

Application No: 15/5782N

Location: Land Off, HILL CLOSE, BUNBURY

Proposal: Proposed Residential Development for 15 dwellings with access from the proposed Wulvern Homes site

Applicant: Colin Booth, CB Homes Ltd

Expiry Date: 19-Jul-2016

## **SUMMARY**

The proposed development would be contrary to Policies NE.2, NE.4 and RES.5 and the development would result in a loss of open countryside and Green Gap. However as Cheshire East cannot demonstrate a 5 year supply of deliverable housing sites policies NE.2, NE.4 and RES.5 are out-of-date for the purposes of paragraph 49 of the NPPF. The presumption in favour of sustainable development applies at paragraph 14 of the Framework where it states that LPA's should grant permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits from it, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

The development would provide benefits in terms of affordable housing provision, delivery of housing, POS provision and significant economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in Bunbury.

The development would have a neutral impact upon education, protected species/ecology, flood risk/drainage, trees, residential amenity/noise/air quality/contaminated land and highways.

An update will be provided in relation to the highways impact of the development.

In this case if application 16/0646N is approved then this application would be contrary to Policy H2 of the BNP in terms of co-location and as such the application would be recommended for refusal.

On the basis of the refusal of application 16/0646N then the application would not be contrary to Policy H2 of the BNP and the application would be recommended for approval.

## **RECOMMENDATION**

**Should application 16/0646N be approved then the application is recommended for REFUSAL**

**Should application 16/0646N be refused then the recommendation is to APPROVE subject to a S106 Agreement**

## **PROPOSAL**

This is an outline planning application for the erection of 15 dwellings. Access is to be determined at this stage with all other matters reserved.

The proposed development includes a single access point onto Bunbury Lane which would be located to the south of the site. The access would involve the demolition of a dwelling at 6 Bunbury Lane via the proposed Wulvern Housing development.

## **SITE DESCRIPTION**

The site comprises 1.68ha of land located on the southern edge of Bunbury. The site lies within the open countryside as defined by the Crewe and Nantwich Local Plan.

The site includes 6 Bunbury Lane which is a modern terraced bungalow. The main part of the site is to the east of Hill Close and is subdivided into a number of small fields by existing hedgerows.

The site is bound by residential properties fronting Hill Close to the east and Queen Street to the north. To the north-east of the site is an existing area of open space which includes tennis courts and football pitches.

A PROW (Bunbury FP16) crosses the eastern part of the site.

## **RELEVANT HISTORY**

16/0646N - Outline planning application for the demolition of 1no. bungalow and the erection of 15 dwellings, including associated access at land east of Bunbury Lane, Bunbury (applicants Wulvern Housing) – No decision made

15/5783N - Proposed Residential Development for 15 dwellings with access from Hill Close – No decision made

14/5206N - Outline application for proposed residential development for 21 number dwellings and proposed new stable block and paddock – Refused 9<sup>th</sup> December 2015 for the following reasons;

- 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 impacts of the scheme in terms of the lack of information to demonstrate that the proposal would not harm species protected by law (Great Crested Newts and reptiles) and the lack of information to demonstrate the development could be provided without significant harm to the landscape. 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 NE.5 (Nature Conservation and Habitats), NE.9 (Protected Species), RES.5 (Housing in the Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and Policies SE3 (Biodiversity and Geodiversity) and SE4 (Landscape) of the Cheshire East Local Plan Strategy – Submission Version and the provisions of the NPPF.*

## **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.
- 50. Wide choice of quality homes
- 56-68. Requiring good design

### **Development Plan**

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011, which allocates the site, under policy NE.2, as open countryside

The relevant Saved Policies are:

- NE.2 (Open countryside)
- NE.5 (Nature Conservation and Habitats)
- NE.9: (Protected Species)
- NE.20 (Flood Prevention)
- BE.1 (Amenity)
- BE.2 (Design Standards)
- BE.3 (Access and Parking)
- BE.4 (Drainage, Utilities and Resources)

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)  
TRAN.3 (Pedestrians)  
TRAN.5 (Cycling)

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

### **Bunbury Neighbourhood Plan**

The Bunbury Neighbourhood Plan 2015 – 2030 was made on 29<sup>th</sup> March 2016 under 38A(4)(a) of the Planning and Compulsory Purchase Act 2004 and now forms part of the Development Plan for Cheshire East. The relevant Policies in the Neighbourhood Plan are:

H1 – Settlement Boundary  
H2 - Scale of Housing Development  
H3 – Design  
LC1 - Built Environment  
LC2 – Landscape  
ENV3 – Environmental Sustainability of Buildings  
ENV4 – Landscape Quality, Countryside and Open Views  
BIO1 – Biodiversity  
T1 – Public Rights of Way

### **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 5 - Trees, Hedgerows and Woodland  
SE 3 - Biodiversity and Geodiversity  
SE 13 - Flood Risk and Water Management  
SE 6 – Green Infrastructure  
IN1 – Infrastructure  
IN2 – Developer Contributions

### **Other considerations:**

The Bunbury Village Design Statement  
The EC Habitats Directive 1992  
Conservation of Habitats & Species Regulations 2010  
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System  
Interim Planning Statement Affordable Housing

## CONSULTATIONS

**United Utilities:** No objection subject to the imposition of conditions.

**CEC PROW:** It is noted that the intention is to retain the footpath along its definitive alignment, if this is the case the retained route must coincide exactly with the definitive map. The site layout indicates a slightly curving line which would require a diversion application and Order.

Details of the proposed surfacing, associated furniture and future management of the footpath would require prior discussion and approval from the Network Management Officer for this area.

**Head of Strategic Infrastructure:** The revised corner radii are acceptable. However there are concerns relating to the visibility splay to the south and its position with respect to the hedge. A speed survey along Bunbury Lane will be required.

**CEC Environmental Health:** Conditions suggested in relation to environment management plan, piling, electric vehicle infrastructure, dust control and contaminated land. Informatives are also suggested in relation to contaminated land and hours of operation.

**CEC Strategic Housing Manager:** No objection.

**CEC Flood Risk Manager:** No objection subject to the imposition of planning conditions.

**CEC Education:** The development of 15 dwellings is expected to generate:

3 primary children (15 x 0.19)

2 secondary children (15 x 0.15)

0 SEN children (15 x 0.51 x 0.023%)

The development is forecast to increase an existing shortfall predicted for secondary provision in the locality.

To alleviate forecast pressures, the following contributions would be required:

$2 \times £17,959 \times 0.91 = £32,685.38$  (secondary)

## VIEWS OF THE PARISH COUNCIL

**Bunbury Parish Council:** No objection to the application on the basis that the separation between the development and the adjacent Wulvern Housing development is maintained in order to comply with policy H2 of the Bunbury Neighbourhood Plan. The following conditions are requested;

- The provision of a buffer zone to create visual separation to the proposed orchard
- The proposed paddocks be retained with further hedgerow and tree planting
- A covenant should be attached to state that there is no building on the paddock land
- The design and scale of the housing should comply with the Bunbury Village Design Statement and the Bunbury Neighbourhood Plan and not exceed two stories
- The applicant should provide a Highways Statement to address the highway implications of the development.

## **REPRESENTATIONS**

Letters of objection have been received from 87 local households raising the following points:

### Principal of development

- The application is contrary to the Bunbury Neighbourhood Plan
- The village is in need of smaller affordable housing developments
- There are a number of deficiencies within the application
- The development would result in co-location with an adjacent development which is contrary to Policy H2 of the Neighbourhood Plan
- Loss of open countryside
- Lack of facilities within Bunbury – the village is not sustainable
- The development is contrary to Policies contained within the Crewe and Nantwich Local Plan
- The development is contrary to Policies contained within the Cheshire East Local Plan
- Lack of provision for retired people
- There would be too many houses on this development
- The development would be out of character with the locality
- There is no need for more housing within the village
- Harm to the character of the area which is the filming location for a TV period drama
- The development will result in urban sprawl
- Loss of the PROW
- There is a large number of houses with approval just over the border within Cheshire West at Beeston
- The new housing will not be affordable to local people
- The development will not meet local housing needs
- The application is dependent on the undetermined Wulvern Housing application
- The retained paddock does not provide sufficient separation to protection against co-location
- The development would not be a rounding off
- There is no need for further development in Bunbury

### Highways

- Increased congestion within the village especially around the Co-op
- The application relies on a Transport Statement for an adjacent development of 15 houses. The access would serve 30 dwellings
- The public transport information within the application is incorrect
- Pedestrian safety
- Cumulative highways impact with the adjacent Wulvern development
- Poor public transport within the village
- Poor quality pavements within the village
- The proposed access is not safe
- Problems with construction vehicles accessing the site

### Green Issues

- Impact upon wildlife
- Loss of habitat
- Impact upon protected species
- Loss of hedgerows/trees

### Infrastructure

- Local infrastructure cannot cope with any further development
- The local schools are full
- Doctors surgeries are full
- Current amenities within the village are not sufficient
- The local shop cannot cope with any further housing development
- Local sewerage infrastructure cannot cope with further development
- Bunbury has no mains gas supply

### Amenity Issues

- Loss of privacy
- Increased dust
- Increased noise
- Increased air pollution
- Noise and disturbance caused by the construction works
- Noise impact caused by increased vehicular movements
- Light pollution
- Loss of light/overshadowing
- Impact upon the adjacent bungalows
- Low water pressure in Bunbury

### Design issues

- The proximity of the development to the Bunbury Conservation Area and Listed Buildings
- The development is not in-keeping with the village

### Other issues

- The site is well used by users of the PROW and the development would have health impacts
- Impact upon a well used PROW

## **APPRAISAL**

### **Principle of Development**

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

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

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection.

## **Bunbury Neighbourhood Plan**

In this case the Bunbury Neighbourhood Plan (BNP) was made on 29<sup>th</sup> March 2016.

Policy H1 states that planning permission will be granted for a minimum of 80 homes in Bunbury between April 2010 and March 2030 with developments focused on sites on sites within or immediately adjacent to the village.

This issue is considered under the spatial distribution section below.

The scale of development is covered under Policy H2 which states that development will be supported provided that it is small scale and in character with the settlement. In terms of greenfield development Policy H2 states that development shall be limited a maximum of 15 houses on any site and that such developments should not be co-located with other new housing developments unless there are demonstrable sustainable benefits of doing so. The glossary to the BNP then goes to elaborate on what it means and states that *‘the separation between developments may be maintained by a significant distance, geographic features or visual segregation or a combination of these elements. A new development should not share an access road with another new development’*.

In this case if application 16/0646N is approved then this application would be contrary to Policy H2 of the BNP in terms of co-location. As this site and the development as part of application 16/0646N would share an access road.

## **Housing Land Supply**

Following the receipt of the Further Interim Views in December 2015, the Council has now prepared proposed changes to the Local Plan Strategy (LPS), alongside new and amended strategic site allocations, with all the necessary supporting evidence. The proposed changes have been approved at a Full Council meeting held on the 26 February 2016 for a period of 6 weeks public consultation which commenced on Friday 4 March 2016.

The information presented to Full Council as part of the LPS proposed changes included the Council’s ‘Housing Supply and Delivery Topic Paper’ (CD 9.7) of February 2016. This topic paper sets out various methodologies and the preferred approach with regard to the calculation of the Council’s five year housing land supply.

From this document the Council’s latest position indicates that during the plan period at least 36,000 homes are required. In order to account for the historic under-delivery of housing, the



Council have applied a 20% buffer as recommended by the Local Plan Inspector. The topic paper explored two main methodologies in calculating supply and delivery of housing. These included the Liverpool and Sedgfield approaches.

The paper concludes that going forward the preferred methodology would be the 'Sedgepool' approach. This relies on an 8 year + 20% buffer approach which requires an annualised delivery rate of 2923 dwellings.

The 5 year supply requirement has been calculated at 14617, this total would exceed the total deliverable supply that the Council is currently able to identify. The Council currently has a total shortfall of 5,089 dwellings (as at 30 September 2015). Given the current supply set out in the Housing Topic Paper as being at 11,189 dwellings (based on those commitments as at 30 September 2015) the Council remains unable to demonstrate a 5 year supply of housing land. However, the Council through the Housing Supply and Delivery Topic paper has proposed a mechanism to achieve a five year supply through the Development Plan process.

National Planning Policy Guidance (NPPG) indicates at 3-031 that deliverable sites for housing can include those that are allocated for housing in the development plan (unless there is clear evidence that schemes will not be implemented within five years).

Accordingly the Local Plan provides a means of delivering the 5 year supply with a spread of sites that better reflect the pattern of housing need however at the current time, the Council cannot demonstrate a 5 year supply of housing.

## Spatial Distribution

For Bunbury - there were 21 (net) completions recorded from 1<sup>st</sup> April 2010 until 30<sup>th</sup> September 2015. In addition there are the following commitments as at 30<sup>th</sup> September 2015;

BUNBURY							
SHLAA Ref	Site Address	Gross Total Dwellings	Completions	Remaining losses	Net remaining	Planning Application Ref	Brownfield / Greenfield / Mixed
<b>Full Permission</b>							
5123	6 Queen Street, Bunbury CW6 9QY	1	0	0	1	14/4887N	g
5124	The Old Methodist Chapel, College Lane, Bunbury, CW6 9PQ	1	0	0	1	14/3963N	b
	<b>Subtotal</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>2</b>		
<b>Outline Permission</b>							
5002	The Outspan, Sadlers Wells, Bunbury CW6 9NU	4	0	1	3	14/3013N	mixed
5125	The Cedars, Whitchurch Road, Bunbury Heath, Tarporley, CW6 9SX	1	0	0	1	14/2348N	g
	<b>Subtotal</b>	<b>5</b>	<b>0</b>	<b>1</b>	<b>4</b>		
<b>Under Construction</b>							
4305	Land Adjoining School Lane, Bunbury	1	0	0	1	13/2086N	g

	Subtotal	1	0	0	1		
	Bunbury Total	8	0	1	7		

The Council is currently in the process of completing an update to the completions / commitments to cover the period up to / as at 31<sup>st</sup> March 2016. There hasn't been that much movement (if any) for Bunbury, with no more completions having been recorded. Similarly in terms of commitments, the updated position is no different to that shown above (nothing new approved / expired). It should be noted that since 31<sup>st</sup> March 2016 the Council has issued a decision for application 14/3167N (14 dwellings) at The Grange, Wyche Lane. There is also a resolution to approve application 15/1666N (11 dwellings) at land off Bowes Gate Road.

As a result this proposed development would go towards meeting the housing needs set out in the BNP under policy H1.

### **Housing Mix**

Policy SC4 of the submission version of the Local Plan requires that developments provide an appropriate mix of housing. In this case the mix of housing would be negotiated at the reserved matters stage.

## **SOCIAL SUSTAINABILITY**

### **Affordable Housing**

This is a proposed development of 15 dwellings together and there is a requirement for affordable dwelling provision on this site. The SHMA 2013 shows the majority of the demand in Bunbury for the next 5 years is for 18 x one bedroom and 1 x four bedroom dwellings per year.

The majority of the demand on Cheshire Homechoice is for 6 x one bedroom, 5 x two bedroom, 2 x three bedroom, and 1 x four bedroom dwellings therefore 1, 2, 3 and 4 bedroom units on this site would be acceptable.

The development shall provide three units as Affordable rent and one unit as intermediate tenure. The exact details of the affordable housing will be provided at reserved matters stage and will be secured as part of a S106 Agreement.

### **Public Open Space**

Policy RT.3 states that where a development exceeds 20 dwellings the Local Planning Authority will seek POS on site.

The development would be less than 20 dwellings but would provide an area of POS. This would be managed by a management company which would be secured as part of the S106 Agreement. The provision of POS on the site would be a benefit as part of this development.

### **Education**

An application of 15 dwellings is expected to generate 3 primary aged children, 2 secondary aged children and 0 SEN child.

16/0646N Rear of 6 Bunbury Lane, Bunbury,											
	NET CAP May-15	Any Revised NET CAP 2016	Funded pupils Development Yields	Total Required capacity and Pupil Yield			PUPIL FORECASTS based on October 2014 School Census				
					UNFILLED PLACES	UNFILLED PLACES %	2015	2016	2017	2018	2019
Primary Schools											
Bunbury Aldersey	210	210			34	16.19	186	187	182	186	180
Developments with Section 106 funded and pupil yield				0							
no 106 funded pupils built into the 2014 forecasts.				0							
				0							
Children not included in forecasts ( section 106 not received beyond forecast period and approved since forecasts created.											0
the grange , wyche lane											2
											0
Children expected from this development											3
OVERALL TOTAL	210	210	0	210	34	16.19	186	187	182	186	185
OVERALL SURPLUS PLACES PROJECTIONS based on R							24	23	28	24	25
OVERALL SURPLUS % PROJECTIONS based on Revised							11.43	10.95	13.33	11.43	11.90
							CONCLUSION:- NO CLAIM				

[illegible]

A number of the letters of objection raise concerns about the impact upon health provision in this area. Although no consultation response has been received from the NHS a search of the NHS Choices website shows that there are 3 GP practices within 3.5 miles of the application site and all are accepting patients indicating that there is capacity to serve this development.

### Location of the site

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.

In this case the site is on the edge of the settlement of Bunbury which is a Local Service Centre as defined by the Cheshire East local Plan. As a result the site is considered to be a sustainable location with access to a range of shops, health and leisure facilities and employment opportunities.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Residential Amenity**

The application is in outline form and the indicative plans show that an acceptable layout can be achieved at reserved matters stage.

The separation distances as shown on the submitted plans vary from approximately 40 metres between No 2 Queen Street and the dwelling on plot 1, to 23 metres between No 8 Queen Street and Plot 15, and 16 metres between 18 Queen Street and Plot 10. The separation distances are largely acceptable but it is considered that there is plenty of room within the site to improve the relationship between Plot 10 and to existing dwellings which front Queen Street.

The Environmental Health Officer has requested conditions in relation to hours of construction, external lighting, and an environment management plan.

### **Air Quality**

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

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

## **Contaminated Land**

The application site has a history of agricultural use and therefore the land may be contaminated. The application is for new residential properties which are a sensitive end use and could be affected by any contamination present or brought onto the site.

As such, and in accordance with the Councils Environmental Health Officer recommends that a standard contaminated land condition is attached to any approval.

## **Public Rights 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'*.

In this case the submitted plan shows that footpath Bunbury FP16 would be retained on site and as such the facility would be retained for public use.

## **Highways**

Access to the site is to be taken from Bunbury Lane to the south-west of the site via the proposed Wulvern development as part of application 16/0646N and would involve the demolition of an existing dwelling at 6 Bunbury Lane.

Pedestrian links will be provided from the site as follows:

- To Bunbury Lane via Hill Close; and
- To Public Right of Way Footpath 16; which runs through the site to Footpaths 17 and 18 to the south of the site.

At the time of writing this report there were concerns in relation to the visibility splays at the site access (specifically when looking south along Bunbury Lane). In this case the applicant for application 16/0646N is undertaking a speed survey along Bunbury Lane and an update will be provided in relation to this issue.

The village centre of Bunbury is within reasonable walking distance of the site, allowing sustainable access to a number of local facilities.

With respect to traffic generation, Bunbury Lane and the surrounding highway network is lightly trafficked. Given the arrival and departure patterns of the traffic associated with this proposal and other proposed in the vicinity, the traffic will be distributed onto Bunbury Lane at two points of access some 60 metres apart. The HSI is satisfied that there will not be a material impact on the operation of the adjacent or wider highway network.

## **Trees/Hedgerows**

The application is supported by an Arboricultural Impact Assessment/Method Statement which has identified four individual trees and one tree group most of which are located along the southern field boundary (adjacent to the proposed access) and one hedgerow Ash to the eastern site boundary.

It is accepted that only one tree, an early mature Sycamore (T1) adjacent to the proposed access off Bunbury Lane has been categorised as a Moderate (B) category and the remaining trees are not significant in terms of their wider contribution to the amenity of the area and are therefore graded as low (C) category specimens.

None of the trees are currently protected by a Tree Preservation Order and their current condition, value and contribution to the wider amenity is such that formal protection would not be considered expedient.

The application would involve the loss of about 137 metres of hedgerow for the proposed access around the southern central section of the site. Where proposed development is likely to result in the loss of existing agricultural hedgerows which are more than 30 years old, it is considered that they should be assessed against the criteria in the Hedgerow Regulations 1997 in order to ascertain if they qualify as 'Important'. The Regulations require assessment on various criteria including ecological and historic value. Should any hedgerows be found to be 'Important' under any of the criteria in the Regulations, this would be a significant material consideration in the determination of the application. Hedgerows are also a habitat subject of a Biodiversity Action Plan.

A Hedgerow Regulations Assessment has been submitted with this application. In this case the Council's Tree Officer comments that this is not a comprehensive assessment as it does not include an assessment as to whether the hedge formed part of a pre 1600AD estate or manor under Part II of Schedule 1 para 4. That said the submitted DEFRA assessment and covering letter confirms the hedgerow is absent from the 1839 Tithe Maps (whether the hedge was in existence before then and subsequently replanted later is open to conjecture) and on the basis of its absence in 1839 is not 'historic' under para 1 of Part II nor does the hedgerow pre date the Inclosure Act under para 5 of Part II.

In terms of wildlife and landscape only two woody species have been identified within the required 30 metre section which would not meet the requirement for Importance under para 7 of Part II.

Whilst the covering letter states that the survey has identified that the hedgerow is not Important under the Regulations, certain criteria under Part II Schedule 1 have been excluded from the assessment including para 2 Archaeological; para 4 pre 1600 estate or manor; and para 6 biological record.

In this case the loss of hedgerow is not considered to be significant given the benefits of this development.

## **Design**

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

*“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”*

In this case an indicative layout has been provided in support of this application and this shows that an acceptable layout can be achieved and that the areas of open space and all highways would be well overlooked. It is considered that an acceptable design/layout that would comply with Policy BE.2 (Design Standards) and the NPPF could be negotiated at the reserved matters stage.

## **Landscape**

The application site is located towards the southern part of Bunbury and covers an area of 2.15 hectares and is divided into three fields. The application site is relatively flat and is used for agriculture and as a paddock, and is bound by hedgerows with a number of hedgerow trees. Footpath FP16 Bunbury crosses the eastern part of the application site. The northern boundary of the site is bound by properties along the southern side of Queen Street, the western boundary by properties along the eastern side of Bunbury Lane as well as properties around Hill Close. To the south and east of the application site is the wider rural landscape.

A Landscape and Visual Assessment has been submitted as part of the application, this identifies the national and local landscape character, in this case identified in the Cheshire Landscape Character Assessment as the East Lowland Plain Character Type, and specifically the Ravensmoor Character Area (ELP1). The Landscape Character Assessment indicates that this area is predominantly flat with hawthorn hedges and hedgerow trees and that it is an open and expansive landscape in the northern part of the character area; the assessment also identifies the landscape character of the site. The application site does not have any landscape designations; the Lower Bunbury Conservation Area is located approximately 100m to the North West of the application site.

This is an outline application and an indicative site layout has been included, this shows that access to the south of the site, that there will be an area of public open space along the eastern part of the application site and that the area to the south of the application site will remain as paddocks with a stable; it also indicates that the existing perimeter hedgerows will be retained. The Site Plan as proposed also shows a road access to Bunbury lane through the adjoin site to the south (Wulvern Homes) and indicates that this access will be determined at reserved matters stage.

The Landscape and Visual Assessment identifies that the site is considered to be of medium sensitivity and that the change of character due to the proposals would be moderate adverse. The assessment also identifies that the main visual effects will be to the residential receptors located along Queen Street, adjacent to the northern boundary, along with Footpath 16 which traverses the application site. The Councils Landscape Architect agree with the submitted

assessment. This is an outline application, but with the design mitigation proposals, layout, and planting proposals, the impacts could reduce over time.

## **Ecology**

### Great Crested Newts

The two ponds located within 250m of the proposed development have been subject to a Habitat Suitability Assessment to determine their potential to support breeding Great Crested Newts. The submitted assessment has assessed the ponds as offering some potential breeding habitat for newts but points out that these ponds have been subject to a recent Great Crested Newt Survey, which was submitted to the Council in support of application 14/3167N. No evidence of Great Crested Newts was recorded during this survey and the Councils Ecologist advises that this species is unlikely to be present or affected by the proposed development.

### Hedgerows

Hedgerows are a UK BAP priority habitat and hence a material consideration. The development of this site is likely to result in some loss of hedgerow. The Councils Ecologist advises that if outline planning consent is granted it must be ensured that suitable replacement hedgerow planting is incorporated into the scheme at the detailed design stage. This matter may be dealt with by means of a condition.

### Common Toad

This species is a priority species and a material consideration for planning. The proposed development would result in the loss of some terrestrial habitat for this species. This impact could be mitigated at least to a large extent through the creation of suitable habitat within the open space areas of the development. The provision of an additional wildlife pond would be beneficial for this species.

### Reptiles

Reptiles are known to occur in the broad locality of the application site and have in fact been recently recorded as being present on the opposite side of Bunbury Lane. In addition the submitted report refers to anecdotal records of grass snake being recorded on site. However no evidence of reptiles was recorded during the submitted survey which has been undertaken to an acceptable standard. Therefore whilst it appears unlikely that the site is particularly important for reptiles there remains the risk that grass snakes may occur on the site on a transitory basis.

The submitted report includes recommendations for the retention of suitable habitats for reptiles along the sites eastern boundary. Based upon the submitted illustrative layout plan it appears feasible that this could be achieved.

If planning consent is granted the Councils Ecologist recommends that a condition be attached requiring any future reserved matters application to be brought forward in accordance with the submitted reptile survey prepared by Cheshire Ecology Ltd.

### Barn Owls



Barn owls have been recorded within the broad area of the application site. The application site supports habitats which are likely to offer opportunities for foraging Barn Owls. The Council's Ecologist advises that the loss of this habitat has the potential to have a localised adverse impact upon this species. If outline planning consent is granted the Council's Ecologist recommends that this loss of habitat be offset by means of a commuted sum that could be passed onto the local Barn Owl group in order to facilitate site habitat creation. A figure of £2,000 would be appropriate.

### Hedgehog

Hedgehogs are a biodiversity action plan priority species and hence a material consideration. There are records of hedgehogs in the broad locality of the proposed development and so the species may occur on the site of the proposed development. If planning consent is granted a standard condition could be attached to ensure that gaps are provided under any boundary treatment.

### Bats

The loss of existing hedgerows is likely to have a localised detrimental effect on foraging and commuting bats. If outline planning consent is granted this impact should be mitigated for through appropriate native species planting incorporated into the open space associated with the proposed development at the detailed design phase.

### **Flood Risk**

The application site does not fall within a Flood Zone and the application is accompanied by a Flood Risk Assessment. The submitted DRA indicates that the site will incorporate SuDS to reduce surface water run-off and reducing the flood risk from the site.

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 general drainage advice.

### **ECONOMIC SUSTAINABILITY**

With regard to the economic role of sustainable development, the proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to Bunbury including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

### **Agricultural Land Quality**

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

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

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

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.

### **Other issues**

A number of the letters of objection state that the applicant has not served notice on all of the landowners on this site. This issue has been raised with the applicant's agent and the issue has now been resolved and a revised Certificate B has been submitted with this application.

### **CIL Regulations**

In order to comply with the Community Infrastructure Regulations 2010 it is necessary for planning applications with planning obligations 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.

As explained within the main report, the area of open space is identified on the submitted plans. It is necessary to secure these works and a scheme of management. This is directly related to the development and is fair and reasonable.

The development would result in increased demand for secondary school places in the area and there is very limited spare capacity. In order to increase capacity of the secondary schools which would support the proposed development, a contribution towards secondary education is required. This is considered to be necessary and fair and reasonable in relation to the development.

On this basis the S106 recommendation is compliant with the CIL Regulations 2010.

### **PLANNING BALANCE**

The proposed development would be contrary to Policies NE.2 and RES.5 and the development would result in a loss of open countryside. However as Cheshire East cannot demonstrate a 5 year supply of deliverable housing sites and the policies NE.2, NE.4 and RES.5 are out-of-date for the purposes of paragraph 49 of the NPPF. The presumption in favour of sustainable development applies at paragraph 14 of the Framework where it states that LPA's should grant permission unless any adverse impact of doing so would significantly and demonstrably outweigh

the benefits from it, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

The benefits in this case are:

- The development would provide benefits in terms of much needed affordable housing provision and would help in the Councils delivery of 5 year housing land supply.
- In terms of the ecological implications the development would provide an area for ecological enhancements and this would be a benefit of the application.
- The development would provide significant economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in Bunbury.

The development would have a neutral impact upon the following subject to mitigation:

- The impact upon education infrastructure would be neutral as the impact would be mitigated through the provision of a contribution.
- There is not considered to be any flood risk/drainage implications raised by this development.
- The impact upon trees is considered to be neutral at this stage and further details would be provided at the reserved matters stage.
- The impact upon residential amenity/noise/air quality and contaminated land could be mitigated through the imposition of planning conditions.

The adverse impacts of the development would be:

- Limited weight in terms of the loss of open countryside
- Limited weight to the changes to the visual character of the landscape that would result from the proposed development

An update will be provided in relation to the highways impacts of this development.

In this case if application 16/0646N is approved then this application would be contrary to Policy H2 of the BNP in terms of co-location and as such the application would be recommended for refusal.

On the basis of the refusal of application 16/0646N then the application would not be contrary to Policy H2 of the BNP and the application would be recommended for approval.

## **RECOMMENDATION:**

**Should application 16/0646N be approved then the application is recommended for REFUSAL on the following grounds:**

- 1. The proposed development together with that proposed as part of application 16/0646N would result in co-location which would be prejudicial to the character of Bunbury and would have social and environmental impacts upon the immediate area. As a result the proposed development would be contrary to Policy H2 (Scale of Housing Development) of the Bunbury Neighbourhood Plan.**

**Should application 16/0646N be refused then the recommendation is to APPROVE subject to a S106 Agreement to secure the following Heads of Terms:**

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. Provision of an area for Ecological Enhancements to be maintained by a private management company
3. Secondary Education Contribution of £32,685.38

And the following conditions:

1. Standard outline 1
2. Standard outline 2
3. Standard outline 3
4. Approved Plans
5. Electric Vehicle Infrastructure to be submitted and approved
6. Construction Management Plan to be submitted and approved
7. Submission / Approval of Information regarding Contaminated Land
8. Any reserved matters application shall be supported by an Arboricultural Impact Assessment (AIA) in accordance with Section 5.4 of *BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations)* which shall evaluate the direct and indirect impact effect of the proposed design on existing trees.
9. Reserved Matters application to include details of the existing and proposed land levels
10. The development hereby permitted shall not commence until details of the detailed design, implementation, maintenance and management of a surface water drainage scheme have been submitted to and approved in writing by the LPA
11. The development hereby permitted shall not commence until details of the detailed design, implementation, maintenance and management of a surface water drainage scheme have been submitted to and approved in writing by the LPA
12. The reserved matters shall include details of the habitat enhancement proposals for the site. Enhancement measures should include a wildlife pond, hibernacula creation, native shrub planting and the enhancement of the grassland habitats.
13. Updated survey for Bats to be undertaken and submitted as part of any reserved matters application
14. Any future reserved matters application to be supported by proposals for the incorporation of gaps for hedgehogs to be incorporate into any garden or boundary fencing proposed. The gaps to be 10cm by 15cm and located at least every 5m

**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 her 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. Provision of an area for Ecological Enhancements to be maintained by a private management company**
- 3. Secondary Education Contribution of £32,685.38**

