

Application No: 14/4062N

Location: Land Off, OAK GARDENS, BUNBURY

Proposal: OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT OF 17 DWELLINGS WITH PRIMARY ACCESS OFF OAK GARDENS, WITH ALL OTHER MATTERS RESERVED.

Applicant: Elan Homes Ltd

Expiry Date: 27-Nov-2014

## SUMMARY

The application site lies entirely within the Open Countryside as determined by the Borough of Crewe and Nantwich Local Plan.

Within such locations, there is a presumption against development, unless the development falls into one of a number of categories as detailed by Local Plan Policy NE.2. The proposed development does not fall within any of the listed categories and as such, it constitutes a “departure” from the development plan and there is a presumption against the proposal.

The proposal remains contrary to Open Countryside policy regardless of the Council’s 5-year housing land supply position in evidence at any particular time and a judgement must be made as to the value of the particular area of countryside in question and whether, in the event that a 5 year supply cannot be demonstrated, it is an area where the settlement boundary should be “flexed” in order to accommodate additional housing growth.

In this case, the development would provide market housing to meet an acknowledged shortfall in a relatively sustainable location. The proposal would also have some economic benefits in terms of jobs in construction, spending within the construction industry supply chain and spending by future residents in local shops.

Balanced against these benefits must be the negative effects that this proposal would have on protected trees (including the loss of a veteran protected Ash tree (T28)), the lack of information to demonstrate that the proposal would not harm species protected by law (bats, barn owls and reptiles), the substandard access strategy, the failure to provide alternatives for the existing public rights of way that cross the site and the lack of affordable housing. Together, these negatives all translate to a proposal which is unsustainable both in the environmental and social sense and are far outweigh the benefits of the scheme.

The draft Bunbury Neighbourhood Plan must also be weighed into the planning balance. It is clear that the proposed development conflicts with housing policies within the Plan. Given the context of the existing village and the size and scale of the proposed development coupled with others currently being considered by the Council, it is considered that to allow the development would significantly impact on the settlement as a whole and its planned future development. As

a consequence and taking account of the weight that can be attached to the draft NDP, it is considered that the development is sufficient to threaten the plan-making process in Bunbury.

On the basis of the above, it is considered that the proposal represents unsustainable development and paragraph 14 is not engaged and therefore the proposal should be determined in accordance with the development plan. Notwithstanding this point, even if it were engaged, it is considered that the adverse effects of the scheme significantly and demonstrably outweigh the benefits.

As a result of the above reasons, it is considered that the proposal would represent an unsustainable form of development and is therefore recommended for refusal.

## **RECOMMENDATIONS**

**REFUSE**

## **REASON for REFERRAL**

This application is referred to the Southern Planning Committee as it is a small-scale major development and relates to a departure to the Crewe and Nantwich Borough Local Plan.

## **PROPOSAL**

This application seeks outline planning permission for the erection of 17 dwellings with access taken from Oak Gardens. Details of appearance, layout, scale and landscaping have been reserved for approval at a later stage.

## **SITE DESCRIPTION**

The application site is located to the south of the Bunbury Village, to the east of properties fronting Bunbury Lane. To the north are properties which front onto Wakes Meadow, to the south is agricultural land and to the west is a dense copse of woodland that is afforded protection under a Tree Preservation Order. There are 3 public footpaths which all converge towards the southern boundary of the site. The site is generally flat and linear in shape measuring approximately 0.8 ha in size. The site is outside of the settlement boundary of the village as designated in the Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011 and is not allocated for any other purpose within the Local Plan.

## **RELEVANT HISTORY**

7/18232 – Outline application for two detached houses and garages – Refused 19-Apr-1990

7/17235 - Res. Development (2 No. Detached houses with double garage) – Refused 03-Aug-1989

## **NATIONAL & LOCAL POLICY**

### **National Policy**

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

14 - Presumption in favour of sustainable development, 47-50 - Wide choice of quality homes, 55 - Isolated dwellings in the countryside, 56-68 - Requiring good design and 69-78 - Promoting healthy communities 216 – Neighbourhood planning

## **Development Plan**

The Development Plan for this area is the Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011, which allocates the site, under Policy NE.2, as Open Countryside.

The relevant Saved Policies are:

BE.1 (Amenity)  
BE.2 (Design Standards)  
BE.3 (Access and Parking)  
BE.4 (Drainage, Utilities and Resources)  
BE.6 (Development on Potentially Contaminated Land)  
TRAN.9 (Car Parking Standards)  
NE.2 (Open Countryside)  
NE.5 (Nature Conservation and Habitats)  
NE.9 (Protected Species)  
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 Bridleway)  
TRAN.3 (Pedestrians)  
TRAN.5 (Cycling)

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

## **Cheshire East Local Plan Strategy – Submission Version (CELP)**

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

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 13 - Flood Risk and Water Management  
SE 6 – Green Infrastructure  
IN1 – Infrastructure  
IN2 – Developer Contributions

### **Draft Bunbury Neighbourhood Development Plan**

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

H1 – Housing Development  
H2 - Scale of Housing Development  
H3/H4 – Affordable Housing  
H5 - Design  
LC1 - Built Environment  
LC2 – Landscape  
ENV2 – Countryside & Open Views

#### **Other Material considerations:**

SPD2 – Development on Backlands and Gardens  
The EC Habitats Directive 1992  
Conservation of Habitat & Species Regulations 2010  
Interim Affordable Housing Statement: Affordable Housing  
Bunbury Village Design Statement

### **CONSULTATIONS**

#### **Head of Strategic Infrastructure (Highways)**

Object – The access strategy is unsatisfactory in terms of carriageway widening and construction.

#### **Environmental Protection**

No objections, subject to conditions restricting hours of piling; the prior submission of a piling method statement, the prior submission of external lighting, the prior submission of a dust mitigation scheme and contaminated land. Informatives sought relate to; hours of construction and contaminated land are also sought.

**United Utilities** – No objections, subject to conditions relating to foul water and surface water.

#### **Education**

No objection subject to financial contributions of £49,028.07 towards secondary school provision. Forecasts show that primary provision can accommodate expected primary children.

## **Public Rights of Way Unit (PROW)**

Object – the proposal would obstruct Bunbury Parish footpaths no. 14 and 15.

## **Bunbury Parish Council**

Object on the following grounds:

- The proposed development is in open countryside, outside the Bunbury Settlement Boundary. Against Policy N.E.2
- There is a significant Highways safety issue. There are serious concerns of danger to pedestrians; to children playing and the risk of traffic collisions with the increase of traffic entering the proposed site, and leaving the site, into a road that has a blind bend. Against Highways Policy BE.3
- Access is inadequate. The proposed internal road is 4.8 metres wide, condensing into a bottleneck at the access road which is 4.2 metres at most. It is of particular concern that the application is for full planning consent for the access way which is inadequate for the number of dwellings proposed. Against Highways Policy BE.3
- The design is not in keeping with the local area. There are concerns about the scale, size and density of the development. The proposed 17 dwellings are on a site that is half the size of nearby Wakes Meadow which has 20 houses on it. Against Policy BE.2
- The application is not in line with the adopted Bunbury Village Design Statement 2009. The development does not conform to the density in that part of the Village and to the building scale of the immediate area. Bunbury Village Design Statement 2009
- There is concern at the potential loss of 3 Footpaths that cross the site. Loss of Amenity Against Policy BE.1
- Concern that there will be increased risk of flooding with additional runoff and impermeable surfaces. There are currently areas of wet surface in the area. Against Policy NE.20

## **REPRESENTATIONS**

Over 100 representations have been received, including a report from the 'Lower Bunbury Action Group' and a letter from Wulvern Housing objecting to this proposal on the following grounds:

- Unsustainable – lack of services, facilities and amenities in area
- Contrary to development plan
- Contrary to Village Design Statement and Parish Plan
- Loss of greenfield / intrusion into open countryside
- Standard of design would not enhance the built environment, respect the pattern, character and form of the surroundings
- Too many units / density too high / scale of development too much
- Impact on trees
- Negative impact on local economy / tourism
- Loss of wildlife and impact on protected species
- Lack of parking
- Road is too narrow
- Will be hazardous for young children playing in the area
- Emergency vehicles / service vehicles would not be able to access the site

- Pedestrian environment is poor
- Harm to local listed buildings
- Traffic generation
- Road safety
- Noise, dust and general disturbance during construction
- Loss of footpaths
- Loss of views
- Impact on property values
- Damage to highway
- Would undermine existing 'Home-Zone' on Oak Gardens
- Impact on historic character and appearance of the village / area
- Impact on neighbouring amenity
- Limited public transport
- Council already has a 5 year supply of housing
- Nearby Beeston development already adds huge pressure to local area
- Lack of local employment to service new houses
- Alternative sites should be considered first
- Village does not have the infrastructure to support more houses
- Impact on cyclists
- No demand or demonstrable need for the proposed houses
- Proposed housing is not affordable
- Site suffers from poor drainage
- Cumulative impact of all developments in Bunbury would exceed need

## **APPRAISAL**

The key issues are:

- Principle of the development
- Bunbury Neighbouring Development Plan
- Housing land supply
- Impact upon the Open Countryside
- Sustainability
- The acceptability of the design
- Impact on residential amenity
- The impact upon highway safety
- The impact upon ecology
- The impact upon the landscape, trees and hedgerows
- The impact upon flooding and drainage
- Affordable housing
- Residential Amenity

## **Principle of Development**

Policy NE.2 of the Local Plan advises that: *'within the Open Countryside 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.*

*An exception may be made where there is the opportunity for the infilling of a small gap with one or two dwellings in an otherwise built up frontage.'*

Policy RES.5 of the Local Plan advises that *'Outside settlement boundaries all land will be treated as open countryside. New dwellings will be restricted to those that; a) Meet the criteria for infilling contained in Policy NE.2; or b) are required for a person engaged full time in agriculture or forestry...'*

The proposed development does not meet any of the above exceptions and as such, the proposal 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 the development represents a sustainable form of development and whether there are other material considerations associated with this proposal, which are a sufficient to outweigh the conflict with the development plan.

### **Bunbury Neighbourhood Plan**

Bunbury Parish Council has prepared a draft Neighbourhood Development Plan (NDP) for the Parish of Bunbury. The consultation period for the plan has now taken place and ran until 21st May 2015.

Paragraph 216 of the NPPF states *'from the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:*

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)'*

The NPPG states that an emerging neighbourhood plan may be a material consideration.

Annex 1 of the National Planning Policy Framework explains how weight may be given to policies in emerging plans. However, in the context of the Framework and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:

*a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and*

*b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

The NPPG also states that *'refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process'*.

The Neighbourhood Plan is therefore a material consideration which must be weighed in the planning balance taking account of the stage that the neighbourhood plan is currently at and the context, location and scale of the proposed development relative to the area.

Members may be aware there have been a number of legal cases that have supported Neighbourhood Plan policies even when a Local Plan has not been fully adopted. There have also been recent High Court cases which have rejected the Secretary of State's judgement on the weight he has given to emerging neighbourhood plans with the 'Woodcock' case further emphasising the clarity needed to refuse applications on prematurity grounds. Therefore the weight to be attached to the plan depends on the particular circumstances in each case with particular emphasis on scale and context.

Policy H1 within the Neighbourhood Plan advises that housing developments outside the Settlement Boundary will only be granted where they comply with H2 (Scale of Housing Development). H2 states that new development will be supported in principle provided its small scale and in character and for Greenfield development it should be a maximum of 15 new houses on any one site. The site is outside the Settlement Boundary and on a Greenfield site, therefore being 17 dwellings the proposal would be contrary to the policy and the wider vision for Bunbury within the draft Neighbourhood Plan.

Bunbury is an area that has been under tangible development pressure over the last 18 months with a significant number of potential developments proposed for the village varying from small scale infill developments to larger scale Greenfield developments.

The draft Neighbourhood Plan seeks to recognise that housing development will be needed over the plan period until 2030 but to accept all developments would threaten both the scale and character of the area. The policies within the plan seek to provide a structure to future development to enable it to take place in a planned and sustainable way. Consequently, the scale of this development would prejudice the outcome of the neighbourhood plan making process and as such, the proposal does not accord with NDP, which has been through its formal consultation process. The scale of this development in combination with others being considered by the Council would prejudice the outcome of the neighbourhood plan making process and this issue will form a reason for refusal.



## **Housing Land Supply**

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.

The 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.

Following the suspension of the Examination into the Local Plan Strategy and the Inspectors interim views that the previous objectively assessed need (OAN) was 'too low' further evidential work has now taken place and a fresh calculation made.

Taking account of the suggested rate of economic growth and following the methodology of the NPPG, the new calculation suggests that need for housing stands at 36,000 homes over the period 2010 – 2030. Although yet to be fully examined this equates to some 1800 dwellings per year.

The 5 year supply target would amount to 9,000 dwellings without the addition of any buffer or allowance for backlog. The scale of the shortfall at this level will reinforce the suggestion that the Council should employ a buffer of 20% in its calculations – to take account of 'persistent under delivery' of housing plus an allowance for the backlog.

While the definitive methodology for buffers and backlog will be resolved via the development plan process this would amount to an identified deliverable supply of around 11,300 dwellings.

This total exceeds the total deliverable supply that the Council is currently able to identify – and accordingly it remains unable to demonstrate a 5 year supply of housing land.

## **Open Countryside Policy**

In the absence of a 5-year housing land supply we cannot rely on countryside protection policies to defend settlement boundaries and justify the refusal of development simply because it is outside of a settlement, but these policies can be used to help assess the impact of proposed development upon the countryside. Where appropriate, as at Sandbach Road North, conflict with countryside protection objectives may properly outweigh the benefit of boosting housing supply. Policy NE.2, seeks to protect the intrinsic character and beauty of the countryside.

Therefore, the proposal remains contrary to Open Countryside policy regardless of the 5 year housing land supply position in evidence at any particular time and a judgement must be made as to the value of the particular area of countryside in question and whether, in the event that a 5 year supply cannot be demonstrated, it is an area where the settlement boundary should be "flexed" in order to accommodate additional housing growth.

In order to assess the impact upon the Open Countryside, a key consideration is the impact that the development would have upon the landscape, which forms part of the assessment as to whether the proposal is a sustainable form of development.

## **Sustainability**

The National Planning Policy Framework definition of sustainable development is:

*“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”*

Inspectors have determined that locational accessibility is but one element of sustainable development and it is not synonymous with it. The NPPF determines that sustainable development comprises of three dimensions:- economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

**an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

**an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

**a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being;

These roles should not be undertaken in isolation, because they are mutually dependent.

## **Environmental role**

The application site is located at the rear of residential properties which front onto Bunbury Lane. The proposed housing development will be accessed directly off Oak Gardens which in turn takes access off Bunbury Lane. The application site is located in close proximity to a number of facilities including local primary school, convenience store, public house and post office which are all readily accessible by foot. These sites on the whole can be accessed via well lit public footpaths. Given the factors above the village of Bunbury is designated as a local service centre and is therefore locationally sustainable.

## **Landscape Impact**

The site has no national landscape designation. In the Cheshire Landscape Character Assessment the site is within the East Lowland Landscape Type. In this area the landscape type is represented by generally flat agricultural land where the prevailing field pattern and condition of the hedgerows can account for subtle differences in landscape character.

In terms of the impact on the wider landscape, this proposal would be read against the backdrop of the existing development at Wakes Meadow to the north and the existing properties to the east fronting Bunbury Lane. In addition, a row of terraced properties at Oak Gardens serve to screen the eastern part of the site. To the west, the site is well screened by the dense copse of protected trees. Owing to these features, it is considered that the visual impact of the development on the landscape would not be adverse and is acceptable.

### Loss of Agricultural Land

The proposal would result in the loss of an area of agricultural land. All of the site will be lost from agriculture, whether built upon or subject to open space. However, much of Cheshire East comprises best and most versatile land and use of such areas will be necessary if an adequate supply of housing land is to be provided. Furthermore, previous Inspectors have attached very limited weight to this issue in the overall planning balance. Further, due to its small area, shape and enclosed nature does not offer significant opportunities for agricultural production.

### Trees

The supporting Arboricultural Statement identifies some 48 individual trees located on and immediately adjacent to the application site; the majority of trees have been categorised in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction as Category A (High Quality and Value) and B (Moderate Quality and Value). Two hedgerows have also been identified along the northern and southern boundaries of the site.

The survey confirms the presence of a Veteran Tree; a Common Ash (T28) located in the central section of the site. The tree has a stem diameter in excess of 1000mm and an estimated height of some 20 metres. A veteran tree has veteran features usually associated with habitat but does not automatically indicate extreme age. Colonising species, biodiversity, the presence of hollows and cracks, quality of habitat, and decline in vitality are factors in determining veteran status. The tree clearly has the attributes for the definition of a True Veteran (*Defining and Surveying Veteran Trees*, Neville Fay 2007) and as a consequence is now protected under a Tree Preservation order.

Paragraph 118 of the NPPF advises that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

The proposed sketch layout indicates that this tree will be removed to accommodate Plots 5 and 6, although the layout is only indicative. However, the provision of 17 units would undoubtedly put pressure on the said tree and as such, in its current form; the proposal does not accord with the NPPF or local plan policy.

The position of plots in relation to existing mature boundary Oaks and Sycamore do not provide for adequate space to address shading and reasonable daylight/sunlight provision. It is anticipated that the current draft layout would lead to future requests to fell or severely prune retained trees which would impact upon their contribution to the public amenity of the area.

The Council's Tree Officer has similar concerns in respect of proposed plots to the western section of the site facing the woodland. The woodland provides an important visual amenity, landscape buffer and wildlife corridor; the integrity of which must be maintained. The location of gardens and Plots close to the woodland edge will inevitably lead to its erosion and degradation by haphazard felling/lopping and topping to facilitate acceptable levels of daylight/sunlight. In view of the above matters, particularly the removal of the protected Ash tree (T28), it is considered that the impact of the proposal on trees is unacceptable.

### Ecology

The application is supported by an Extended Phase 1 habitat survey. The Council's Nature Conservation Officer (NCO) has reviewed the submitted information and advised with respect to the following considerations:

#### Grassland habitats

The NCO has advised that the grassland habitats on site are of relatively low value and do not present a significant constraint upon development. However, the grasslands do support a number of species which are indicative of better quality grassland habitats. The development proposals therefore still result in an overall loss of biodiversity. If planning consent were to be granted, the residual impacts of the development would need to be off-set by means of a commuted sum that could be utilised to fund offsite habitat creation/enhancement potentially within the 'Meres and Mosses Nature Improvement Area'.

The method of calculating an appropriate commuted sum has been based on the Defra report 'Costing potential actions to offset the impact of development on biodiversity – Final Report 3rd March 2011': The loss of habitat (Semi improved grassland) amounting to roughly 0.8ha:

- Cost of creation of Lowland Grassland 0.8ha x £11,293.00 (cost per ha) = £9034.40  
(Source UK BAP habitat creation/restoration costing + admin costs)

The above calculation would be for the creation of species rich UK BAP grassland. However, the habitat lost is species poor and so the impacts of this loss are less. Consequently, the NCO has suggested half of this figure would be appropriate resulting in a required contribution of £4517.20

### Bats

The protected Ash tree (T28) within the site has been identified as having potential to support roosting bats. As previously discussed, this tree would be lost under the current proposals. Without the retention of this specimen, a detailed bat survey is required to establish the presence/absence of roosting bats. In the absence of such, there is insufficient information to determine the impact of the proposal on protected species.

### Barn owl

The application site has also been identified as having potential to support foraging barn owls. The submitted habitat survey recommends that further surveys are undertaken to assess the usage of the site by barn owls. In the absence of such, there is insufficient information to determine the impact of the proposal on protected species.

### Woodland and stream

A Woodland and stream are located along the western boundary of the application site. Both of these habitats must be safeguarded during both the construction and occupational stage of the proposed development. This could be secured at the reserved matters stage.

### Reptiles

The habitat report identifies the application site as being suitable to support reptile species. The report states that there are no records of reptiles within 1km of the application site. The Council's NCO has advised that grass snakes have recently been recorded within close proximity of the application site. The proposed development therefore has the potential to have an adverse impact upon this species and it is advised that a detailed reptile survey be undertaken and submitted in support of this application. A report of the required survey should include any mitigation/compensation proposals.

Taking the above into account, there is insufficient information to determine the impact that the proposals would have on species protected by law, contrary to Policy NE.9 of the Local Plan and advice within the NPPF.

### Design Standards

Policy BE.2 of the Local Plan advises that new development should respect the pattern, character and form of the surroundings and not adversely affect the streetscene by reason of scale, height, proportions or materials used. Policies SD2 and SE1 of the emerging Cheshire East Local Plan Strategy – Submission Version and H5 of the emerging Bunbury Neighbourhood Development Plan largely support this local plan policy.

The proposal is outline form and therefore the submitted layout is only indicative. Nonetheless, the sketch layout shows the provision of 17 detached dwellings arranged in a linear pattern following the shape of the site then terminating at the western end of the site forming a cul-de-sac. The density of 17 detached units on the site would be greater than the adjoining development found at Wakes Meadow to the north. However, there are examples of similarly grouped development directly to the east of the site and as such, the proposal would not be

incongruous in this regard. It is considered that the overall layout of the development is acceptable in design terms.

In terms of general impact on the character and appearance of the area, the development would be situated to the rear of both the development on Wakes Meadow and those dwellings fronting Bunbury Lane. As such, the impact that the development would have on the appearance of the area would be limited and at this stage, the application is considered to be acceptable in this regard.

### Access

Access to the site is to be taken from Oak Gardens which is an existing adopted highway benefitting from an approved junction with Bunbury Lane. The additional 17 dwellings would cause an increase in traffic generation of 11 trips in the peak hours above the 7 already generated by the existing 10 dwellings that already exist. This is a non-material impact on the junction of Oak Gardens/Bunbury Lane and Bunbury Lane itself.

The application is supported by an access strategy. This strategy presents 2 options both of which comprise extending the carriageway of Oak Gardens at its turning head and continuing it into the site. Option 2 features a passing place on Oak Gardens to allow a service vehicle to pass a car. However, the Council's Head of Strategic Infrastructure (Highways) has confirmed that neither option is satisfactory.

Any widening of Oak Gardens should be completed on the side which does not carry services and the widening should be continued around the radius kerb onto Bunbury Lane if possible. Full carriageway construction would be required, grasscrete is not acceptable as proposed.

The principle of serving 17 additional units off Oak Gardens is not in dispute. However, the access strategy is not acceptable and accordingly the Head of Strategic Infrastructure recommends refusal of this application in terms of carriageway widening and construction.

### Flood Risk and Drainage

The application site does not fall within a Flood Zone and is not of a scale which requires the submission of a Flood Risk Assessment. United Utilities have also reviewed the application and advised that they have no objections, subject to a number of informatives relating to the provision of water metres and general drainage advice.

### Public Right of Way

The Council's Public Rights of Way Unit (PROW) has confirmed that the proposed development would lead to the obstruction of Bunbury Public Footpaths 14 and 15. There are also plans to dedicate an additional public footpath which runs directly through the middle of the site but this has not yet been formalised.

Despite discussions held between the PROW, landowner and applicant, there has been no progress towards dedicating a new route and extinguishing / diverting footpaths 14 and 15. On this basis, the PROW maintains an objection to the scheme.

Local Plan Policy RT.9 states that *'permission will not be granted for any development which would prejudice public access onto or through the network unless specific arrangements are made for suitable alternative routes'*. In the absence of an application to divert the existing footpaths and designate a new route, the proposal is contrary to local plan policy.

### Conclusion

Whilst the proposed development would result in the loss of a green space outside of the settlement boundary for the village, the impact upon the wider landscape will not be significant. However, the proposal would result in the loss of important trees (one of which is protected), has provided insufficient information to determine the impacts on protected species, proposes an unsatisfactory access strategy and would also result in the obstruction of 2 no. public footpaths without securing suitable alternative routes. Thus, whilst there are no objections to the indicative design and matters relating to flooding and drainage, the objections to other environmental considerations far outweigh these matters and as such, the scheme is not considered to be environmentally sustainable.

### **Economic Role**

It is accepted that the construction of a housing development of this size would bring the usual economic benefit to the closest shops in Bunbury for the duration of the construction, and would potentially provide local employment opportunities in construction and the wider economic benefits to the construction industry supply chain. There would be some economic and social benefit by virtue of new resident's spending money in the area and using local services. On this basis, it is considered that the proposed development would be economically sustainable.

### **Social Role**

#### Affordable Housing

The site falls within the Bunbury sub-area for the purposes of the Strategic Housing Market Assessment update (SHMA) 2013. This identified a net requirement for 18 affordable units per annum for the period 2013/14-2017/18. Broken down this is a requirement for 18 x 1 bed and 1 x 4+ bed units. The SHMA showed an over-supply of 2 bed units.

In addition to information taken from the SHMA, Cheshire Homechoice shows there are currently 19 applicants who have selected the Bunbury lettings area as their first choice. These applicants require 4 x 1bed, 12 x 2 bed and 3 x 3 bed units.

There has also been a recent Rural Housing Needs Survey carried out in Bunbury completed in March 2013 which showed there were 27 households in housing need who would consider affordable housing, with the majority of these requiring housing within the next 2 years.

The Interim Planning Statement: Affordable Housing (IPS) states that in areas with a population of less than 3,000 the Council will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 3 dwellings or more than 0.2 hectare in size.

The proposal is for 17 dwellings, including one keyworker home. The accompanying Planning Statement outlines that the applicant is providing a gifted dwelling to the Council for community worker use. The Council's policy is for affordable units to be provided through a Registered Provider of Social Housing and this is not accepted. The applicant has not proposed how they will meet the requirements of the IPS or emerging Policy SC5, or the mechanisms for providing the keyworker unit as affordable in perpetuity.

Furthermore, based on 17 dwellings, the requirement is for 5 units to be provided as affordable, 3 rented and 2 intermediate. The applicant is not providing affordable housing as part of their proposal, and as there is an identified housing need, the Council's Strategic Housing Section has objected to the application.

The proposal does not provide the requisite affordable units and as such it is considered that the scheme offers a social dis-benefit in considering the social sustainability of the application.

### Residential Amenity

Policy BE.1 of the Local Plan advises that development shall only be permitted when the proposal would not have a detrimental impact upon neighbouring amenity in terms of overlooking, overshadowing, visual intrusion or environmental disturbance.

The closest residential properties to the site in question would be the occupiers of the properties to the north at Wakes Meadow and no's 1-6 Oak Gardens. As the application is in outline form, the precise position of the proposed dwellings in relation to neighbouring properties is not yet known nor is the position of windows.

Based on the indicative plan submitted, it has been demonstrated that a layout of 17 dwellings could be accommodated on the site without comprising the spacing standards advised between principal to principal elevations and principal to flanking elevations with the properties on Wakes Meadow. The distance between principal elevations between some of the units and no's 1-6 Oak Gardens would be reduced below the 21 metre recommended distance. However, the distance as indicated would be approximately 20 metres which would not be sufficient to materially harm the amenity afforded to these neighbouring properties.

The scheme would be capable of providing a sufficient standard of amenity for each dwelling and as such, subject to suitable reserved matters detail, it is considered that the proposed development would adhere with Policy BE.1 of the Local Plan.

### Education

The Council's Education Department have confirmed that the proposed development would generate 3 primary and 3 secondary school places. Forecasts show that the existing primary provision can accommodate the expected primary children and therefore no mitigation is required for primary provision.

With respect to secondary provision, forecasts show that secondary provision cannot accommodate the expected number of secondary children generated by the proposed development without mitigation. On this basis, a contribution for 3 secondary children is required which would amount to £49,028.07.



## **Planning Balance**

Paragraph 49 of the NPPF states that 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 and where this is the case housing applications should be considered in the context of the presumption in favour of sustainable development

It is therefore necessary to make a free-standing assessment as to whether the proposal constitutes “sustainable development” in order to establish whether it benefits from the presumption under paragraph 14 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).

In this case, the development would provide market housing to meet an acknowledged shortfall in a relatively sustainable location. The proposal would also have some economic benefits in terms of jobs in construction, spending within the construction industry supply chain and spending by future residents in local shops.

Balanced against these benefits must be the negative effects that this proposal would have on protected trees (including the loss of a veteran protected Ash tree (T28)), the lack of information to demonstrate that the proposal would not harm species protected by law (bats, barn owls and reptiles), the substandard access strategy, the failure to provide alternatives for the existing public rights of way that cross the site and the lack of affordable housing. Together, these negatives all translate to a proposal which is unsustainable both in the environmental and social sense and are far outweigh the benefits of the scheme.

The draft Bunbury Neighbourhood Plan must also be weighed into the planning balance. It is clear that the proposed development conflicts with housing policies within the Plan. Given the context of the existing village and the size and scale of the proposed development coupled with others currently being considered by the Council, it is considered that to allow the development would significantly impact on the settlement as a whole and its planned future development. As a consequence and taking account of the weight that can be attached to the draft NDP, it is considered that the development is sufficient to threaten the plan-making process in Bunbury.

On the basis of the above, it is considered that the proposal represents unsustainable development and paragraph 14 is not engaged and therefore the proposal should be determined in accordance with the development plan. Notwithstanding this point, even if it were engaged, it is considered that the adverse effects of the scheme significantly and demonstrably outweigh the benefits. Accordingly it is recommended for refusal for the reasons set out below.

## **RECOMMENDATION**

**REFUSE for the following reason(s):**

- 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.**
- 3. 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 of the conflict with the draft Bunbury Neighbourhood plan and because of the unacceptable environmental and social impacts of the scheme in terms of the loss of the veteran protected Ash tree (T28), the lack of information to demonstrate that the proposal would not harm species protected by law (bats, barn owls and reptiles), the substandard access strategy, the failure to provide alternatives for the existing public rights of way that cross the site and the lack of affordable housing. These factors significantly and demonstrably outweigh the social and economic benefits of the scheme in terms of its contribution to boosting housing land supply and supporting the local economy. As such the proposal is contrary to Policies BE.3 (Access and Parking), NE.5 (Nature Conservation and Habitats), NE.9 (Protected Species), RES.5 (Housing in the Open Countryside), RES.7 (Affordable Housing) and RT.9 (Footpaths and Bridleway) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and Policies SE3 (Biodiversity and Geodiversity) and SE5 (Trees, Hedgerows and Woodland) of the Cheshire East Local Plan Strategy – Submission Version and the provisions of the NPPF.**

**In order to give proper effect to the Board's/Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Strategic & Economic Planning, in consultation with the Chair (or in his absence the Vice Chair) of Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and 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:**

- 1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:**
  - The numbers, type, tenure and location on the site of the affordable housing provision**
  - The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing**
  - The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved**

- The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
2. Financial contribution of £4517.20 towards 'Meres and Mosses Nature Improvement Area'
  3. Education contribution/s of £49,028.07 towards secondary school provision

