

# CHESHIRE EAST COUNCIL

## SOUTHERN PLANNING COMMITTEE REPORT

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<b>Date:</b>	29 <sup>th</sup> March 2017
<b>Report of:</b>	David Malcolm - Head of Planning (Regulation)
<b>Title:</b>	Outline planning application for the demolition of 1 bungalow and the erection of 15 dwellings, including associated access at land east of Bunbury Lane, Bunbury
<b>Site:</b>	6 & Land rear of no.6 Bunbury Lane, Bunbury CW6 9QZ

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### **1.0 Purpose of Report**

- 1.1 To agree Heads of Terms for the legal agreement at the forthcoming appeal.

### **2.0 Decision Required**

- 2.1 To agree Heads of Terms for the legal agreement at the forthcoming appeal submitted following the refusal of application 16/0646N.

### **3.0 Background**

- 3.1 The site is located on the eastern side of Bunbury Lane, to the rear of existing bungalows. It is located towards the southern part of Bunbury and covers an area of approximately 1.3 hectares.
- 3.2 The application site is currently a field used for pasture, with a bungalow (no.6 Bunbury Lane) located on the western part of the application site. The application site has managed hedgerows along the northern and southern boundaries; the southern boundary contains a number of hedgerow trees. Part of the western boundary is marked by the rear garden boundaries of properties along Bunbury Lane. The eastern boundary is formed by a mature hedgerow. Footpath 16 Bunbury runs along a north to south alignment across the site. To the north of the application site are a number of paddocks and beyond these are the properties along Hill Close and Queen Street. To the south and east is the wider rural landscape.
- 3.3 To the south of the site, some distance away is the Grade II Listed Building known as Rowan Cottage.
- 3.4 The site lies partly within the settlement boundary of Bunbury but largely within Open Countryside as designated in the adopted local plan.

- 3.5 Planning application 16/0646N is an outline planning application for the erection of 15 dwellings. Access is to be determined at this stage with all other matters reserved.
- 3.6 The proposed development includes a single access point onto Bunbury Lane which would be located to the west of the site. The access would involve the demolition of a dwelling at 6 Bunbury Lane.
- 3.7 On 31<sup>st</sup> August 2016 Southern Planning Committee resolved to refuse application 16/0646N against the recommendation for the following reason;

*1 The proposal by virtue of the co-location of the housing development of this site with the approved scheme 15/5783N at Hill Close will be contrary to Policy H2 of the Bunbury Neighbourhood Plan and the NPPF.*

- 3.8 **As part of that report, reference was made to the proposed heads of terms for the legal agreement which stated:**

*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*

- 3.9 The above Heads of Terms were not carried over onto the committee resolution/minutes to refuse the application. In this case the Council has received an appeal and there will be a requirement to enter into a S106 Agreement.

## **5 Officer Comment**

- 5.1 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.
- 5.2 As explained within the main report, the area of open space would provide a scheme of ecological enhancements which 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.
- 5.3 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.
- 5.4 On this basis the S106 recommendation is compliant with the CIL Regulations 2010.

## **6 Conclusion**

- 6.1 On the basis of the above, it is considered that the Southern Planning Committee should accept the Head of Terms on the basis that they are comply with the CIL Regulations.

## **7 Recommendation**

- 7.1 To agree to the Heads of Terms for the legal agreement at the forthcoming appeal at no.6 & Land rear of no.6 Bunbury Lane, Bunbury as follows;

***RESOLVE to enter into a Section 106 to secure the following:***

*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*

## **8 Financial Implications**

- 8.1 There are no financial implications.

## **9 Legal Implications**

- 9.1 The Borough Solicitor has been consulted on the proposals and raised no objections.

## **10 Risk Assessment**

- 10.1 There are no risks associated with this decision.

## **11 Reasons for Recommendation**

- 2.1 To agree Heads of Terms for the legal agreement at the forthcoming appeal at no. 6 & Land rear of no.6 Bunbury Lane, Bunbury CW6 9QZ.

### ***For further information:***

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### ***Background Documents:***

- Application 16/0646N