

Application No: 14/5255N

Location: Land West Of, BUNBURY LANE, BUNBURY

Proposal: Detailed planning application for the proposed development of 52 dwellings, access and public open space.

Applicant: Macbryde Homes Ltd

Expiry Date: 13-Feb-2015

## **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 and affordable 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 with respect of the loss of a Greenfield site and open countryside. Together, these negatives all translate to a proposal which is unsustainable in the environmental sense and thus coupled with the conflict with the Bunbury Neighbourhood Plan (NDP); outweigh the benefits of the scheme.

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 full planning permission for the erection of 52 dwellings with access and public open space at land to the west Bunbury Lane, Bunbury.

## **SITE DESCRIPTION**

This application relates to a greenfield site located to the southeast of Bunbury Village. The site measures approximately 2.9 hectares lying to the rear of dwellings on Bunbury Lane which are to the east. The site is bound by open countryside paddocks to the north and south and larger open countryside designated fields to the west. Public Footpath Bunbury No. 14 runs across the site. There are a number of protected trees at the periphery of the site on the northern and western boundaries. 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**

None

## **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  
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)**

No objection

#### **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, a travel plan and the provision of electric vehicle charging points. Informatives relating to; hours of construction and contaminated land are also sought.

#### **United Utilities**

No objections, subject to conditions relating to the development being served on a separate drainage system, foul water and surface water.

#### **Education**

No objection subject to financial contributions of £130,741.52 towards secondary school provision. Forecasts show that primary provision can accommodate expected primary children.

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

No objection as the developer would divert Bunbury Pubic Footpath no. 14.

### **Bunbury Parish Council**

Object on the following grounds:

- The proposed development is in open countryside, on a Greenfield site and outside the Bunbury Settlement Boundary. Against Policy N.E.2
- The design is not in keeping with the local area. There are concerns about the scale, size and density of the development. Against Policy B.E.2
- Concern that the water table is already very high and that there will be increased flooding risk, with additional housing raising the table further
- Concern that valuable hedge rows and trees will be lost as a result of the development. N.E.7
- Concern that the highways issue makes the development unsustainable. Visual splays are already notoriously bad in Bunbury Lane .Impact on Road Safety is a concern. Against Highways Policy B.E.3
- The Parish Council asks that developers take note of, and comply with, the policies in the emerging Bunbury Neighbourhood Plan. The Draft Housing Policy is expected to be published during February 2015

### **REPRESENTATIONS**

Over 190 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:

- Bunbury is being bombarded with speculative applications
- Loss of land used for recreational purposes
- Impact on historic character of village
- Unsustainable – lack of services, facilities and amenities in area including schools and doctors
- Public transport poor
- Contrary to development plan/ NPPG and PPG
- Contrary to Village Design Statement and Parish Plan
- Outside of settlement boundary
- Loss of greenfield / intrusion into open countryside
- Loss of views
- 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
- No alternative sources of energy proposed
- Loss of valuable amenity space including 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 listed buildings and conservation areas
- 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
- Proposed open space is small and offers limited benefit

## **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 52 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 in combination with others 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.



## **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.

Accordingly to paragraph 49, where in the absence of a 5-year housing land supply policies for the supply of housing are considered to be out of date and proposals should be considered in the context of the presumption in favour of sustainable development. Previous Appeal decisions and court rulings have established that Open Countryside policies are policies for the supply of housing and therefore it is necessary to consider whether the proposal is sustainable in order to determine whether the presumption applies.

## **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**

### Open Countryside

Although open countryside policies are policies for the supply of housing and out of date where no 5 year supply is in evidence, 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 this case:

- The appeal site is part of the countryside that envelopes Bunbury.
- It forms an evident rural element from public vantage points
- It accentuates and contributes to the rural ambience and character
- The proposal would result in the loss that segment of the surrounding countryside.
- The scheme would be seen as intrusive and incongruous element within the settlement.
- Such damage would be contrary to the aims of the ‘saved’ and emerging policies cited above and guidance offered by the Framework.

- Transforming fields into houses, which would be evident from nearby properties, would have a significant impact on several classes of receptor including residents, pedestrians, walkers and communities.

These impacts render the proposal unsustainable in environmental terms.

#### Access to facilities

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 Bunbury Lane. The application site is located in close proximity to a number of facilities including a 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, designated of Bunbury as a local service centre, it is therefore considered to be locationally sustainable.

#### Landscape Impact

The application site is located towards the southern part of Bunbury and covers an area of 2.9 hectares of grazing land that is divided into three fields. The larger field to the west is separated from the remaining two by a hedge that divides the site. The northern and southern boundaries are defined by hedgerows and the western boundary by a small brook; the eastern boundary is bound by properties located on Bunbury Lane. Land towards the western part of the application site slopes down to the level of the brook. Footpath 14 Bunbury traverses the site from north to south and Footpath 15 Bunbury runs to the north of part of the northern boundary of the application site.

The application includes a landscape appraisal that identifies the National Character Area (Cheshire Sandstone Ridge) as well as the Cheshire Landscape Character Assessment which identifies that the application site is located within the East Lowland Plain landscape type and specifically the Ravensmoor Character Area (ELP1). The appraisal also identifies the characteristics of Bunbury and the surrounding area and includes a site analysis and appraisal. The Councils Landscape Officer has confirmed that any potential landscape and visual impacts can be mitigated with appropriate design details and landscape proposals.

#### 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 submitted Arboricultural Impact Assessment has been amended to provide an evaluation of Tree Constraints in terms of the proposed layout design, changes in levels, positions of structures and roads in relation to those trees retained as required by BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations). Para 5.2 of the Standard *Constraints posed by trees* requires that all relevant constraints, including Root Protection Areas (RPAs). In this

regard, the updated Arboricultural Impact Assessment demonstrates that the protected trees as well as those that are categorised as important will be retained as part of the proposed development..

The proposed access into the site will require the removal of three low (C category trees - a Cypress, Pissard Plum and Maple) which presents no significant implications or impact upon the wider amenity of the area. An assessment of the trees has identified that some are worthy of formal protection by a TPO. As these are all located along the boundary, the Councils Tree Officer has confirmed that there should be no major implications for the development proposals.

### 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:

#### Great Crested Newts

A 'Medium' sized breeding population of great crested newts has been recorded some distance from the application site. In the absence of mitigation the proposed development is likely to result in a low level adverse impact upon this species. This impact would occur as a result of the loss of terrestrial habitat and the risk of newts being killed or injured during the construction process. To mitigate the risk of newts being killed or injured during the construction phase the applicant's ecologist is proposing to remove and exclude newts from the footprint of the development using standard best practise methodologies that would be implemented under the terms of a Natural England licence.

To compensate for the loss of amphibian terrestrial habitat the applicant is proposing to enhance an area of habitat within the western portion of the application boundary. Enhancements include hedgerow creation, creation of a number of hibernacula and an attenuation pond which may potentially provide secondary aquatic habitat. The Councils Nature Conservation Officer has confirmed that the submitted great crested newt mitigation/compensation is acceptable and is likely to maintain the favourable conservation status of the local great crested newt population.

#### Hedgerows

Hedgerows are considered to be a priority habitat and hence a material planning consideration. The submitted phase one habitat survey has identified a number of hedgerows which are potentially 'Important' under the hedgerow regulations. The potentially 'Important' hedgerows can be retained as part of the proposed development. However, one hedgerow would be lost as a result of the proposed development. It is considered that suitable native species planting could be incorporated into the submitted layout plan to compensate for this loss. This could be secured by condition.

#### Reptiles

Grass snakes are known to occur in the broad locality of the application site and the application site has been identified as offering potential habitat for this species group. The application site is considered to provide 'Average-Above Average' value habitats for this species. A full detailed survey has not been undertaken to assess the size of the population on site. However it is likely

that the application site forms only part of the home range of the local grass snake population. The number of animals recorded during the survey does however suggest that the site is of some importance for the local population.

The submitted report assesses the proposed development, in the absence of mitigation, as being likely to have a low-moderate adverse impact upon this species. To address the risk of grass snakes being killed or injured during the construction phase the applicant's ecologist has recommended a suite of 'Reasonable Avoidance Measures' to be implemented together with habitats enhancement measures for the wildlife area in the west of the application site. It is advised that the submitted mitigation and compensation proposals for reptiles are broadly acceptable.

### Bats and Barn Owls

No evidence of roosting bats or barn owls was recorded within the buildings on site and these buildings are not considered to be suitable to support these species. The trees on site have been subject to a further assessment and no evidence of roosting bats or barn owls was recorded. Based upon the submitted layout plan it appears feasible to retain the boundary trees on site. It is advised that if planning consent is granted a condition should be attached requiring the retention of the boundaries trees.

### Badgers

Evidence of badger activity has been recorded on site, but there is no evidence of a sett being present within the application site boundary or likely to be present within 30 metres of the application site boundary. The proposed development is unlikely to result in an adverse impact upon a badger sett. As badgers are active around the site and can excavate new setts in a short time scale, if consent is granted a condition should be attached requiring an updated badger survey to be completed and a report submitted to the LPA prior to the commencement of development.

### Grassland Habitats

Based upon the submitted Phase One habitat Survey 'Field 1' (the large field to the west of the application boundary) is highly likely to qualify as UK BAP restorable grassland and meet the selection criteria for designation as a Local Wildlife Site. A full assessment of the value of this grassland would require an additional botanical survey to be undertaken at the optimal time of year. However, based on the available information it is likely that the current development, in the absence of further mitigation and compensation would result in a significant loss of biodiversity.

The applicant's consultant has undertaken a Biodiversity offsetting calculation using the Defra metric. This calculation has assessed the residual impacts of the proposed development as requiring 18 offsetting units to compensate for the loss of grassland habitats. The Council's Nature Conservation Officer is currently negotiating with the applicant's consultant to agree a suitable level of commuted sum that could be secured by legal agreement to reflect the required offsetting units.

The 'Unimproved' grassland located at the very western boundary of the application site is of substantial nature conservation. It is however feasible for this grassland to be retained as part of the proposed development. If planning consent is granted this area of grassland should be subject to a management plan secured by condition.

Taking the above into account, it is considered that with conditions and a suitable commuted sum (tbc), the proposal would be acceptable in terms of its impacts on species protected by law.

### 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.

Given that the proposed development would be sited towards the rear of properties fronting Bunbury Lane, the visual impacts on the existing street-scene would be limited.

The proposed access off Bunbury Lane would be carried into the site with dwellings fronting the internal road along the southern boundary. The main access road would terminate on a proposed area of public open space which would occupy the western portion of the site. There would be a perimeter block located to the north of the main access road into the site which would have a secondary circular road with properties fronting out over it. Properties towards the western edge of the site would overlook the proposed open space.

Following concerns about the treatment of the side elevations of some of the corner plots, the applicant has amended selected plots to provide secondary windows with side facing elevations so as to avoid stretched or blank elevations. These now include feature windows to increase natural surveillance and design details to add visual interest to the street scene.

The general size and scale of the buildings would be two-storey which would accord with the surrounding development. The dwellings would be mixed in terms of form by providing detached, semi-detached and mews style properties. The general appearance of the proposed dwellings and architectural detail would be acceptable.

### Access

Access to the site is to be taken directly from Bunbury Lane. The Head of Strategic Infrastructure (HSI) has assessed the application and the submitted Transport Statement.

In terms of junction geometry, the HSI considers that the visibility splay needs to measure 2.4 metres by 43 metres. The initial measurement shown was 2.4 metres by 40 metres. However, the applicant has submitted an amended plan which has demonstrated the required visibility splay. As such, the layout and visibility of the access proposals are acceptable in highways terms.

With respect to parking, the HSI expressed concern that the proposals did not meet with standard. The applicant has responded and confirmed that the requisite number of spaces will be provided for each unit and this is demonstrated on the submitted plans. The HSI has not raised any concerns regarding the potential traffic generated by the proposal and therefore the impact on the local highway network is deemed to be acceptable.

### 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. The Environment Agency, the Council's Flood Risk Team and United Utilities have also reviewed the application and advised that they have no objections, subject to drainage conditions and a number of informatives relating to the provision of water metres and general drainage advice.

### Public Right of Way

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'*.

The Council's Public Rights of Way Unit (PROW) has confirmed that the proposed development would lead to the obstruction of Bunbury Public Footpath 14. However, the proposal seeks to divert the footpath under the TCPA 90 as part of this application and as such; the proposal has been confirmed as being acceptable in this regard by the PROW Unit. This would provide suitable alternative provision and therefore the scheme would comply with Local Plan Policy RT.9.

### Conclusion

The proposed development would result in the loss of a valuable area of open countryside outside of the settlement boundary for the village which is unsustainable. The impact upon the wider landscape would not be significantly adverse with submission of a suitable landscaping scheme. The proposal would not result in adverse impacts on protected species subject to conditions and a commuted sum towards grassland habitat. The proposal would provide a suitable alternative route within the site for Bunbury Public Footpath 14. There are no objections to the design or matters relating to flooding, drainage and trees. The objections to other environmental considerations 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 18x 1 bed and 1x 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 1 bed, 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 IPS also states the exact level of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities, and other planning objectives. However, 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% social or affordable rented and 35% intermediate tenure.

The proposal is for 52 dwellings, including 30% affordable dwellings which equates to 16 dwellings which should be provided as 8 x 2 bed and 8 x 3 bed units. The Council's Strategic Housing Section has confirmed that this is acceptable in terms of the quantum of provision. However, they have objected on the grounds that the tenure split has not been specified and also have not specified the location of the proposed affordable units. In response, the applicant has confirmed that the tenure split will be 63% intermediate tenure and 35% social / affordable rent which would meet with policy. These would be arranged across 3 clusters which are considered to be acceptable in terms of distribution.

### 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 nearest residential properties to the site in question would be the occupiers of the properties to the east fronting Bunbury Lane and those to the north on the Wakes Meadow development.

Plots 3-5 inclusive would back onto some of the properties on Bunbury Lane and would achieve a minimum separation of 21 metres. The other proposed plots along the eastern boundary would be positioned at right angles to the boundary, would not include main windows facing these neighbours and would maintain a separation of at least 18 metres. This separation and relationship would be sufficient to ensure that no material harm to neighbouring amenity was caused by loss of light, visual intrusion or direct overlooking.

Plots 6-14 inclusive would back onto the rear of the properties occupying Wakes Meadow to the north. The separation would be 21 metres which would also be sufficient to ensure that no material harm to neighbouring amenity was caused by loss of light, visual intrusion or direct overlooking.



The scheme would be provide a sufficient standard of amenity for each dwelling and as such including adequate private amenity space. 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 10 primary and 8 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 8 secondary children is required which would amount to £130,741.52.

### Public Open Space

The Council's ANSA Section were consulted on this application but have not responded at the time of report writing. An update will be provided to members on this matter.

### **S106 contributions Levy (CIL) Regulations:**

Policy BE.5 of the Local Plan advises that the Local Planning Authority may impose conditions and/or seek to negotiate with developers to make adequate provision for any access or other infrastructure requirements and/or community facilities, the need for which arises directly as a consequence of that development. It is advised that such provision may include on site facilities, off site facilities or the payment of a commuted sum.

Policy IN1 of the Cheshire East Local Plan Strategy – Submission Version, advises that the Local Planning Authority should work in a co-ordinated manner to secure funding and delivery of physical, social, community, environmental and any other infrastructure required to support development and regeneration.

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.

The Council's Education Department and ANSA (who deal with greenspaces) have both advised that the proposed development will need to address a shortfall of school places and public open space. Without such, the scheme would result in planning harm and would place undue pressure on local infrastructure. Without such, these would serve as negative impact and are directly and reasonably related to the scale of development.

With respect to affordable housing, the Strategic Housing Manager has confirmed that there is a need for affordable housing provision in the area. As discussed, this development would go some way in terms of addressing this shortfall by offering all of the units as affordable. This is necessary to help meet an identified need, and is directly and reasonably related to the scale of development.

## **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 and affordable 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. There would be no negative impacts relating to trees, highway safety, the existing public right of way and residential amenity.

Balanced against these benefits must be the negative effects that this proposal would have with respect of the loss of a Greenfield site and open countryside. Together, these negatives all translate to a proposal which is unsustainable in the environmental sense and thus coupled with the conflict with the Banbury Neighbourhood Plan; outweigh the benefits of the scheme.

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.**

**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 Planning (Regulation), 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.**

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- 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 towards grassland habitat (TBC).**
- 3. Education contribution/s of £130,741.52 towards secondary school provision**
- 4. Public Open Space (TBC)**
- 5. NHS contributions (TBC)**

