

Application No: 12/2532N

Location: Red Acres, WINDMILL LANE, BUERETON, CW3 0DE

Proposal: Construction of 9No. Affordable Homes in Conjunction with Housing Association on Land within Open Countryside as a Rural Exceptions Site with Associated Access Road and Car Parking

Applicant: MARK ELLIS, MARKDEN CITY HOMES LTD

Expiry Date: 18-Sep-2012

## **SUMMARY RECOMMENDATION**

### **Refuse**

### **MAIN ISSUES**

- Principle of Development
- Impact on Character and Appearance Open Countryside/Landscape
- Impact on Amenity of adjacent properties
- Impact on Highway Safety
- Impact on Protected Species
- Impact on Drainage/Flooding

## **1. REASON FOR REFERRAL**

This application is to be determined by the Southern Planning Committee as the application has been called in by Cllr Bailey. The application has been called-in *"in view of concerns relating to drainage, particularly storm water"*.

## **2. DESCRIPTION OF SITE AND CONTEXT**

The application site comprises a detached two storey dwelling, brick outbuildings, timber and steel framed farm buildings and paddock land which is located within the Open Countryside as defined by the Borough of Crewe and Nantwich Replacement Local Plan Proposals Map. The site is adjoined by residential development to the south and east. To the north and west is the wider open countryside. The southern site boundary is predominantly hedgerow, while the eastern boundary is also defined in part by a hedgerow. The site is currently accessed from a driveway off Windmill Lane.

## **3. DETAILS OF PROPOSAL**

This application proposes the construction of 9 dwellings as a rural exception site. The scheme includes 1 4-bedroom dormer bungalow, 4 3-bedroom two storey semi detached dwellings, and 4 2-bedroom semi-detached dwellings. 4 dwellings would be rental units and 5 dwellings would be shared ownership units. The site would be accessed via a driveway from Windmill Lane between

Red Acres and No.7 Windmill Lane. The bungalow would also have a detached garage. The scheme also includes off street parking for the remaining dwellings, landscaping, and a retained vehicular access to field to the west.

#### **4. RELEVANT HISTORY**

**11/3520N** – Planning permission approved for Proposed New Bungalow on Infill Plot and New Vehicular Access to Existing House on 17<sup>th</sup> November 2007.

**P07/0909** – Outline Planning permission approved for One Dwelling on 15<sup>th</sup> August 2007.

#### **5. POLICIES**

##### **National Planning Policy**

National Planning Policy Framework (2012)

##### **Local Plan Policy**

NE.2 (Open Countryside)

NE.5 (Nature Conservation and Habitats)

NE.9 (Protected Species)

NE.20 (Flood Prevention)

BE.1 (Amenity)

BE.2 (Design Standards)

BE.3 (Access and Parking)

BE.4 (Drainage, Utilities and Resources)

BE.5 (Infrastructure)

RES.8 (Affordable Housing in Rural Areas Outside Settlement Boundaries (Rural Exceptions Policy))

Policy TRAN.9 (Car Parking Standards)

##### **Other Documents**

Interim Planning Policy on the Release of Housing Land

Interim Planning Statement: Affordable Housing

Local Development Framework – Development on Backland and Gardens Supplementary Planning Document

#### **6. CONSULTATIONS (External to Planning)**

**Environment Agency** – No objection subject to condition relating to the submission of a risk assessment and further pre commencement works.

**Environmental Health** – No objection subject to conditions relating to hours of construction condition, piling, lighting and contaminated land

**United Utilities – No Objection**

**Strategic Highways Manager – No response received at time of writing report**

## **7. VIEWS OF THE PARISH COUNCIL**

Make General comments that:

- 1) Access to the field at the rear of the development is restricted and not suitable for agricultural traffic.
- 2) Access for this machinery would be difficult and dangerous as playing children and parked cars would be on the road.
- 3) There is no effective bus service for working families so each property would need two parking spaces ( see 2) above )
- 4) Residents are concerned that adequate measures must be taken to prevent flooding of Windmill Close, particularly for storm waters and overflow from the proposed sewage system.
- 5) Where will the sewage system overflow to if/when it floods?
- 6) Windmill Lane is derestricted. A speed limit should be imposed in Buerton for safety with the increase in traffic from this development.
- 7) All rented properties would better reflect the needs of the community.
- 8) As an asset to prospective residents, should the developers not make a financial contribution towards the planned childrens play ground soon to be installed on the old school playing field .

## **8. OTHER REPRESENTATIONS**

23 letters of objection received from nearby residents, the salient points being that:

- The site is in Green Belt
- Significant development of 10 houses and a shop
- Will significantly reduce the remaining green belt and open countryside
- Would devastate lives of people in Buerton
- Impact on House Prices
- Area liable to flooding
- Drainage at present is unable to support rain water
- Destruction of wildlife and protected species
- No demand for housing in Buerton
- Houses for sale in the area
- Total lack of employment and employment opportunities in area
- No amenities in area
- Sewage system cannot cope with any further housing as over capacity
- Unsustainable transport in area
- Windmill Lane is a narrow road
- Roads in disgraceful state of repair
- Violation of health and safety laws
- Little or no facilities to support development
- Skid marks on road
- Treatment plant would be a hazard and will require disposal of roughage

- Noise nuisance
- Potential land contamination
- Windmill Lane is not 30mph
- Land used for keeping chicken and ducks
- Bungalow will have a visual impact on properties on Windmill Close
- Loss of privacy
- Bungalow is reserved for current landowner
- Is shop still proposed
- Road safety concerns with farming activities
- Layout and parking will lead to obstructions
- Will hedgerow be removed?
- Will existing small holding activities be moved
- Will there be any streetlighting?
- Bus service is not regular
- Cannot realistically walk to Audlem
- Windmill Lane subject to flooding
- Cycling to Audlem is dangerous
- No longer a primary school in village
- Direct loss of privacy for No.7 Windmill Lane from dormer bungalow
- Concerns over construction traffic

3 letters of support:

- constitutes the only means whereby those of relatively low income can ever access the bottom rungs of the property ladder.
- Interest is more than houses applied for
- Only takes up small proportion of site. Remainder would remain as small holding
- Drainage can be clarified
- Wildlife survey has been submitted
- No proposal for a shop
- Site in ownership of applicant not Markden Homes
- No intention to extend development to the west
- House prices in area are not affordable

## **9. APPLICANT'S SUPPORTING INFORMATION**

- Supporting Statement
- Protected Species Survey
- Flood Risk Assessment

## **10. OFFICER APPRAISAL**

### **Principle of Development**

The application site lies solely within the Open Countryside, as define by the Local Plan Proposals Map, on the edge of the settlement of Buerton. Buerton itself does not benefit from a Settlement Boundary and is also whitewashed as Open Countryside. Policy NE.2 of the Local Plan restricts development in Open Countryside locations and residential development is

generally (subject to certain criteria) an inappropriate form of development in such locations. An exception to Open Countryside Policy is for the provision of affordable housing.

Policy RES.8 states that planning permission may be granted for the provision of affordable housing as an exception to NE.2 subject to a number of criteria. To qualify as an affordable housing scheme there must be an identified local need for affordable housing; the site must be in a sustainable location, immediately adjacent to an existing settlement boundary or, exceptionally, within or adjoining the built up area of other rural settlements; and the scale, layout and design must be appropriate to the settlement.

The National Planning Policy Framework 2012 identifies that LPA's should be responsive to local circumstances and plan housing development to reflect local needs, particularly affordable housing, including through rural exception sites where appropriate. Local Plan Policies are considered to be consistent with the NPPF with regard to facilitating the delivery of affordable housing schemes in sustainable locations where there is an identified need.

### *Housing Need*

The Interim Planning Statement on Affordable Housing states that any application should be supported by an up to date Housing Survey of the Parish. This application has not been supported by a full survey and as such fails to satisfy that requirement. There is some evidence that a community consultation exercise was carried out but not in the form of a full survey.

Notwithstanding this, as part of this application, consultation has been carried out with the Housing Strategy and Needs Manager who has raised no objection to the proposal. With regard to need they have identified that:

- A rural housing needs survey was carried out in 2007 for the Audlem Ward, including the Buerton Parish. Questionnaires were sent out to 201 households in the Parish with 46 questionnaires returned. This represents a return rate of 22.8%. This identified that there were:
  - 5 hidden households. These are households that contain at least one adult who wish to form a new household within the Parish or Cheshire East.
  - 3 households who had moved out of the Parish who would wish to return if cheaper accommodation was available.
- Buerton comes under the Audlem sub area of the SHMA 2010. The SHMA identifies that for the sub area of Audlem there is an annual affordable housing need of 6 new homes each year between 2009/10 – 2013/4.
- Cheshire Homechoice, which is the choice based lettings system for allocating social housing across Cheshire East, currently has 2 applicants who have selected Buerton as their first choice
- This number appears low but it is likely that the reason is that there are only 10 affordable properties in Buerton and 4 of these are bungalows.
- On 3<sup>rd</sup> April 2012, Markden Homes and Plus Dane carried out a consultation event and interested residents were invited to express interest in the properties. 13 people have registered an interest in the properties and all appear to have a local connection.

In addition to this, the Cheshire East Housing Enabling Officer, has stated that there is a need in the area. The evidence available to Housing suggests that there is some need for affordable

housing within the area. However, it is clear from this evidence that some of the need identified does refer to the wider Audlem ward of which Buerton Parish is part.

In summary, there is a need for some affordable housing in the Buerton Parish as identified above. Although there is no up to date Need Survey submitted with the application, which is a Local Plan Policy requirement, there has been no objection from Housing. In the light of this it would be difficult to sustain refusal of the scheme on the grounds of lack of need.

### *Sustainability of Site*

Policy RES.8 identifies that rural exceptions schemes may be acceptable where the site is in a sustainable location immediately adjacent to the settlement boundary. Buerton is a settlement which does not benefit from a settlement boundary and as such the scheme does not satisfy that criterion. Policy RES.8 goes on to state that, exceptionally, the site be within or adjoining the built area of other rural settlements. This is echoed within the Interim Planning Statement on Affordable Housing. The application site is located adjacent settlement of Buerton and as such would satisfy that exceptional criteria, in terms of the site itself. However, the criteria makes it clear that any site should be sustainable. Again, this is also reflected in the Affordable Housing Statement, and is a key principle of the NPPF.

Buerton is a small, isolated village within the Open Countryside, which comprises ribbon development along Woore Road, frontage development along Windmill Lane, and three cul-de-sacs off Windmill Lane. There are approximately 80 dwellings within the settlement. While there are a reasonable number of dwellings within the settlement, the level of services that the settlement offers, such as schools, shops, public houses etc is nil. The only exception to this is a bus service between Whitchurch and Audlem which passes the site and an area of open space. The bus service does not appear to be a regular service through Buerton. Within the settlement is a former primary school which has closed in recent years.

The nearest larger settlements to the application site which do offer extended amenities and services are Audlem, which is approximately 3km to the west along the A525, and Woore, which is approximately 5km to the east along the A525. These settlements are considered to be of a distance which is not realistically walkable due to the distance and lack of footpaths. Cycling is also considered to be unrealistic due to the traffic volumes and narrow winding nature of this, largely de-restricted road.

In the light of the above it is considered that this is an unsustainable location.

### *Conclusion of Principle of Development*

Paragraph 14 of the NPPF states that at its heart is a presumption in favour of sustainable development. Whilst an up to date survey has not been submitted it is considered that from the evidence available that there is some need for affordable housing in Buerton and the wider Audlem sub-region. However, the extent of this need is not so acute as to outweigh the significant failure of the site in terms of its sustainability. Therefore, it is considered that the application site does not represent a viable affordable housing exception site on sustainability grounds, and is thus contrary to Policy RES.8 and the principles of the NPPF.

### **Impact on Character and Appearance of Open Countryside**

The application site is located in the Open Countryside and residential development, by its very nature, has the potential to cause harm to the character and appearance of the open countryside. The application site forms a mixture of residential curtilage and small holding. Within the small holding are a number of timber and steel framed sheds. These existing buildings occupy much of the application site. The proposed development would be contained to the east and south by existing residential development. In addition the scheme would replace existing buildings on the site which are in agricultural use. The proposed development would not extend significantly beyond the northern and western extents of existing built development on the site and therefore built residential development on this site is unlikely to represent a significant incursion into the Open Countryside or to cause demonstrable harm on the landscape character. While it is appreciated that the character of the site would change from rural to urban, the harm, due to site characteristics is likely to be limited. In addition there has been no objection from the Council's landscape consultation on these grounds.

The nature of surrounding development comprises bungalows to the south and two storey detached dwellings to the east. The scale of the proposed properties which includes a detached dormer bungalow and 4 blocks of two storey semi detached properties would not be considerably out of character with adjoining development. The appearance of these buildings is relatively simple and they would not be in any way prominent. The layout of the development, in terms of its cul-de-sac approach would reflect the pattern of existing development within the settlement, which is characterised by cul-de-sacs off Windmill Lane, and as such is considered to be appropriate.

When viewed from Windmill Lane views of the proposed development would be limited as the proposals are sited to the rear of existing development. There would be some change in character from Windmill Lane due to the creation of the site access. However, it is unlikely that this would cause demonstrable harm to the character of the area.

Precise details of the scheme relating facing materials, hard and soft surfacing, landscaping and boundary treatment could be secured through appropriate conditions.

### **Impact on the Amenity of adjacent properties and future occupants**

According to the SPD on backland and garden development a separation distance of 21m between principal elevations and 13m between principal and flank elevations is sufficient to achieve an adequate standard of privacy and amenity between dwellings. The proposed dwellings would be sited to the west of existing dwellings on Windmill Lane. Unit 3 is sited directly to the rear of Kilderkin House at a right angle to it. A distance of 18m would be achieved from the gable of unit 3 to the rear elevation of this dwelling which is an acceptable spacing standard. In addition the dwelling itself is sited approximately 8m from the shared boundary and would not be overbearing.

Unit 1 would be sited to the rear of Red Acres and there would be a distance of 16m between the proposed flank elevation of Unit 1 and the rear elevation of Red Acres which is also an acceptable spacing standard.

The proposed bungalow would be sited along the southern boundary of the site. At its closest this dwelling would be between 1m and approximately 3.5m from the boundary with No.10 Windmill Close. The bungalow would have an eaves height of 2.5m and a maximum height of 6m. The dwelling would be 31m from the rear of No.10 Windmill Close. The submitted plans indicate that

11 Windmill Close has an L shaped curtilage. The proposed dwelling would therefore not consume the entire rear boundary of that property, and as such there is an intervening boundary between the amenity space of No.10 Windmill Close and the proposed dwelling. While the proposed dwelling is close to this rear boundary, as the dwelling would be a bungalow and given the layout of the residential curtilages, it is considered that the amenity impact on that dwelling through overbearing appearance would not be sufficient to justify a refusal. In addition the dwelling is sited at a satisfactory distance from the rear elevation of properties on Windmill Close.

Concern has been raised about the amenity impact on No 7 Windmill Lane as a result of the proposed dormer windows and overlooking. That property is 36m from the proposed dwelling and its garden is 28m away. This is such a distance which would not result in amenity issues to cause harm to that dwelling. In addition, No.7 Windmill Lane is not immediately to the front of that property.

Within the site, the spacing between dwellings are generally in accordance with the standards set out above. However, there is a distance of 20m between facing principal elevations between units 1 and 2, and 3 and 4, which is slightly below the suggested spacing standard. Given the layout and position of private driveways this would not cause an unacceptable level of amenity for these properties.

No objection has been raised by Environmental Health however they have suggested a number of conditions which could be attached to any permission.

### **Contaminated Land**

Discussions have been ongoing with the Contaminated Land Officer and an update will be provided on this matter.

### **Impact on Highway Safety**

The site of the proposed development is shown to be accessed from Windmill Lane. No comments have been received from the Strategic Highways Manager with regard whether the proposed development would cause any harm to highway safety. An update will be provided at Committee.

A minimum of two off street parking spaces should be provided for each dwelling which can largely be achieved. However, it is noted that this may not be achievable for Unit 8. Two spaces could be achieved in the curtilage of this property through the repositioning of the garden shed and this could be secured by condition.

### **Impact on Protected Species**

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places:

- in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment



and provided that there is:

- no satisfactory alternative
- no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK implemented the Directive by introducing The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection:

- a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and
- a licensing system administered by Natural England.

Local Plan Policy NE.5 (Nature Conservation and Habitats) states that the LPA will protect, conserve and enhance the nature conservation resource. Proposals for development that would result in the loss or damage of any site or habitat which supports protected species will not be permitted, unless this is compensated by the provision of a similar feature. In addition Policy NE.9 (Protected Species) states that development will not be permitted where it would have an adverse impact on protected species or their habitats.

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. "This may potentially justify a refusal of planning permission."

The NPPF states that LPA's should aim to conserve and enhance biodiversity.

The application has been supported by a Protected Species Report. This has been considered by the Councils Nature Conservation Officer. The buildings subject to this planning application do not for the most part appear to offer significant roosting opportunities for bats. Whilst bats are active around the site no evidence of roosting bats was recorded during the surveys undertaken. Bats do not present a constraint on the proposed development.

With regard to Barn Owls, concern has been raised that the proposed development would lead to a loss of foraging habitat for barn owls and it would be difficult to retain sufficient rough grassland habitat within the development site to maintain the current barn owl interest. It is therefore suggested by the Nature Conservation Officer that the adverse impact of the proposed development upon barn owls be offset by means of a commuted sum of £2,000 payable to the local barn owl group. The commuted sum would be used to implement barn owl conservation work in the Borough and should be secured through a section 106 agreement associated with the development of the site if the proposal is deemed to be acceptable.

### **Impact on Drainage and Flooding**

Concern has been raised with regard to the drainage of the site and the implications that the proposed development would have on flooding in the area. Consultations have been carried out with United Utilities and the Environment Agency with regard to these issues.

United Utilities have stated that they have no objection to the proposed development. They also state that where possible this should be drained on a separate system with only foul drainage being connected to the foul sewer. Full drainage systems can be secured by condition.

With regard to flooding the Environment Agency have also raised no objection to the proposed scheme. They do note that the application site is within 60m of a watercourse which may be controlled waters which may have been affected by contamination from past uses. They have therefore suggested a condition to be attached on any permission for a remediation strategy to be submitted to deal with the risks associated with contamination.

In the absence of any objection from both these bodies it is considered that the proposed development can be satisfactorily drained and would not result in any flood risk, and it is not considered that a refusal on drainage grounds could be sustained.

### **Other Matters**

Comment has been made that a contribution should be made towards a proposed equipped childrens playspace in the area. Policy RT.3 identifies that in small residential developments occupied in schemes of less than 50 people reasonable contributions will be required towards the provision of childrens playspace and casual recreational open space public open space improvements. There is no existing equipped play space in the area and a small contribution towards improvements could be considered to be reasonable in this instance if minded to approve the application.

## **11. CONCLUSIONS**

Whilst it could be argued that there is some level of need for affordable housing locally, the application proposals do not represent a sustainable form of development. The application site is located on the edge of the village of Buerton which is within the Open Countryside. The absence of a settlement boundary suggests that the village is not a sustainable settlement. On occasion an exception to this may be acceptable where the site is adjacent or within other rural settlements in sustainable locations. In this instance, the village of Buerton only offers an extremely limited level of services and facilities and any nearby services and facilities are in the settlements of Audlem and Woore which are remote and poorly accessible from the site. It is considered that the level of need and any other material considerations would not outweigh this harm identified. The proposed development would therefore be contrary to Policy NE.2 (Open Countryside), and RES.8 (Affordable Housing in Rural Areas Outside Settlement Boundaries (Rural Exceptions Policy)) of the Borough of Crewe and Nantwich Replacement Local Plan 2011, the Interim Planning Statement: Affordable Housing and the National Planning Policy Framework 2012.

## **12. RECOMMENDATIONS**

### **REFUSE for the following reason:**

1. In the opinion of the Local Planning Authority the application proposals do not represent a sustainable form of development. The application site is located on the edge of the village of Buerton which is within the Open Countryside. The absence of a settlement boundary suggests that the village is not a sustainable settlement. On occasion an exception to this may be acceptable where the site is adjacent or within other rural settlements in sustainable

locations. In this instance, the village of Buerton only offers an extremely limited level of services and facilities and any nearby services and facilities are in the settlements of Audlem and Woore which are remote and poorly accessible from the site. It is considered that the level of need and any other material considerations would not outweigh this harm identified. The proposed development would therefore be contrary to Policy NE.2 (Open Countryside), and RES.8 (Affordable Housing in Rural Areas Outside Settlement Boundaries (Rural Exceptions Policy)) of the Borough of Crewe and Nantwich Replacement Local Plan 2011, the Interim Planning Statement: Affordable Housing and the National Planning Policy Framework 2012.

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