

Application No: 15/0275N

Location: Land off Mill Lane, Bulkeley, Cheshire, SY14 8BL

Proposal: Full application to erect 14 dwellings on land off Mill Lane, Bulkeley

Applicant: M Schofield

Expiry Date: 28-Apr-2015

**CONCLUSION:**

It is acknowledged that the Council is unable to robustly demonstrate a five-year housing land supply and that, accordingly, in the light of the advice contained in the National Planning Policy Framework, it should favourably consider suitable planning applications for housing that can demonstrate that they meet the definition of sustainable development.

There is an environmental impact in the locality due to the loss of open countryside and agricultural land. There would also be an adverse impact on the landscape, and protected trees. The site is also unsustainably located.

The proposal would satisfy the economic and social sustainability roles by providing for much needed housing adjoining an existing settlement. The proposal would provide policy compliant levels of affordable housing, contributions to education and would be acceptable in ecology terms.

Subject to conditions, the proposal is considered to be acceptable in terms of amenity, flood risk, highway safety, drainage and design.

However, these do not outweigh the concerns outlined above and it is therefore considered to be unsustainable development and accordingly is recommended for refusal.

**RECOMMENDATION: REFUSE**

**PROPOSAL:**

The application seeks full planning permission to erect 14 dwellings on land off Mill Lane, Bulkeley

**SITE DESCRIPTION:**

The site of the proposed development extends to 0.73 ha and is located to the western side of Mill Lane, Bulkeley. The site is within the Open Countryside and Area of Special County Value. The site is a flat rectangular field which is bound by hedgerows and trees to all sides with a wide grass verge

to Mill Lane. To the south of the site are residential properties which front Mill Grove and Mill Lane. To the north of the site is a dwelling known as The Oaks and a nursery which includes a number of pollytunnels.

The site includes 5 trees along the northern boundary and 2 trees to the south-east corner which are subject to TPO protection.

## **RELEVANT HISTORY:**

14/0943N - Outline application for 26no. dwellings with access to Mill Lane including 10no. two bedroom and 16no. three bedroom houses – Withdrawn 23rd April 2014

P92/0850 - Detached house – Refused 20th November 1992

P92/0500 - Detailed application for a detached house – Withdrawn 12th June 1992

7/19786 - Detached dwelling – Withdrawn 5th June 1991

7/08254 - Residential development – Refused 20th August 1981. Refused for the following reasons:

- The proposed development is contrary to the County Development Plan
- Extension of the settlement in agricultural land
- The site is not identified for development within the Cheshire Structure Plan

7/08093 - Residential development – Withdrawn 3rd July 1987

## **NATIONAL & LOCAL POLICY**

### **National Policy**

National Planning Policy Framework

### **Local Plan policy**

NE.2 (Open countryside)

NE.3 (Areas of Special County Value)

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)

RES.5 (Housing in the Open Countryside)

RES.7 (Affordable Housing)

RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments)

RT.9 (Footpaths and Bridleways)

TRAN.3 (Pedestrians)

TRAN.5 (Cycling)

### **Other Considerations**

The EC Habitats Directive 1992

Conservation of Habitats & Species Regulations 2010

Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System

Interim Planning Statement Affordable Housing

Interim Planning Statement Release of Housing Land  
Cheshire East Development Strategy  
Cheshire East SHLAA  
Pre-submission Core Strategy

### **Cheshire East Local Plan Strategy – Submission Version**

PG2 – Settlement Hierarchy  
PG5 - Open Countryside  
PG6 – Spatial Distribution of Development  
SC4 – Residential Mix  
SC5 – Affordable Homes  
SD1 - Sustainable Development in Cheshire East  
SD2 - Sustainable Development Principles  
SE3 – Biodiversity and Geodiversity  
SE5 – Trees, Hedgerows and Woodland  
SE 1 Design  
SE 2 Efficient Use of Land  
SE 4 The Landscape  
SE 5 Trees, Hedgerows and Woodland  
SE 3 Biodiversity and Geodiversity  
SE 13 Flood Risk and Water Management  
SE 6 – Green Infrastructure  
IN1 – Infrastructure  
IN2 – Developer Contributions

### **CONSULTATIONS:**

**Bulkeley and Ridley Parish Council** - would not oppose this application, especially as it has been reduced from the original idea of 26 houses and a mix of houses, bungalows and affordable housing was proposed. It was agreed to put forward the following to the Planning Committee:-

- The site is at almost the lowest point in Mill Lane and there are concerns about where surface water will drain without flooding the neighbouring property, given that people will be, for instance, washing cars and watering gardens, all of which will lead to an increase in surface water.
- The affordable housing should be administered by an established Housing Association and should be for people with strong links to the local community.

The Council then discussed what they might ask for under Section 106, payback to the local community. Suggestions were:-

- A footpath to link the entrance to the site with the existing footpath in Mill Lane.
- Drainage of the Playing Field if that is possible.
- A SID (speed indication device) on the A534 to curb traffic speed.

**Highways:** The proposed development does not produce a severe highway impact on the local road network and the submitted layout is a standard layout that conforms with current highway standards. The accessibility of the site to public transport is limited although accessibility can be improved by providing a footway link to the site along Mill Lane.

Overall, the development of 14 units is considered acceptable and I do not raise objections to the application subject to conditions

**Environment Agency:** The above consultation does not require a formal response from the Environment Agency as it falls outside the scope of referrals we would wish to receive.

**United Utilities:** no objection to the proposed development provided that the following conditions are attached to any approval:

- Submission of details of foul drainage
- Foul shall be drained on a separate system
- Submission of a surface water drainage scheme and means of disposal, based on sustainable drainage principles
- The surface water drainage scheme must be restricted to existing runoff rates

**Rights of Way:** The development will not affect any Public Rights of Way although the northern end of Bulkeley FP4, a 'cul de sac' footpath, is just 6 metres from the boundary of the development site as recorded on the Definitive Map of Public Rights of Way. Given that Bulkeley FP4 is close by, the PROW Unit expects that the Planning department will ensure that any planning conditions concerning this right of way are fully complied with. In addition, advisory notes should be added to the planning consent.

**Environmental Health** – No objection subject to the following conditions:

- Environmental Management Plan
- Hours of construction
  - o Monday – Friday 08:00 to 18:00 hrs
  - o Saturday 09:00 to 14:00 hrs
  - o Sundays and Public Holidays Nil
- Provision of Bin Storage
- Travel Plan
- Electric Vehicle Charging Provision
- Contaminated Land Watching brief.

## REPRESENTATIONS:

Neighbour notification letters were sent to all adjoining occupants and a site notice erected. Representations have been received making the following points:

- Surprised that work on my trees is recommended, permission from neighbouring occupiers should be sought before any work is done on their property. Clearly the boundary between the nursery and Mr Schofield is the edge of the ditch farthest away from the nursery.
- The hedgerows and ditches on this boundary have been maintained by the family of the neighbouring occupier since 1932 and the ditch is an important part of the field drainage system. They have recently planted native hedging in all the gaps of the hedges round the nursery.
- It is surprising and disappointing that the planning application was submitted on the 27/1/15, but neighbours did not receive notification until 13/2/15.
- Also why are only a few residents informed directly i.e. no's 11,12,13,14 & 20, when this proposed development would impact on all residents of Mill Grove and the village as a whole
- This planning application is a modified version of a previous application 14/3052N to which many people, have previously objected.

- The reasons for objection still the same and residents would reiterate their absolute objection to this proposal. From their house and garden, neighbours have a beautiful outlook towards the hills. This is one of the main reasons they bought their property and invested so much time and money making it into their family home. To have these houses built next to them, so obstructing their outlook and having properties potentially overlooking them, would be extremely distressing and unfair.
- It would have some considerable impact on the value of neighbouring property.

## **APPRAISAL:**

### **Main Issues**

Given that the application is submitted in outline, the main issues in the consideration of this application are the suitability of the site, for residential development having regard to matters of planning policy and housing land supply, affordable housing, highway safety and traffic generation, contaminated land, air quality, noise impact, landscape impact, hedge and tree matters, ecology, amenity, open space, drainage and flooding, sustainability and education.

### **Principle of Development**

The site lies largely in the Open Countryside and Area of Special County Value as designated in the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policies NE.2 and RES.5 state that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

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.

Paragraph 47 of the National Planning Policy Framework requires that Council’s identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements

This calculation of Five Year Housing supply has two components – the housing requirement – and then the supply of housing sites that will help meet it. In the absence of an adopted Local Plan the National Planning Practice Guidance indicates that information provided in the latest full assessment of housing needs should be considered as the benchmark for the housing requirement.

The current Housing Supply Position Statement prepared by the Council employs the figure of 1180 homes per year as the housing requirement, being the calculation of Objectively Assessed Housing Need used in the Cheshire East Local Plan Submission Draft

The Local Plan Inspector has now published his interim views based on the first three weeks of Examination. He has concluded that the council's calculation of objectively assessed housing need is too low. He has also concluded that following six years of not meeting housing targets a 20% buffer should also be applied.

Given the Inspector's Interim view that the assessment of 1180 homes per year is too low, we no longer recommend that this figure be used in housing supply calculations. The Inspector has not provided any definitive steer as to the correct figure to employ, but has recommended that further work on housing need be carried out. The Council is currently considering its response to these interim views

Any substantive increase of housing need above the figure of 1180 homes per year is likely to place the housing land supply calculation at or below five years. Consequently, at the present time, the Council is unable to robustly demonstrate a five year supply of housing land.

The most important material consideration in this case is therefore the NPPF which states at paragraph 49 that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

The development plan is not "absent" or "silent". The relevant policies are not out of date because they are not time expired and they are consistent with the "framework" and the emerging local plan. Policy GR5 is not a housing land supply policy. However, Policy NE2, whilst not principally a policy for the supply of housing, (its primary purpose is protection of intrinsic character and beauty of the countryside,) it is acknowledged has the effect of restricting the supply of housing. Therefore, where a 5 year supply cannot be demonstrated, Policy NE.2 can be considered to be out of date in terms of its geographical extent and the boundaries of the area which it covers will need to "flex" in some locations in order to provide for housing land requirements. Consequently the application must be considered in the context of paragraph 14 of the Framework, which states:

At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.....For decision taking means:

- approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
  - specific policies in the Framework indicate development should be restricted."

It is therefore necessary to consider whether the proposal constitutes "sustainable development" in order to establish whether it benefits from the presumption under paragraph 14. The cases of Davis and Dartford have established that that "it would be contrary to the fundamental principles of the NPPF if the presumption in favour of development, in paragraph 14, applied equally to sustainable and non-sustainable development. To do so would make a nonsense of Government policy on sustainable development". In order to do this, the decision maker must reach an overall conclusion,

having evaluated the three aspects of sustainable development described by the framework (economic, social and environmental) as to whether the positive attributes of the development outweighed the negative in order to reach an eventual judgment on the sustainability of the development proposal. However, the Dartford case makes clear that this should be done simultaneously with the consideration of whether “any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole” as required by paragraph 14 itself and not on a sequential basis or as a form of preliminary assessment.

## **Social Sustainability**

### ***Affordable Housing***

The site falls within the Peckforton sub-area for the purposes of the Strategic Housing Market Update 2013. This identified a net requirement for 13 affordable units per annum for the period 2013/14-2017/18. Broken down this is a requirement for 5x 1bd, 4x 2bd, 3x 3bd general needs units and 1x 1bd older persons accommodation. There was no identified need for 4+bd units.

Cheshire Homechoice shows there are currently 4 applicants who have selected the Bulkeley lettings area as their first choice. These applicants require 2x 1bd and 2x 2bd units.

There has also been a recent Rural Housing Needs Survey carried out for the Parish of Bulkeley and Ridley in November 2013. This identified 9 households who required affordable housing within the Bulkeley and Ridley Parish.

The Interim Planning Statement on Affordable Housing (IPS) and Policy SC5 in the Local Plan Strategy Submission Version outline that in this location the Council will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all sites of 3 dwellings or more or than 0.2 hectare in size.

The general minimum proportion of affordable housing for any site will normally be 30%, in accordance with the recommendation of the 2010 Strategic Housing Market Assessment. The preferred tenure split for affordable housing identified in the SHMA 2010 was 65% affordable or social rented and 35% intermediate tenure.

The Affordable Housing IPS requires that the affordable units should be tenure blind and pepper potted within the development, the external design, comprising elevation, detail and materials should be compatible with the open market homes on the development thus achieving full visual integration and also that the affordable housing should be provided no later than occupation of 50% of the open market dwellings (unless the development is phased with a high degree of pepper-potting, in which case the affordable housing can be provided no later than occupation of 80% of the market dwellings).

The applicant has provided more than the policy requirement for affordable housing, Strategic Housing does not object to this.

The affordable housing comprises 3x 2bd houses and 2x 2bd bungalows, The SHMA identified no need for 2 bed older persons accommodation. The tenure split required would be 3 units provided as social or affordable rent and 2 units provided as intermediate tenure. It would be Housing Officer's

preference that 2 bed houses are provided for rent. However they have concerns over bungalows being provided as intermediate tenure. As the applicant has not provided details of the tenure proposals Housing Officers cannot comment further, therefore they object.

The application is for full planning permission. Therefore Housing Officers would expect more detail to be included in the application. The applicant has not confirmed the standards the affordable housing will be delivered to, the timing of the delivery of the affordable housing in relation to the market units or that the units will be tenure blind. Therefore the Strategic Housing Manager has objected to this development.

The Affordable Housing Interim Planning Statement states that:

*"The Council will require any provision of affordable housing and/or any control of occupancy in accordance with this statement to be secured by means of planning obligations pursuant to S106 of the Town and County Planning Act 1990 (as amended)"*

It also goes on to state:

*"In all cases where a Registered Social Landlord is to be involved in the provision of any element of affordable housing, then the Council will require that the Agreement contains an obligation that such housing is transferred to and managed by an RSL as set out in the Housing Act 1996"*

It is the Housing Department's preference that any affordable or social rented units are transferred to a Registered Provider of social housing to own and manage.

If planning permission is granted the preference is that the affordable housing is secured by way of a S106 agreement, which: -

- Requires them to provide 30% of the dwellings as affordable with 65% provided as social or affordable rent and 35% provided as intermediate tenure.
- requires them to transfer any rented affordable units to a Registered Provider
- provide details of when the affordable housing is required
- includes provisions that require the affordable homes to be let or sold to people who are in housing need and have a local connection. The local connection criteria used in the agreement should match the Councils allocations policy.
- includes the requirement for an affordable housing scheme to be submitted prior to commencement of development that includes full details of the affordable housing on site including location, type, size and tenure.
- Requires the affordable units that are to be transferred to an RP to achieve HCA Design and Quality Standards (2007) or the latest standards the HCA are applying to their grant funding programme at the time.

## **Health**

There is 1 medical practice within 3 miles of the site and according to the NHS choices website this practice is currently accepting patients indicating that they have capacity. Furthermore the practice has closed their list and they are not being forced to accept new patients.

## **Public Open Space**



Policy RT.3 states that where a development exceeds 20 dwellings the Local Planning Authority will seek POS on site. In this case the development would be less than 20 dwellings.

## **Education**

The Council's Education Officer has confirmed that a development of 14 dwellings would generate 4 primary and 2 secondary aged pupils. There is currently and forecast to be sufficient capacity in the local schools to accommodate the pupils generated by the development

## **Environmental Sustainability**

### **Landscape**

This is an outline application for 18 dwellings on land off Mill Lane, Bulkeley. The application site is located to the north of the village of Bulkeley in what is currently agricultural land, adjacent to the A534.

As part of the application a Landscape and Visual Impact Assessment has been submitted, this identifies that the application site is located within the boundary of a Local Landscape Designation Area and refers to saved Policy NE3 - Areas of Special County Value. The application site is located within the boundary of the Beeston/Peckforton/Bolesworth/Bickerton Hills Local Landscape Designation Area (formerly ASCV). This is characterised by the dramatic wooded sandstone ridge that forms a distinctive landform from long distances and the surrounding landscape, creating rich texture and character. The wooded slopes of Bulkeley Hill are clearly visible to the north of the application site.

With regards to the landscape assessment it is considered that the landscape sensitivity is greater than the submitted assessment indicates and consequently that the significance of landscape effects would also be greater.

The visual assessment identifies a number of viewpoints in proximity to the application area. The significance of visual effect would also be greater for a number of these viewpoints than the assessment indicates.

Policy NE.3 of the Crewe and Nantwich Replacement local Plan 2011 provides additional protection to areas which have been designated in order to preserve and enhance their special landscape quality. It is not clear how the proposed development will either the landscape quality of the area, which lies within the boundary of the Local Landscape Designation Area (formerly ASCV).

### **Trees**

The site is a parcel of agricultural land bounded by hedgerows with hedgerow trees. There are also three early mature trees on the roadside verge. The Crewe and Nantwich Borough Council (Bulkeley) TPO 1973 covers a number of the trees in the vicinity, including five specimens on the northern boundary. The TPO shows two Elm trees on the eastern boundary however, these are no longer present.

The Application form is incorrect as it states there are no trees or hedges on the site or likely to be affected by the development.

The application is supported by a tree survey dated 6 October 2014, Version 2 which includes an Arboricultural Implications Assessment section. A Pre-commencement tree protection plan reflects the current proposed layout and shows arboricultural constraints. The tree survey covers 16 individual trees and several groups. A number of specimens are afforded Grade A.

It is apparent from the Pre-commencement tree protection plan that there would be direct conflict between the development and trees, with areas of hard surfacing and buildings encroaching within tree root protection areas. In two locations, buildings would be close to the crown spread of trees.

Large sections of the arboricultural report contain general text which is not site specific. Whilst the Arboricultural Implications Assessment section acknowledges that special construction would be required for areas of hard surfacing within the site, and there is a plan annotation referring to piled foundations, the text of the report does not identify the direct conflicts in the layout of proposed buildings within tree root protection areas, the potential construction issues where proposed buildings are close to tree crown spreads, the poor social relationship between the frontage plot and adjacent tree or the conflict between trees and the proposed new footpath on Mill Lane.

Special construction methodology for some areas of hard surfacing within the site could be secured by condition and it may be possible to resolve the conflict with the road frontage plot by layout amendment, setting the building line back into the site and affording greater separation from the adjacent tree in the layout. Nevertheless, it is anticipated that the provision of the roadside footpath would be likely to result in the loss of three unprotected roadside trees. The encroachment of the four bed unit and associated garage into tree root protection areas of protected trees and the proximity of the dwelling to the crown spread of a mature protected Ash has the potential for cumulative harmful impacts.

### ***Hedgerows***

The proposals would involve the creation of a new access into the site, removing a section of hedge. Whilst it would normally be advised that a full assessment be made under the Hedgerow Regulations, outside a planning application, the Regulations include an exemption to make provision for the creation of a new opening for access, provided the existing access is infilled with hedge within 8 months. It would appear this could be achieved on this site. Infill of the hedge would need to be secured by condition.

Hedgerows are priority habitat and a material consideration. The proposed development is likely to result in the loss of a section of hedgerow to facilitate the proposed entrance to the site. It is recommended that if planting consent is granted, detailed proposals for the provision of suitable replacement native species planting should be secured by means of a condition

### ***Ecology***

This application is supported by an acceptable Phase One Habitat Survey. The Council's Ecologist has the following comments to make.

#### **Trees with bat roosting potential**

Three trees on site have been identified as having potential to support roosting bats (these are shown as target notes TN8 TN13 and TN17) these trees are all located on the boundary of the application site and so it seems feasible that these trees would be retained as part of the proposed development. If planning consent is granted it recommended that a condition be attached to secure the retention of these trees.

The northern and western boundaries of the application site have been identified as being of importance in the context of the site for foraging bats. The submitted ecological assessment identifies the need to retain these hedgerows within an appropriate buffer of semi-natural habitat. The submitted layout plan shows the provision of additional screening planting along the northern boundary of the application site which would assist in part in achieving this objective.

If planning consent is granted it is recommended that a condition along the lines of the following be attached:

*The proposed development to include the Habitat Buffer Zones along the northern and western boundaries of the application site and provision of bat boxes in accordance with the recommendations of section 7.3.1 and 7.3.2 of the submitted Bat Activity and Habitat Assessment dated September 2014.*

To avoid any potential impact arising from excessive lighting it is recommended that if planning consent is granted a condition be attached requiring any lighting associated with the proposed development be submitted as part of any future reserved matters application.

#### Nesting birds

If planning consent is granted the standard conditions are required to safeguard nesting birds.

#### **Location of the site**

To aid this assessment, there is a toolkit which was developed by the former North West Development Agency. With respect to accessibility, the toolkit advises on the desired distances to local amenities which developments should aspire to achieve. The performance against these measures is used as a "Rule of Thumb" as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions.

The accessibility of the site shows that following facilities meet the minimum standard:

- Bus Stop (500m) – 250m
- Public Right of Way (500m) – 20m
- Community Centre/Meeting Place (1000m) – 320m

Where the proposal fails to meet the standards, the facilities / amenities in question are still within a reasonable distance of those specified and are therefore accessible to the proposed development. Those amenities are:

- Public House (1000m) – 1280m

The following amenities/facilities fail the standard:

- Supermarket (1000m) – 12500m
- Convenience Store (500m) – 4500m
- Primary School (1000m) – 2500m
- Amenity Open Space (500m) – 4500m
- Pharmacy (1000m) – 5600m
- Post office (1000m) – 2500m
- Children's Play Space (500m) – 4500m
- Secondary School (1000m) – 7400m
- Medical Centre (1000m) - 5790m
- Outdoor Sports Facility (500m) – 4500m
- Child Care Facility (nursery or crèche) (1000m) - 3800m

In summary, the site does not comply with all of the standards advised by the NWDA toolkit. However as stated previously, these are guidelines and are not part of the development plan. Owing to its position on the edge of Bulkeley, there are some amenities that are not within the ideal standards set within the toolkit and will not be as close to the development as existing dwellings which are more centrally positioned. Nevertheless this is not untypical and will be the same distances for the residential development in Bulkeley from the application site. However, the majority of the services and amenities listed are accommodated within Bunbury.

On this basis the previous application was considered to be acceptable in locational sustainability at the time of determination as this view was considered to be consistent with two recent appeal decisions which were refused on sustainability grounds but allowed at appeal. They were at 4 Audlem Road, Hankelow an application for 10 dwellings (12/2309N) and at land adjacent to Rose Cottages, Holmes Chapel Road, Somerford an application for 25 dwellings (12/3807C).

However, in the intervening period an appeal decision has been received for a site known as "The Gables" at Peckforton, where the Inspector stated:

*"The defects of this location and the dearth of facilities are matters of fact. A place that can boast of containing little more than a post box and a restaurant (transformed from an old public house beside the A49) can provide few of the day-to-day facilities that prospective occupants might need. Moreover, since there is barely a bus service to speak of, the means of reaching such facilities must mainly depend on using the private car. (Mr Augustine's ability to push his 2 children to Bunbury and back being the exception that proves the rule). True, there is a 'Brambley Hedge Nursery' amongst the 'farmsteads' a little way beyond the settlement, but everything else (a small Co-op, a butcher, a post office, a medical centre, the village hall, the primary school, 2 churches and 3 public houses) are at last 1.5km away in the village of Bunbury. No doubt prospective residents would make some use of those facilities, often travelling back and forth by car. But, the use of the car also presents immediate opportunities to travel further afield. And, the need to do so to reach facilities and services unavailable locally could well encourage such journeys. The contrary possibility that the appeal proposal might contribute to re-establishing the post office and shop, the police station, the primary school or the Methodist Chapel in Spurstow a quarter of a century or so since their demise is, I fear, little more than a 'pipe dream'."*

On this basis the scheme is no longer considered to be acceptable in locational sustainability terms.

## **Access**

The Strategic Highways Manager has confirmed that there is adequate visibility available at the junction with Mill Lane in both directions and the submitted design is considered acceptable. Parking provision within the site does conform with current CEC standards and there is a turning facility provided at the head of the cul-de-sac. The traffic generation resulting from 14 units is low and given that the background traffic flow on the local highway network in the vicinity of the site is also well below capacity there can be no traffic impact grounds to reject the application.

In regards to connectivity, the site is not currently linked to the pedestrian footway network as Mill Lane does not have footways, the application includes a proposal to provide a footway along Mill Lane linking to the existing path at Mill Grove. The site location does not have good public transport links and it cannot be stated that the site has good accessibility and it needs to be recognised that developments located in relatively rural locations cannot in most cases provide good levels of accessibility. As the development in terms of numbers is limited the site does not provide a major traffic impact on the road network.

The proposed development does not produce a severe highway impact on the local road network and the submitted layout is a standard layout that conforms to current highway standards. The accessibility of the site to public transport is limited although accessibility can be improved by providing a footway link to the site along Mill Lane.

Overall, the development of 14 units is considered acceptable in highway terms subject to conditions.

## **Amenity**

The surrounding development comprises a nursery and caravan site to the north, open countryside to the east and west and an existing residential cul-de-sac (Mill Grove) to the south. The recommended minimum distance of 21m between principal elevations would be exceeded between the proposed dwellings and these properties. This would also be achieved within the site as would the recommended minimum distance of 13m between principal elevations and flank elevations.

The minimum garden area of 50sqm would be achieved in the majority of cases with the exception of the terraced affordable units, where rear garden areas would be reduced to around 40sqm in 2 out of 3 cases. However, the properties do benefit from substantial front gardens as well, and such garden areas are not untypical for this type of report. Therefore it is not considered that a refusal on amenity grounds could be sustained.

## **Design**

In this case the density of the development is considered to be acceptable and would be consistent with the surrounding area of Bulkeley. The development is for 14 two-storey dwellings. The proposed dwellings are a mixture of 2 storey and single storey types, which are of a simple, vernacular pitched roof form, and include features such as arched window heads and gable detailing which is reminiscent of the many farm buildings and estate cottages in the vicinity. Subject to conditions controlling materials it is considered that these house types would be appropriate in this locality.

The proposal is considered to be an acceptable layout and all highways would be well overlooked. Car dominated frontages would be avoided. Secure bin storage, for both recycling and household

waste, should be provided that is adequate for the size of the development. This could be secured by condition.

Overall, therefore, it is considered that an acceptable design/layout that would comply with Policy BE.2 (Design Standards) and the NPPF has been achieved.

### **Noise**

No noise concerns are raised with regard to impact on future occupiers from existing noise sources such as roads or rail lines. However, to protect the amenity of neighbouring occupiers from construction noise, a condition requiring a construction management plan would be required as well as a condition to limit the operating hours of the construction site.

### **Air Quality**

Whilst this scheme itself is of a relatively small scale, and as such would not require an air quality impact assessment, there is a need for the Local Planning Authority to consider the cumulative impact of a large number of developments in a particular area. In particular, the impact of transport related emissions on Local Air Quality.

The cumulative impact of a number of developments in the area around Nantwich (regardless of their individual scale) has the potential to significantly increase traffic emissions and as such adversely affect local air quality for existing residents by virtue of additional road traffic emissions.

The transport assessment submitted with the scheme makes reference to the accessibility of public transport, walking and cycling routes. The accessibility of low or zero emission transport options has the potential to mitigate the impacts of transport related emissions, however it is felt appropriate to ensure that uptake of these options is maximised through the development and implementation of a suitable travel plan.

In addition, modern Ultra Low Emission Vehicle technology (such as all electric vehicles) are expected to increase in use over the coming years (the Government expects most new vehicles in the UK will be ultra low emission). As such it is considered appropriate to create infrastructure to allow home charging of electric vehicles in new, modern properties.

Therefore, it is considered to be appropriate to impose conditions requiring submission of a travel plan, construction environmental management plan and provision of electric vehicle infrastructure.

### **Contaminated Land**

The application is for new residential properties which are a sensitive end use and could be affected by any contamination present. The applicant has submitted a contaminated land assessment for the site. This assessment identified a low risk of contamination on the site. There is a nursery adjacent to the north of the site. There may be localised contamination on this site from fuel/oil tanks for example. If there are any tanks on the southern boundary of the nursery, any spillages may migrate onto the site and pose localised contamination issues. A watching brief during construction for any contamination should be employed. This could be secured by condition.

### **Flood Risk and Drainage**

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. Flood Zone 1 defines that the land has less than 1 in 1000 annual probability of flooding and all uses of land are appropriate in this location. As the application site is less than 1 hectare, a Flood Risk Assessment (FRA) is not required in support of this application.

A number of objections have been received in relation to the drainage of the site. The Councils Flood Risk Manager and United Utilities have been consulted as part of this application and have both raised no objection to the proposed development subject to the imposition of planning conditions. As a result, the development is considered to be acceptable in terms of its flood risk/drainage implications.

## **Economic Sustainability**

### **Job Creation**

Although the principle of the development has been established, the approval of the reserved matters will allow the new retail unit to be realised which will be of economic benefit to the town through the provision of a new business with associated job creation.

### **Agricultural Land Quality**

Policy NE.12 of the Local Plan states that development on the best and most versatile agricultural land (Grades 1, 2 and 3A) will not be permitted unless:

- The need for the development is supported by the Local Plan
- It can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality, derelict or non-agricultural land
- Other sustainability considerations suggest that the use of higher quality land is preferable

The National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

In this case the applicant has provided supporting which identifies that the site is Grade 2 agricultural land which is contrary to Policy NE.12 and the NPPF.

### **S106 contributions:**

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010 it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In this case, however, no Section 106 Contributions are required.

## **PLANNING BALANCE AND CONCLUSION**

It is acknowledged that the Council is unable to robustly demonstrate a five-year housing land supply and that, accordingly, in the light of the advice contained in the National Planning Policy Framework, it should favourably consider suitable planning applications for housing that can demonstrate that they meet the definition of sustainable development.

There is an environmental impact in the locality due to the loss of open countryside and agricultural land. There would also be an adverse impact on the landscape, and protected trees. The proposal would satisfy the economic and social sustainability roles by providing for much needed housing adjoining an existing settlement. The proposal would provide policy compliant levels of affordable housing, contributions to education and would be acceptable in ecology terms.

Subject to conditions, the proposal is considered to be acceptable in terms of highways amenity, flood risk, drainage and design.

However, these do not outweigh the concerns outlined above and it is therefore considered to be unsustainable development and accordingly is recommended for refusal.

## **RECOMMENDATION**

**REFUSE** for the following reasons:

**Whilst it is acknowledged that there is a presumption in favour of sustainable development in the planning balance, it is considered that the development is unsustainable because:**

- **the unacceptable environmental impact of the scheme on protected trees, the open countryside and character and appearance of the landscape, coupled with it's unsustainable location, and the economic impact of loss of best and most versatile agricultural land significantly demonstrably outweighs the economic and social benefits in terms of its contribution to boosting housing land supply, including the contribution to affordable housing. As such, the proposal is contrary to Policy NE2, BE3, NE5 and NE12, of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and Policy SE4 of the Cheshire East Local Plan Strategy Submission Version as well as the provisions of the National Planning Policy Framework .**
- **insufficient information has been provided to demonstrate that the proposal complies with the Councils Interim Policy on the Provision of Affordable Housing and the provisions of the NPPF in respect of affordable housing which is an important aspect of social sustainability.**



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