount of sustainable housing development in scale and character to reflect Policy PG2 in the Cheshire East Local Plan. Whilst it is not the intention to cap the overall amount of development, the rate of sustainable growth should be in line with the forecast that some 80 houses will need to be accommodated over the Local Plan Period 2010–2030 to reflect organic growth of Bunbury. It is against this background and the views of the community that the housing policies have been formulated”.

The Neighbourhood Plan policy H1 clearly reflects the above information and mentions “planning permission will be granted for a minimum of 80 homes to be built in Bunbury in the period from April 2010 to March 2030”.

The Neighbourhood Plan policy H2 directs where new growth should be located to accommodate the number of new houses forecasted over the Local Plan period.

The figure of 80 dwellings was provided to Bunbury Parish Council as the most up-to-date evidence available at that time during the preparation of the LPS. Indeed, the Bunbury Neighbourhood Plan (page 10) acknowledges that “this figure may change as work proceeds on the revisions to the Local Plan and that there may be a slightly higher housing requirement across the Council area although at the time of writing the only figure we can work to is the minimum of 80 new houses in the plan area.”

In the Examiners Report on the Bunbury Neighbourhood Plan the following was noted with regard to the housing requirement: “whilst I recognise that there is an emerging Local Plan and that housing land matters have not been resolved at the Borough wide level, it is clear to me that, by providing for the expansion of Bunbury, rather than just for infilling – as per the adopted Local Plan – and by setting a minimum housing target, rather than seeking to place a cap on development, the Neighbourhood Plan has been positively prepared with the aim of providing for sustainable growth. Not uniquely, in the context of forward planning, there are landowners and developers who would like to see more land allocated for development. However, in terms of providing for new homes, the Neighbourhood Plan meets the basic conditions. There is no requirement for it to impose a higher minimum housing target than it does. Planning is dynamic. Housing numbers in adopted land use planning policies will inevitably change in the future. However, it is not the role of the Neighbourhood Plan to predict what might happen with regards Borough-wide housing numbers”.

Bunbury completions and commitments at 31 March 2020 are 108 dwellings as seen in the published completions and commitments summary table, which far exceeds the 80 figure contained in the Bunbury Neighbourhood Plan.

Whilst it is accepted that the 80 figure is not an sealing point, there clearly will become a point where the benefits from further housing would be limited given that the Council has a strong 5 year housing land supply position and is exceeding affordable housing provision targets for the plan period, thus less weight is attached to any perceived benefits.

Policy H1 also advises that development 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. The current application site is not within Bunbury Village and the site is not considered to be immediately adjacent to the village as it extends further away from the village boundary. Whilst the site to the north-west of the site known as Oak Gardens has consent for 15 dwellings, this site



still forms part of the open countryside and only limited weight can be given to any settlement boundary changes in the Emerging SADPD. The current proposal would result in the loss of this open countryside site and with less weight attached to the perceived benefits it is not considered to enhance Bunburys role as a sustainable settlement.

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 noted above the site is not considered to be immediately adjacent to the village but extends away from it. The site would also be co-located with the consented Oak Gardens site to the north.

As such the proposal appears to conflict with Policies H1 & H2 of the BNP.

### Conflict between Local Plan and BNP

As a result there is some conflict between Policies` PG6 of the Local Plan and Policies H1 & H2 of the BNP. When this occurs section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan, in other words the most up to date plan takes precedence.

In this instance the Local Plan was adopted 27 July 2017 and the BNP was adopted on 29 March 2016. Therefore, the Local Plan is the most up to date document and is therefore given more significant weight in the decision-making process.

### SADPD

LPS Policy PG7 'Spatial Distribution of Development' expects Local Service Centres ("LSCs") to accommodate in the order of 7 hectares of employment land and 3,500 new homes. These figures are intended as a guide and are neither a ceiling nor a target (paragraph 8.73 of the LPS). The LPS goes on to state that development requirement for individual LSCs are to be disaggregated in the SADPD (paragraph 8.77 of the LPS).

The Site Allocations and Development Policies Document ("SADPD") is the second part of the Cheshire East Local Plan. The SADPD provides further detailed and non-strategic policies and includes land allocations, where necessary, in line with the strategy set out in the LPS.

The council published the Revised Publication Draft SADPD for representations between the 26th October 2020 and 23 December 2020. The Revised Publication Draft SADPD has now been submitted for examination.

Policy PG 8 'Spatial Distribution of development: Local Service Centres' of the Revised Publication Draft SADPD proposes that local service centres are expected to accommodate in the order of 7ha of employment land and 3,500 new homes. It is expected that the remaining housing element will be addressed by windfall going forward, in line with other policies in the Local Plan, and the employment element will include an allocation at Homes Chapel (Site HCH 1 'Land east of London Road') as well as

windfall in line with other policies in the Local Plan. Given the status of the SADPD, as an emerging Plan, it can only be given limited weight in decision taking at this stage.

In any case the site is shown as not being brought forward and remains in the open countryside outside of the settlement boundary in the Bunbury Settlement Report (ED 25) August 2020.

### Previous appeal decision

The appeal decision was made under a different planning context when the Council has not adopted the Cheshire East Local Plan and when the Council could not demonstrate a 5-year supply of housing land.

This is not the case today as the Council has an adopted Local Plan and can demonstrate a deliverable five-year housing land supply of 6.4 years. Therefore, the overall context is different to the current application, with even greater weight attached to the policies relating to housing.

### Principle conclusion

The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. As a result, it constitutes a “departure” from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined “in accordance with the plan unless material considerations indicate otherwise”.

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 objection.

## **Housing Land Supply**

The Cheshire East Local Plan Strategy was adopted on the 27th July 2017 and forms part of the statutory development plan. The plan sets out the overall strategy for the pattern, scale and quality of development, and makes sufficient provision for housing (36,000 new dwellings over the plan period, equating to 1,800 dwellings per annum) in order to meet the objectively assessed needs of the area.

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted.

The National Planning Policy Framework (NPPF) identifies the circumstances in which relevant development plan policies should be considered out-of-date. These include:

- Where a local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with appropriate buffer) or:
- Where the Housing Delivery Test Measurement 2020 indicates that the delivery of housing was substantially below (less than 75% of) the housing required over the previous three years.

In accordance with the NPPF, the council produces an annual update of housing delivery and housing land supply. The council’s most recent Housing Monitoring Update (base date 31 March 2020) was

published on the 11th March 2021. The published report confirms a deliverable five-year housing land supply of 6.4 years.

The 2020 Housing Delivery Test Result was published by the Ministry of Housing Communities and Local Government on the 19 January 2021 and this confirms a Cheshire East Housing Delivery Test Result of 278%. Housing delivery over the past three years (8,421 dwellings) has exceeded the number of homes required (3,030). The publication of the HDT result affirms that the appropriate buffer to be applied to the calculation of housing land supply in Cheshire East is 5%.

In the context of five-year housing land supply and the Housing Delivery Test, relevant policies concerning the supply of housing should therefore be considered up-to-date and consequently the 'tilted balance' at paragraph 11 of the NPPF is not engaged.

### **Affordable Housing**

This is a full application for up to 15 dwellings (net total increase 14 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.

In order to meet the Council's Policy on Affordable Housing there is therefore a requirement for 5 dwellings to be provided as affordable dwellings with 3 units provided as Affordable/Social Rent and 2 units as Intermediate tenure.

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**

No comments received at the time of writing the report. Formal comments will be provided in the update report.

Any provision could be secured as part of a S106 Agreement.

### **Health**

The proposal is not large enough to require any contributions towards the above

### **Open Space**

The proposal is not large enough to require any contributions towards the above

### **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 plan shows that the majority of plots could provide the required 13.5m and 21m interface distances as recommended in the SPD.

One of the plots to the eastern boundary facing Holmleigh is shown as achieving an interface between main face elevations of just 18.5m which is slightly shy of the recommended 21m interface. However, given the size of the application site it is considered that this distance could be accommodated.

Similarly, the plots to the north-eastern boundary facing Doctors Cottage show an interface of approx. 13m. Given the 90-degree orientation shown between the properties this relationship is deemed to be acceptable without direct overlooking between windows. There is some potential for overlooking of the rear garden area of this property however again any overlooking would not be direct, and the final layout would not be set until reserved matters stage. Nevertheless, the application site appears capable of increasing the distance to this boundary to prevent significant harm through overlooking.

### Amenity to proposed occupants

The plots would appear capable of providing at least the recommended minimum garden area of 50sqm as noted in the SPD.

## **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 highways perspective, was acceptable for a significantly larger development thus the proposal could not be resisted on locational sustainability grounds.

### Safe and suitable access

Visibility splays reflecting both the speed limit and those agreed with the previous application have been provided and remain acceptable here. To accommodate the visibility splays it has been proposed to build out the footway. 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

It is noted that the applicant's traffic surveys were carried out at a time with traffic numbers may have been suppressed by the Covid-19 restrictions. Nevertheless, the proposal is small, and the traffic generation does not raise concern, and again is significantly less than the previous proposal.

### 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 submission includes a Landscape and Visual Appraisal, this indicates that it has been based upon the Guidelines for Landscape and Visual Impact Assessment, third edition (GLVIA3), published by the Landscape Institute and the Institute of Environmental Management and Assessment, 2013. The appraisal identifies the baseline landscape, that the application site is located within NCA 62 – Cheshire Sandstone Ridge and also that the site is located with the area identified in the Cheshire East Landscape Character Assessment 2018 as LCT4: Cheshire Plain East and more specifically LCA 4b: Ravensmoor.

The appraisal indicates that the landscape value of the site is medium, that the landscape susceptibility of the site to change is medium and that the landscape sensitivity of the site is medium. The appraisal indicates that following completion there will be a medium magnitude of change, with a moderate adverse effect on the site and its immediate context, reducing to a minor/moderate effect in the longer term. The appraisal indicates that on landscape features there will be a negligible magnitude of change and as landscape planting matures the result will be a minor beneficial effect in the longer term. The effect on landscape character areas is identified as negligible.

The visual appraisal identifies 8 viewpoints and identifies that for receptor B users of Bunbury Lane with views that the effect is moderate adverse, reducing to minor/moderate adverse in the longer term. For Receptor C – users of Bunbury FP14 this is identified as Moderate/major adverse, reducing to minor/moderate; for Receptor D – users of Spurstow FP18 this is identified as minor adverse, reducing to minor adverse/negligible; for Receptor E – users of Bunbury FP16 and FP17 minor adverse reducing to negligible and for Receptor F – public footpaths in the Peckforton Hills as negligible, remaining negligible.

This is an outline application and the Final Scheme Plan as shown in the Design and Access Statement is purely illustrative, since all matters besides access are reserved matters. The Landscape and Visual Appraisal states that the design objectives are to provide a high quality attractive landscape setting for the proposed development; to maintain and protect the landscape and biodiversity of the site; to provide tree lined streets; to follow the recommendations of the Cheshire East Design Guide and to minimise landscape and visual effects of the built development on peripheral residential development. These objectives would be achieved by the retention of the western boundary hedge and trees along the northern boundary, new tree planting, along with garden planting.

The Councils Landscape Officer would broadly agree with the appraisal's assessments regarding site landscape value, susceptibility and sensitivity as well as the location of the receptors and the landscape objectives, however this is 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. Consequently, it is unclear how the appraisal can claim that there will be a minor beneficial effect in the longer term. The visual appraisal identifies that for all receptors – apart from Receptor F – Peckforton Hills, approximately 3km to the west of the site, that there will be adverse effects and for most receptors the longer term visual effects will remain adverse.

Policy SE4 – The Landscape of the Cheshire East Local Plan Strategy identifies the high quality of the built and natural environment is recognised as a significant characteristic of the borough. It states that all development should conserve the landscape character and quality and should where possible, enhance and effectively manage the historic, natural and man-made features that contribute to local distinctiveness of both rural and urban landscapes.

It is not clear how the proposals will conserve the landscape character and quality, or how they will enhance them since apart from retaining some elements of the existing landscape features any landscape proposals are unclear, in addition the appraisal itself notes that there will be adverse visual effects in both the shorter and longer term.

As part of the appeal for the refused scheme, the planning inspector noted “... *the appeal proposal would significantly detract from the spacious and rural character of the area when approaching Bunbury village along its southern gateway. The proposed development would also be visible in the gaps between dwellings that form the linear development on Bunbury Lane leading towards the village centre. This would detract from the spacious pattern of development that contributes to the rural character of the lane. The rural character of the lanes close to the village is a particular feature of Bunbury and one that local policies, such as the Bunbury Village Design Statement (March 2009) seeks to maintain so that the rural character of the village is not eroded (p. 14 and 15). The appeal proposal would therefore be significantly harmful to the rural character of Bunbury in this respect*”. These comments are considered relevant to the current appeal also.

It would therefore appear that in their current form the proposals are contrary to Policies SE4 & PG6.

## **Trees**

The application site comprises of equestrian grazing which benefits from established and mature tree cover to the northern boundary of the site and which is afforded protection by the Cheshire East Borough Council (Bunbury – Land west of Bunbury Lane) Tree Preservation Order 2015. Established hedgerows border the western and northern boundaries.

This outline application has not been supported by any arboricultural information, although it is noted that all trees and hedgerows are shown to be retained. The illustrated layout within the Design and Access Statement and Proposed Site Layout PA/B/PSL/01 dated 1/6/2021 both indicate housing layouts which will place the mature and protected trees located on the northern boundary (Group G1 and T1 of the Order) within private ownership.

The indicative plan suggests that the northern plots would be sited outside of any route protection areas. There is potential for some overshadowing of parts of the rear gardens of these northern plots however the dwellings appear set sufficient distance away to impact on light serving any rear facing windows and the garden area affected is the end tip of the gardens which would not overshadow the main usable garden areas and the northern orientation means overshadowing would be limited. Also given the size of the plot it would appear that the dwellings could be sited sufficient distance away from these trees to prevent any harmful impact.

The Councils Forestry Officer has suggested that if outline consent is granted, any future reserved matters application must be supported by a detailed Arboricultural Impact Assessment in accordance with Sections 5.4 (BS5837:2012), Tree protection Plan (Section 5.5 BS5837:2012) and where appropriate an Arboricultural Method Statement (Section 6.1 BS5837:2012) to ensure the successful integration of trees and implementation of Tree Protection measures.

Again 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.

## **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.

## Connections

The proposed scheme is surrounded by established residential areas to the west and north, and approved and approved 15 houses to the north also. The site will have direct pedestrian and vehicular access from Bunbury Lane and has potential to link to adjacent to Public Footpaths Bunbury Nos.14 and 15.

## Facilities and Services

A range of local facilities can be found within 400m of the site, including community, bus stop, shops, coffee shop, public house. This can be assessed from a public footpath.

### Public Transport

The application site benefits from a bus service located 400m north of the site. Bus service No.70 connects to Nantwich running x2 services a day Monday to Friday, x2 services Saturday and no services on Sunday. This distance is within the acceptable walking distance of 500m as noted in Policy SD2, although the frequency of this service is limited.

### Meeting Local Housing Needs

The indicative plan shows x12 detached properties and x3 townhouse style properties. The exact mix of properties will be determined at Reserved Matters stage, however the supporting statement also advises that a range of homes would be proposed.

### Character

The proposed scheme includes up to 15 new dwellings (net increase 14) within a total site area of 0.8 hectares, a density of approximately 19 dwellings per gross hectare. The indicative plan shows that the aesthetic of the proposed scheme reflect local vernacular and street scenes in terms of densities and plot ratios. The layout also shows that the plots to the western boundary would have an active frontage with the open countryside as they would have their front elevations facing the open countryside to the west. The plots to the north and west would back onto existing/consented sites and as such the need to front onto to these developments is not considered necessary. Details of appearance/design will be addressed at reserved matters stage.

### Working with the Site and its Context

The proposal will sit on vacant agricultural land between existing/consented residential properties. Existing trees to the northern boundary are shown as being retained. Existing trees and hedgerows to the western boundary will also provide a natural buffer between the proposed development and open countryside, though further planting would be required.

### Creating Well Defined Streets and Spaces

Throughout the scheme, the buildings predominantly face the public realm and the mixed orientation of properties would give natural surveillance and active frontages. The plan does not however indicate use of double frontages to help properties turn concerns however design/appearance would be addressed at reserved matters stage. New trees could also help define the boundary between dwelling and street, with private gardens, where possible, located to the rear of properties.

### Easy to Find Your Way Around

A primary access road runs east to west and to the centre, with a clear hierarchy defining pedestrian and vehicular routes. The change in surface material and limited size of the site, will highlight and define routes allowing the users to easily orientate themselves.



## Streets For All

Road widths to the north and west of the scheme are narrower to promote slower vehicle speeds and allow for functional social space. A pavement is also shown running through the site entrance.

## Car Parking

The illustrative plan suggests x2 parking spaces per dwelling, with a mixture of detached garages, side of building parking and off road parking. Whilst trees and landscaping are shown to the front of dwellings in an attempt to soften the visual impact of parked cars it remains a concern that some plots would be too dominated by car parking which would need to be addressed at reserved matters stage.

## Public and Private Spaces

Public and private spaces will be clearly defined throughout the site, with the use of active frontages and landscaping. Natural surveillance appears to be permitted by front doors and habitable room windows overlooking public space and roadway, ensuring the safety of residents and visitors moving around the site. Clear thresholds, road and paving hierarchy and fencing will further indicate the distinction between public and private space and maintain security for residents. This could be secured at reserved matters stage.

## External Storage and Amenity Space

Storage for amenity is not shown but is assumed that it will be provided within the curtilage of each individual dwelling, with access to connect rear gardens to the street to allow for rubbish collection. A number of properties will also have detached garages to provide additional external storage. Again final details will be secured at reserved matters.

## **Ecology**

### Grassland Habitats

A further botanical survey has been undertaken of the grassland habitats on site. The grassland habitats on site do support a few species indicative of higher quality habitats, but are not a significant constraint on the development of this site.

### Hedgerows

Native species hedgerows are a priority habitat and hence a material consideration. There are existing hedgerows on two of the site's boundaries. Based on the submitted illustrative layout plan 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.

These types of impacts could be mitigated through the implementation of 'Reasonable Avoidance Measures' which can be secured by condition.

### Bats

Historic evidence of roosting bats was recorded during the initial surveys of the buildings on site. The Council's Ecologist therefore advises that a bat activity survey undertaken in accordance with the BCT guidelines must be undertaken to establish the presence/likely absence of roosting bats.

A report of the survey results and mitigation and compensation measures to address any adverse impacts on roosting bats must be submitted prior to the determination of the application.

Excessive lighting has the potential to have an adverse impact upon roosting bats. 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.

### Badger and Great Crested Newts

The Council's Ecologist advises that these species are not reasonably 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 result in the loss of -0.09 biodiversity units which is -5.87%.

In order to ensure that the proposed development delivers a net gain for biodiversity the Council may consider accepting a commuted sum to fund off-site habitat creation. This would be calculated on the basis that the number of biodiversity units required to deliver net gain is rounded up to the nearest unit. In this case only a single biodiversity unit would be required.

Using figures from the CEC Draft Biodiversity SPD this would be costed as £10,035 per unit for habitat creation and £1,200 admin fee per unit. Total commuted sum of £11,235.00.

If the Council is minded to approve this application a section 106 agreement or UU would be required to secure the payment of this commuted sum. A planning condition would also be required to ensure detailed proposals are submitted for the creation of the proposed grassland and scrub habitats on site and for the long term management of these habitats.

This planning application also provides an opportunity to incorporate features (such as bat and bird boxes, gaps for hedgehogs etc.) to increase the biodiversity value of the final development in accordance with Local Plan Policy SE 3.

If outline consent is granted, a condition must be attached which requires the submission of an ecological enhancement strategy in support of any future reserved matters application.

## **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 15 dwellings would pose any significant harm by reason of noise/disturbance
- 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.
- Affordable housing provision contrary to policy as only 4 proposed – 5 dwellings would be secured by S106 Agreement
- 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**

The proposed development would be contrary to Policies PG6 & SD1 of the CELPS & Policy RES5 of the Crewe and Nantwich Local Plan as the development would result in development in the open countryside and would not meet any of the exceptions noted within open countryside Policy PG6. Given that Cheshire East can demonstrate a 5-year supply of deliverable housing sites, significant weight is given to these factors.

The proposal is also contrary to Policies H1 & H2 of the BNP as the site is not considered to be within or immediately adjacent to Bunbury village, would not enhance its role as a sustainable settlement and does not protect the surrounding countryside. The site would also be co-located with the consented Oak Gardens site to the north-west.

Although there is some conflict between Policy PG6 of the Local Plan and Policies H1 & H2 of the BNP, when this occurs section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. In this instance the Local Plan is the most up to date document and is therefore given more significant weight in the decision-making process.

The proposal would also result in some landscape harm for all but one receptor and there will be adverse effects and for most receptors the longer-term visual effects will remain adverse.

The development would provide limited benefits in terms of open market housing and delivery of economic benefits during construction and through the spending of future occupiers. The proposal would also provide some benefit in terms of affordable housing provision, however the weighting to be attached to this benefit is considered to be limited given the siting within the open countryside and given the strong affordable housing provision within Cheshire East which is exceeding the expected level of provision for the Local Plan period.

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

The proposed development is contrary to the Development Plan. In the light of section 38(6) of the Planning and Compulsory Purchase Act 2004 planning permission should be refused unless material considerations indicate otherwise. It is not considered that the benefits outweigh the adverse impacts and there are no material considerations which outweigh the harm caused. As such it is considered that the development does not constitute sustainable development and should therefore be refused.

## **RECOMMENDATION:**

**Refuse for the following reasons:**

- 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.

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:

<b>S106</b>	<b>Amount</b>	<b>Triggers</b>
<b>Affordable Housing</b>	36% (65% Affordable Rent / Intermediate)	In accordance with phasing plan. No more than 80% open market occupied prior to affordable provision in each phase
<b>Education</b>	To be confirmed	To be confirmed
<b>Ecology (net gain biodiversity)</b>	£10,035 per unit for habitat creation and £1,200 admin fee per unit	Prior to first occupation

