

DELEGATED REPORT

Report by Helen Pressley	Date of report: 01/06/2023	Ref: 69510/FUL
Registration: 13/04/2023	LDfC: 13/05/2023	Expiry Date: 08/06/2023
Site Visit: 19/04/2023	Site Notice: 19/04/2023	Press Date: 20/04/2023
Objections: 11	Con Area:	Adv Type: ARW
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: MIDW

Proposal: Erection of 2 no. detached dwellings and associated landscaping

Location: Land to south of Leigh Lane (adjacent to Scholes House), Bury, BL8 1RJ

Description

The application relates to a plot of land to the south of Leigh Lane, located to the south and east Scholes House and the associated kennels. The plot is covered by a group TPO (TPO number 201 refers). The plot is located within the Green Belt and within Cyrus Ainsworth Nurseries and Parkers Lodges Site of Biological Importance. The plot can be accessed by public right of way 146BUR bridleway which is accessed from Owlerbarrow Lane, or from 143BUR bridleway also known as Leigh Lane.

Land to the south of the site is depicted by trees, and a reservoir. Similarly the land immediately to the east of the site is heavily treed. Immediately to the north of the site there is another area of land, that is made up of trees, scrub land and a pond. Land to all boundaries of the site are within the Green Belt. An open school playing field is also located to the north east of the site.

Planning permission is sought for the construction of two of 2 no. detached dwellings and associated landscaping. The proposed dwellings would be accessed utilising an existing unauthorised track that is located within the boundary of the site. The proposed dwellings would be approximately 6.9 metres in height, with the provision of accommodation within the roofspace and located within the southern portion of the site with timber cladding to the external elevations.

Relevant Planning History

LP/TPO/00768 - G1 - 21 no. Beech - crown lift to provide 6 metre clearance from ground
T1 Ash - fell to ground

G2 - 5 no. Oak - crown lift to be provide 6 metre clearance from ground
T2 - Lime - Crown lift to provide 6 metre clearance from ground

G3 - 3 no. Rowan, 1 no. Willow and 1 No. Sycamore - fell to ground - Approved with Conditions 14/12/2020

LP/TPO/0792 - Group G1 of 40 small scrub trees to be removed - Refused 24/03/2021

Publicity

Neighbour letters 14/04/2023

Site notice x 3 - 19/04/2023

Press notice - 20/04/2023

11 objections received in relation to:

- The land was previously own by the Ainsworth family (formally the nursery's) The Ainsworth's retained ownership of the land and nursesey building site. They sold the land from their retained boarder to Scholes house boarder at auction late 2019. The land

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was sold in three plots. The plot next to Scholes House being the land in this application.

- The applicant/land owner has already illegally cut down trees which had a protection order
- The removal of trees without consent has been reported to the Council on a number of occasions.
- Burning of newly felled trees has taken place within the site.
- The applicant has illegally built an access road without permission.
- Damage has been caused to neighbouring properties during unauthorised works.
- This is green belt land with tree preservation orders.
- This land is Greenbelt land, you cannot build on green belt unless there are exceptional circumstances...2 detached houses doesn't seem like an exceptional circumstance.
- No exceptional circumstances exist to justify removal of the land from Greenbelt. Two executive homes do not make any real impact on the Borough's housing need, and housing need is not a justification to remove Greenbelt protection.
- There are many wildlife in the area and it is enjoyed by walkers who see the deer, badgers, woodpeckers amongst many other species.
- To even consider planning permission is abhorrent and an act of discrimination against nature!
- Our wildlife is in serious decline due to loss of habitat as a result of intensive farming, use of pesticides and increased urbanization, so to destroy yet more is unacceptable. The impact on wildlife should be given more precedence when considering all planning applications.
- Impossible to construct the dwellings and comply with trees root protection areas and BS5837 .
- This site has developed over the years into a wonderful mature woodland that acts as a wildlife reservoir for the surrounding area. It is an absolute joy to walk past and just knowing that it exists nearby is mentally nourishing and I have no doubt increases the well being of the many people that walk alongside it every day.
- Net loss of biodiversity units (Biodiversity Impact Report). No mitigation offered to offset this.
- The previous actions of the landowner show what kind of developer they will be
- Personal experience with smaller developers, and personally witnessed them cutting EVERY corner, not abiding by safe working practices, using the cheapest materials and build poor quality housing purely to maximise profits.
- If for any reason the council think that these people won't cut corners when taking out the building they are WRONG!! If they're willing to ruin a home to wildlife, cut down protected trees, harm endangered wildlife. There are newts on this land that are endangered and protected!
- With the land grab at Elton reservoir currently in heated debate, this is not the time to try and build poor quality cramped houses on every scrap of green land a developer can find to purely profit from.
- Stop letting people greedy people destroy the beautiful landscape of Bury! The wildlife mean so much more than throwing some ugly houses up that will probably be rendered and not be sympathetic of the surroundings anyway!
- Let the trees and the greenery and the greenbelt live, we don't need any more houses when we lose so much green space to greedy developers every year.
- Go and build some decent quality yet affordable homes on some brownfield land instead.
- The private lane is being taken into very poor condition by the amount of heavy vehicles already used by the owners of the land. Any building work will undoubtedly make this even worse.
- Lane is maintained by private individuals who have had to repair existing damage caused.
- This will be a safety issue as it is a main pedestrian routes for pupils at Elton high school.
- I have concerns about what building houses will do for flooding. Trees being chopped down will mean more water in the dip.

- Not sure what they can do about sewage. How will they avoid sewage going into the stream
- Concern that kennels business will be impacted on through:
 - additional restrictions on noise levels
 - risk to dogs being walked along public right of way
 - any building works and unfamiliar noise will cause unnecessary distress to dogs on site
 - loss of business due to noise
 - potential loss of utilities
- Concerns japanese knotweed will be spread outside the existing woodland.
- There are no main drainage systems in place.
- The land is saturated 12 months of the year and hence the 'pond,' referred to as being retained in the planning details being a constant flow of water. Regardless of time of year the pond and waterlogged ground remains.

1 comment received in relation to:

- Access to this development is along Leigh Lane which is a PROW, 143BUR, classified as a bridleway. I am concerned that this development will increase vehicular traffic ie. residents, visitors and service vehicles, which will be detrimental to the use of the bridleway by horse riders particularly during the development phase when there are likely to be heavy goods vehicles visiting the site delivering materials. Leigh Lane is narrow and serious problems could arise.
- I can find no reference to the fact that Leigh Lane is a bridleway in documents. The developer has not recognised the potential problems and has not offered any mitigation. Rights of Way Circular 1/09 states that the effect of a development on a Public Right of Way is a material consideration in determining planning applications.
- At the very least warning signs should be put in place making people aware that horse riders may be met on Leigh Lane. Also, the surface of the route should not be laid with tarmac.

4 representations of support in relation to:

- I support this type of low density residential development of this and similar land off Leigh Lane, where proposed houses are set back from lane, retaining existing mature tree canopy and hedgerow remnants.
- I do not support the erection of tall fences along Leigh Lane which block walkers' views, or shorten the currently open views of woodland and fields. There are existing bad examples of the type of boundary treatment that have turned this country lane into an alleyway, and would be detrimental to visual amenity of users of Leigh Lane.
- Although I no longer live in the Walshaw area I retain a fondness for the environment around Leigh Lane.
- I must respectfully observe, however, in reply to certain criticisms made of the proposed development that nobody is entitled to the view from their home and that as far as I am aware planning law has never taken this into account.
- With regard to the alleged illegal removal of trees, I am assured that planning consent was obtained in all cases and no contravention of planning law occurred.
- The erection of two bungalows is hardly going to affect traffic flow to any real degree and will allow others to enjoy the peace and tranquillity of this local beauty spot.
- I firmly believe that the construction of two bungalows in this particular area would not have an excessive impact on its surroundings.
- One aspect that particularly resonates with me is the significant economic benefits that the proposed development would bring to the local area. The construction phase of the project alone would stimulate the local economy by creating jobs and fostering economic growth. These employment opportunities will not only benefit the workers directly involved in the construction but also have a positive ripple effect on various businesses in the surrounding area. In an era where economic stability and growth are crucial, such initiatives provide a much-needed boost to the local community.

Statutory/Non-Statutory Consultations

Traffic Section - recommend refusal due to insufficient information to ensure that the requirements of Greater Manchester Fire and Rescue Service in relation to the safety of the future occupiers of the dwellings can be met.

Drainage Section - No response

Environmental Health - Contaminated Land - A desk study and preliminary risk assessment has not been submitted with the application and is required.

Greater Manchester Ecology Unit - The development will result in the permanent loss of part of an SBI. We therefore recommend refusal. In addition, the ecological surveys were outside the optimal season for woodland and after the site had been partially cleared. We also disagree with the findings of the biodiversity net gain assessment. Other ecological issues include nesting birds and invasive species.

Public Rights of Way Officer - There is the concern about the increase in vehicular traffic on a route designated for use on foot, bike and horse by the public. Without a private right of access, use by motorised vehicles is a criminal offence.

Planning Policy - No response

Greater Manchester Fire - The proposal needs to meet requirements for Fire Service Access

Environmental Health - Pollution Control - Raise concerns over noise from kennels and the impact on future occupiers.

United Utilities - advice in relation to UU assets and the request for a SuDs condition to be attached to the proposal.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

OL1	Green Belt
OL1/2	New Buildings in the Green Belt
EN1/2	Townscape and Built Design
EN5/1	New Development and Flood Risk
EN5	Flood Protection and Defence
EN6	Conservation of the Natural Environment
EN6/2	Sites of Nature Conservation Interest LNR's
EN6/3	Features of Ecological Value
EN6/4	Wildlife Links and Corridors
EN7	Pollution Control
EN7/2	Noise Pollution
EN8	Woodland and Trees
EN8/2	Woodland and Tree Planting
EN9/1	Special Landscape Areas
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H3/2	Existing Incompatible Uses
HT2/1	The Strategic Route Network
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
RT3/3	Access to the Countryside
NPPF	National Planning Policy Framework
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Principle (Residential)

The National Planning Policy Framework (NPPF) should be treated as a material planning consideration and it emphasises the need for local planning authorities to boost the supply of housing to meet local housing targets in both the short and long term. The Framework maintains the emphasis on identifying a rolling five year supply of deliverable housing land.

Bury's Strategic Housing Land Availability Assessment sets out the latest housing supply position, which is made up of sites that have an extant planning permission and sites that

have potential to obtain planning permission in the future. This shows that there are a number of sites within the Borough with the potential to deliver a significant amount of housing. However, not all of these sites will contribute to the five year supply calculations as many sites will take longer than five years to come forward and be fully developed (e.g. some large sites could take up to ten years to be completed). As such, latest monitoring indicates that the Council is unable to demonstrate a five year supply of deliverable housing land and this needs to be treated as a material factor when determining applications for residential developments.

The National Planning Policy Framework also sets out the Housing Delivery Test, which is an assessment of net additional dwellings provided over the previous three years against the homes required. Where the test indicates that the delivery of housing was substantially below (less than 75%) of the housing requirement over the previous years, this needs to be taken into account in the decision-taking process. The latest results published by the Government show that Bury has a housing delivery test result of less than 75%, and therefore, this needs to be treated as a material factor when determining applications for residential development.

Therefore, in relation to the proposed 2no. dwellings, paragraph 11d) of the National Planning Policy Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless:

- i. The application of policies in the Framework that protect areas, or assets of particular importance, provides a clear reason for refusing the development proposed; or
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole.

Therefore, in this case the 'tilted balance' applies and planning permission should be granted unless the above points Para 11(d) i or ii apply.

Policy H1/2 states that the Council will have regard to various factors when assessing a proposal for residential development, including whether the proposal is within the urban area, the availability of infrastructure and the suitability of the site, with regard to amenity, the nature of the local environment and the surrounding land uses.

The site is located adjacent to the urban boundary, with school playing fields to the north east, a kennels and dwelling to the west and north, and tree covered Green Belt land to the north, south and east. The proposed development could potentially conflict with the surrounding land uses given the commercial kennels located next door however it would be located in a sustainable location with regard to public transport and services. Therefore, the proposed development could be considered to be in accordance with Policy H1/2 of the Bury Unitary Development Plan provided that the proposal complies with all other material planning considerations.

In applying the tilted balance the application also needs to assess the impact of the proposal in relation to the SBI, TPOs and Green Belt.

Principle (Green Belt)

Paragraphs 147 and 148 state that inappropriate development in the Green Belt is by definition, harmful and should not be approved except in Very Special Circumstances (VSC). Planning Authorities should ensure that substantial weight is given to any harm in the Green Belt. VSC will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Paragraph 149 of the NPPF states that the construction of new buildings would be inappropriate in the Green Belt. Exceptions to this are:

- (a) buildings for agriculture and forestry;
- (b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- (c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- (d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- (e) limited infilling in villages;
- (f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

Policy OL1/2 states that the construction of new buildings in the Green Belt is inappropriate development, unless it is for one of more of the following purposes: agriculture and forestry essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it; limited extension, alteration or replacement of existing dwellings, provided that this would not result in a disproportionate additions over and above the size of the original dwelling, or, in the case of replacement existing dwellings, the new dwelling is not materially larger than the one it replaces; limited infilling in existing villages.

The Design and Access statement includes reference to Green Belt Policy and gives a brief overview of the context of the site, acknowledging that the site is in the Green Belt and that the author does not consider that the neighbouring property and outbuildings are suitable properties within this location. This document however failed to make any arguments as to whether the introduction of two dwellings at this site is appropriate development within the Green Belt, or whether there was a case for Very Special Circumstances. A Green Belt Statement and case for VSC was therefore requested and submitted by the applicant.

Within this statement the applicant again acknowledges that the site is within the Green Belt, however they state that the current neighbouring plots are utilised for residential purposes. This is incorrect. Scholes House is a residential property located to the north west of the site that is recorded in 1760, this property has a commercial kennels use associated with it that has been in use since the 1960s. Looking at the historical mapping available this site as a whole has been occupied by a dwelling and outbuildings since 1893 in one form or another and as such is an established site within the Green Belt. Another single dwelling is located to the west of Scholes House however this does not immediately bound the site. Open fields are located beyond this dwelling to the west.

Land to the south of the site is depicted by trees, and a reservoir. Similarly the land immediately to the east of the site is heavily treed, and not residential. Immediately to the north of the site there is another area of land, not in residential use that is made up of trees, scrub land and a pond. Land to all boundaries of the site are within the Green Belt. The nearest residential property to the north of the entrance to the site is located some 100metres away from the entrance and is within the urban boundary, not within the Green Belt. An open school playing field is also located to the north east of the site however this is not within the Green Belt and is not developed with buildings which helps to contribute to the openness of this particular Green Belt site. Whilst the site does make up part of the former Cyrus Ainsworth Nurseries, this is not referenced by the applicant, and in any event

the only evidence that the site has been previously developed is through the introduction of an unauthorised track that the applicant themselves has installed and as such does not account for previously developed land. The site is not located within a village. As such, the proposal is not considered to be an infill site.

The applicant's Green Belt Statement also makes reference to an area of land GM09 that is planned to be released from the Green Belt for development. It is not clear what document GM09 can be found in as this is not referenced, however it does appear to relate to the now withdrawn Greater Manchester Spatial Framework (GMSF) which did have a site allocation for Walshaw called GM9. The decision for this plan not to be continued however was made in 2020. Places for Everyone (PfE) has a similar allocation called JPA 9. PfE however is still under examination, and as such very little weight can be afforded to its content, especially considering that the Council has asked for an amendment to PfE to retain the Walshaw (JPA9) allocation within the Green Belt rather than to release it for housing. This does not appear to have been noted by the applicant.

The applicant has quoted some of the reasons why GM9 was considered suitable for Green Belt release, and considers that the same case for VSC presented should be used for this current application. Again it is unclear what document these quotes have been taken from as the applicant has failed to adequately reference them. As discussed above the proposal site is not entirely contained by urban development like the GM9/JPA 9 allocation referenced, and it is stated within the text quoted by the applicant that the release of this area of land is supposed to prevent further sprawl to the south. It is unclear therefore how this can be utilised as an argument for more urban development to the south, within a Green Belt location which is what is proposed through this current application.

The Green Belt statement also states that the proposal would utilise landform and tree cover, has been carefully sited and would ensure that the proposal would not dilute the strong field patterns associated with the landscape. The statement goes on to say that the site has been positioned to the south of open fields. The site is not located to the south of fields, and there is no strong field pattern within the vicinity of the site. In fact this is directly at odds with the applicant's earlier assertion that the site was bounded by residential properties. The limited bullet points within the Green Belt Statement, that could be referenced as a very limited visual impact assessment are therefore flawed and appear to have been copied from another document.

The aspirations of the applicant to protect and enhance local ecology are discussed later in the report, and whilst commendable they do not outweigh the in principle harm to the Green Belt that has been identified and should be an aspiration for all developments in any event, no matter their siting when considering paragraph 174 of the NPPF. It should also be noted that the Biodiversity Impact Assessment concludes that the proposal is predicted to result in a net loss of biodiversity units and a net gain of hedgerow units. A net loss in biodiversity units can not be therefore be argued to be an enhancement of local ecology and is therefore not considered to be a case for VSC particularly in an ecologically sensitive site such as this. Repairing the damage referenced within the proposal portion of the Green Belt Statement, is damage that has been caused by the land owner when installing an unauthorised track within an ecologically sensitive area and should also not be used as a case to support Green Belt development and should in fact be a driving force behind remediating the damage already caused.

Utilising a SuDs scheme, again is commendable however standard conditions are required for the majority of residential developments to submit a scheme that is in accordance with a Surface Water Sustainable Drainage Assessment and based on the hierarchy of drainage options in the National Planning Practice Guidance and as such this is not unique to this particular development.

The wider aims of Paragraphs 147, 148 and 149 of the NPPF are to protect and maintain the openness of the Green Bet. It has been established that the site would not be an infill

site, and no other exception under paragraph 149 has been put forward by the applicant and therefore any building on this site would be inappropriate unless VSC can be demonstrated. The applicant has put a very limited case forward in submission of a Green Belt Statement, many points of which should be utilised for all forms of development where good design is at the forefront and would not amount to VSC. It is therefore considered that the applicant has failed to make a case for VSC and as such the proposal is unacceptable development within the Green Belt that can not be supported in principle.

Taking into consideration this case and the 'titled balance' that applies it is considered that whilst Bury has a housing delivery test result of less than 75%, the failure to provide a case for VSC and the introduction of inappropriate development in the Green Belt would not be outweighed by the benefit of providing 2no. dwellings

Layout and Design

Policy H2/1- The Form of New Residential Development requires all new residential development to make a positive contribution to the form and quality of the surrounding area. Policy H2/2 - The Layout of New Residential Development seeks to ensure that new residential development will be acceptable in terms of layout in order to provide a good quality residential environment. In addition to this, Policy EN1/2 - Townscape and Built Design seeks to ensure that any proposals would not have an adverse impact on the particular character and townscape of an area.

As well as these listed policy considerations, and the Green Belt policy considerations set out above the site is also located within a Special Landscape Area as identified under UDP Policy EN9/1 which requires high standards of design, siting and landscaping and confirms that unduly obtrusive development will not be permitted in such areas.

The NPPF makes it clear that creating high quality buildings and places is fundamental. This is further supported by the National Design Guide. The National Design Guide, published by the Ministry of Housing, Communities and Local Government in 2019 states that well designed new development is influenced by "an appreciation and understanding of vernacular.....including existing built form, landscape and local architectural precedents."

The site is bounded by treed sites, with public rights of way providing the access to the site and the neighbouring properties. The residential amenity space associated with Scholes House to the north west of the red edge contains a number of protected trees, as does the site itself.

The applicant considers that "the neighbouring properties are unsympathetic with their position and are at odds with their surroundings large detached properties with many outbuildings present quite an impact on the green belt. The proposals seek to deal with the shortcomings of the surrounding properties through, careful positioning, sympathetic materials and careful consideration of their size and scale." As previously established above buildings at the neighbouring Schole's House site have been established for a number of years and this property and its outbuildings have evolved in connection with an existing use. Indeed when you compare the number of buildings across the properties now known as Scholes House, the associated kennels and Brook View (to the west of the house) the level of built form and different footprints of buildings in this area has actually decreased since 1910.

Despite this above statement the applicant has provided very little in terms of how the design of the two dwellings has actually evolved. It is noted that the applicant has mapped out the location of the trees and their root protection areas (RPAs) but they have still pursued two houses on the plot which does facilitate the loss of healthy TPO trees, rather than one which may not. The applicant confirms later in their Design and Access Statement that one of their proposal influences was "retention of all trees where possible" suggesting that the desire to develop the site for residential purposes outweighs the need to retain existing, TPO trees on site. The TPO trees on site will be discussed in greater depth below.

The applicant considers that the areas outlined "ensure minimal impact upon the greenbelt, through the sheltering and vailing of the plots by the existing landscape." Whilst the location of the dwellings has been set out on a topographical survey no wider street scene elevation drawings, no visual impact assessment, no sections etc have been provided to show how these dwellings will even relate to each other, let alone how they will sit within the landscape. As such this statement can not be quantified through the information submitted within the application.

The applicant also highlights that the existing access will be retained to prevent any additional damage through it's removal over the RPAs. The applicant confirms that the location of the properties seeks to utilise the existing access, the first bullet point within their list of proposal influences references retaining an approach for vehicles and pedestrians. The applicant fails to acknowledge that this access has been constructed without planning permission. Indeed, the layout actually looks like it has been informed solely by the location of the unauthorised track rather than the other sensitive considerations that need to be taken into account when reviewing a site of this context.

Whilst the proposal includes the provision of accommodation within the roof and as such could be considered to be a "bungalow" style property, the overall ridge height is approximately 6.9 metres which is very close to the height of an average two storey dwelling (8 metres) and as such the scale of the proposed dwellings is considered to be closer to that of a two storey property, than a low level compact bungalow. No context has been given as to why linear, two storey scale dwellings in this location are suitable. The proposed dwellings do not appear to replicate the lengths of neighbouring buildings, and at 20 metres long (house type 1) would be excessive even when compared with the "large detached properties" the applicant considers are next to the site (Brook View 13 metres, Scholes house - extended - 15.5 metres) and is even longer than the single storey kennel complex shown on the OS mapping at 17.7 metres long. The proposal would therefore not replicate the grain of the limited neighbouring buildings.

The "inspirational imagery" within the Design and Access Statement references small glimpses of single storey properties that may actually be more suitable when considering the requirement to limit impact on TPO tree canopies, and root protection areas however the proposal put forward is for two storey properties. The Design and Access Statement states that the focus on the internal flow of the home, to provide enjoyment of the South facing views has also been made. The location of the windows also appears to have been designed with these views in mind. Again, this does not give any context of how the external layout and design of the proposed dwellings has been informed and whilst design cues may have been taken from the surrounding location, by utilising timber for the external elevations as the site is heavily treed, the focus on design appears to have be in relation to how the future users would like the internal layout to function, rather than through an understanding of the location within which the proposed dwellings will be set.

It is considered that the proposed dwellings fail to replicate the character of the location and do not respect the local vernacular. Indeed the dwellings look like timber barn conversions, which are predominantly found in the South and East of the country rather than the North West where the site is located. The applicant has also failed to show the nearest dwellings on any sort of site plan that can be compared to the footprint of the proposed dwellings. Whilst the conclusion of the Design and Access Statement considers that they have shown a deliberate design process, it is also a little concerning that this conclusion appears to relate to a single dwelling, and references a site called "Meldons" which is not the application site. This does not suggest a design process bespoke to this sensitive site.

Landscaping will be discussed further below within the tree and ecology sections.

The proposed development would, by reason of its size, position and design introduce a discordant, intrusive and permanent development which would have a detrimental and long

term harmful impact on the character and openness of the locality, Green Belt and Special Landscape Area. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies

H2/1- The Form of New Residential Development, Policy H2/2 - The Layout of New Residential Development, Policy EN1/2 - Townscape and Built Design, EN9/1 - Special Landscape Areas, OL1/2 - New Buildings in the Green Belt and the principles of the NPPF.

Trees

Site History

The site is protected by a group Tree Preservation Order (TPO). UDP Policies EN8, EN8/1 and EN8/2 seek to support the retention of trees, woods, copses and hedgerows to encourage natural regeneration and new and replacement tree planting. Whilst the trees on site are protected it would appear that a number of trees have been lost from the site, and not adequately replaced.

Section 210(1) and section 202C(2) of the Town and Country Planning Act 1990 provide that anyone who, in contravention of a Tree Preservation Order

- cuts down, uproots or willfully destroys a tree; or
- tops, lops or willfully damages a tree in a way that is likely to destroy it; or
- causes or permits such activities

is guilty of an offence. Anyone who contravenes an Order by damaging or carrying out work on a tree protected by an Order without getting permission from the local planning authority is guilty of an offence and may be fined.

There is also a duty requiring landowners to replace a tree removed, uprooted or destroyed in contravention of an Order. The authority can enforce tree replacement by serving a 'tree replacement notice' and this is a matter for enforcement to review.

There is a history of tree applications being submitted at the site. LP/TPO/00768 was granted in 2020 for tree works and the removal of 6 trees. This consent included a condition for submission of a scheme for 6 trees to be planted prior to the felling of any trees on site, and these trees should be planted during the next planting season following removal.

LP/TPO/0792, removal of 40 scrub trees was refused in 2021. During the site visit for this application the Case Officer noted that trees had been felled, but that no replacement scheme had been submitted or agreed. The agent acting on behalf of the applicant was contacted and submitted a scheme for 6 replacement oaks and this was agreed. These 6 replacement oak trees however are not included on the submitted arboricultural report for the current application and therefore it appears they were never planted.

In March 2021 the Case Officer visited the site again, with the Council's Trees and Woodlands Officer following an enforcement complaint about removal of trees. Photographic logs were taken at this time. This document highlighted further trees that had been removed without permission. A total of 14 trees, including the 6 within application LP/TPO/00768 were identified as being removed and this was reported back to planning enforcement.

Submission of application 69510 required a further site visit from the Case Officer who noted the introduction of an unauthorised track, within the root protection zones of TPOs that could potentially be causing damage to protected trees.

It was also noted that the applicant is also storing piles of hardcore around the base of, and within the root protection zones of trees. Photographs of this have been logged against this case file. One tree in particular that is affected is T14 an oak tree that is highlighted for removal to accommodate the houses that the applicant wants to build. The applicant has

therefore committed offences under section 210 (contravention of a Tree Preservation Order) of the Town and Country Planning Act 1990 and as such these details have been passed back to planning enforcement to action.

Proposed Tree Works

A tree survey has been submitted with the application that identifies 16 individual trees 11 groups of trees and 1 hedge currently on site. Approximately 64 trees on site have therefore been surveyed when taking into account the groups. Two groups of trees were categorised as high quality (A-category), fifteen trees and six groups were categorised as moderate quality (Bcategory) and one tree, three groups and the hedge were categorised as low quality (C-category).The report identifies that the following trees need to be removed:

5no. B-category trees
1no. C-category group
1no. partial C-category group

It is unclear how many trees within G2 will need to be removed so a conservative estimate of 3 trees, out of the group of 30 has been used as only a small section is shown to be removed from the group indicated on the tree removal plan. A total of approximately 11 trees will therefore be lost to facilitate the development or 17% of existing tree cover. This is in addition to the 14 trees that have been removed and not replaced, or removed without consent. Works to G4 (Holly) and G6 (Cherry laurel) to prune low hanging crowns back to boundary however these would be retained.

The 5 individual trees to be removed are:

T12 - English Oak - semi- mature - category B with no significant visible defects.
T13 - English Oak - early mature - category B with no significant visible defects.
T14 - English Oak - mature - category B Crown lifted; wounds partially occluded. Two large branch tear wounds in lower crown.
T15 - English Oak - early mature - category B with ground disturbance evident within RPA, with some large roots exposed and damaged; occluded stem wound on northern side from base to a height of 1m (decay ingress suspected); crown significantly lifted; light epicormic growth emerging from wounds and along some of branches suggests reduced vitality.
T16 - Lime - early mature - category B with ground disturbance evident within RPA, with one large surface root severed; crown lifted; wounds unoccluded.

The group trees to be removed are:

G2 - . 30no. Silver birch, Downy birch, English oak, Aspen, Sycamore, European beech, Goat willow - young to semi mature - category C group of self-set, predominantly young trees(partial removal).
G5 - 3no. holly - semi-mature - category C small cluster of multiple stems with stems leaning away from neighbouring trees to north.

Whilst noted that some of the individual trees have visible defects these appear to have been caused from previous works. All of these trees are category B, with good structural stability and moderate/good or good physiological condition. It therefore appears that removal of early - mature trees is being proposed to facilitate the introduction of 2 houses, rather than looking to design a layout that would allow for more trees to be retained.

The groups of trees identified for removal of category C trees and as such lower quality That said whilst's the quality of the trees throughout the site are mixed prior to the recent tree works the site has been largely unmanaged and this impacts on the overall character and visual amenity of the trees. The trees on site as existing, and prior to unauthorised works, have a combined value in terms of visual amenity and as such substantial removal of trees, and tree cover has the potential to negatively impact on the amenity value of the site and any loss should be mitigated by appropriate replacements and a wider tree management plan.

Whilst noted that the trees need to be removed to facilitate the development proposed, given the identified amenity value of the trees and the size of the overall site it is considered a different layout could potentially be put forward that would lessen the need to remove trees. No information has been submitted to suggest that this has been considered as the layout and design of the properties evolved. It is considered that the application has failed to demonstrate reasoned justification for the removal of these trees at this time. The removal of the trees would harm the group amenity value that these trees hold contrary to Policy EN8/1 - Tree Preservation Orders of the Bury Unitary Development Plan.

The landscaping plan proposes planting of 10 trees of the following mixture:

4No. Amelanchier lamarckii (snowy mespilus)
4No. Betula pendula 'Dalecarlica' (swedish birch)
2No. Quercus robur (oak)

No mitigation has been proposed to replace the trees that have been removed previously.

Whilst they are native snowy mespilus are not currently found within the tree mix on site. Snowy mespilus can be considered to be a large shrub, or small tree. Swedish birch are not native, but do have similar bark to the native silver birch and grow to approximately 7 metres in height. Again they are not found within the tree mix on site. It is considered that these 8 trees would not adequately replace the trees that have been removed. The 2no. oak trees would be suitable replacements.

It is considered therefore that the proposal fails to adequately replace protected trees that are proposed to be lost or have been previously removed and were subject to a Tree Preservation Order. The damage to or loss of these trees is considered to be unacceptable due to the impact on the general amenity and character of the area in which the application site is located. The development is therefore contrary to the following policy of the Bury Unitary Development plan: EN8 - Woodland and Trees; EN8/1 - Tree preservation Orders.

Taking into consideration this case and the 'titled balance' that applies it is considered that whilst Bury has a housing delivery test result of less than 75%, the impact on TPO trees and the failure to adequately mitigate tree loss would not be outweighed by the benefit of providing 2no. dwellings

Tree Protection

In addition to the removal of trees the proposal will require several construction operations to be carried out within the RPAs of retained trees. Special working methods will be needed, and these have been discussed in the preliminary arboricultural method statement included with the application. The arboricultural statement considers that the retained trees can be adequately protected by means of BS5837-specification tree protection fencing, ground protection and stem protection, to be laid-out as shown on the appended tree protection plan, and by following the tree protection recommendations within the report. A detailed arboricultural method statement, including a sequence of works and program of site monitoring and arboricultural supervision, should be conditioned as part of any planning approval.

The arboricultural method statement also highlights that the proposed access track passes through the RPAs of G8 and G11 and considered that the existing hardcore should be left in situ so as not to disturb the tree roots beneath, and should be used as a sub-base for the new surface where required. As this statement has been provided in relation to a proposed development, rather than a scheme of mitigation it is considered that this should be reviewed and that the applicant should be looking to provide a remediation scheme to remove all the unauthorised development on the site.

Ecology

Cyrus Ainsworth Nurseries and Parkers Lodges Site of Biological Importance

The plot is located within a site of nature conservation interest and as such UDP Policy EN6/2 - Sites of Nature Conservation Interest (Local Nature Reserves and Grade B and C Sites of Biological Importance) applies. Planning permission will not be granted for development which would damage either directly or indirectly, the nature conservation interests of sites of particular ecological significance (Local Nature Reserves or Grade B and C Sites of Biological Importance) unless conditions can be imposed that would acceptably mitigate those impacts.

These designated sites are areas of important nature conservation interest in the Borough and will continue to be part of the Council's long-term wildlife protection and management policies. Grade B SBI's are those of district importance and Grade C SBI's are those of more than local importance. Each is considered to have substantive nature conservation value. The presence of a Grade B or C SBI is a material consideration in determining an application for development. The proposed development lies within the Cyrus Ainsworth and Parkers Lodges Grade B Site of Biological Importance. As such, Greater Manchester Ecology Unit (GMEU) have been consulted as part of the application process.

Whilst accepting this part of the SBI has already been damaged through the installation of an unauthorised track, it currently could be restored and enhanced. The proposed development will result in the permanent loss of around 16% of the SBI, a significant negative impact to a site classed as being of district wide importance. GMEU do not consider that the construction 2no. dwellings is of more importance from a planning perspective than the sites current protection for wildlife and have therefore recommended refusal.

Taking into consideration this case and the 'titled balance' that applies it is considered that whilst Bury has a housing delivery test result of less than 75%, the proposal fails to adhere to UDP Policy EN6/2 and would fail to protect the Grade B SBI. It is considered that this identified harm would not be outweighed by the benefit of providing 2no. dwellings

Timing of Surveys

Two surveys of the site occurred one in January 2022 and one in August 2022. Given the site had already been cleared, the findings of the surveys cannot be regarded as true reflection of the vegetation that was present prior to clearance, in addition surveys of woodlands as accepted by the consultant are best in the period March through to early June both for ground flora and breeding birds. Whilst accepting the site has been cleared, it is unclear what level of the woodland ground flora remain. GMEU would therefore recommend an updated botanical and breeding bird survey would be required prior to determination.

Due to the identified impact of the proposal in terms of impact on the SBI, Trees and Green Belt this additional survey work has not been requested during the application period as it is considered that the principle of development has not been secured. As such it is considered that the application contains insufficient information to botanical and breeding bird surveys.

Protected Species

GMEU have confirmed they have no reason to doubt the findings of the extended phase 1 survey that no protected species are likely to be present.

Nesting Birds

Further trees are proposed for removal that are potential bird nesting habitat. All British birds nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife & Countryside Act 1981, as amended. A condition could be attached to any permission that limits works to trees and shrubs to outside of nesting season.

Other Priority Species

Whilst much of the potential cover for other wildlife has been removed, common toad a UK

Biodiversity Priority Species is recorded from the SBI, probably breeding in Parkers Lodges and habitats in the wider site suitable for hedgehog. A reasonable avoidance measures method statement during any additional site clearance and construction could be conditioned.

Invasive Species

Japanese knotweed, himalyan balsam and rhododendron are abundant across the site. All are included within schedule 9 part 2 of the Wildlife & Countryside Act 1981, as amended. I accept that these species are also present beyond the boundary of their control and therefore total eradication is unlikely ie reinfestation is likely to occur particularly for Himalayan balsam. There will however be a high risk of tracking of Himalayan balsam and Japanese knotweed off-site. Details in relation to a method statement detailing removal from the site and biosecurity measures for himalyan balsam, japanese knotweed and rhododendron could be secured via condition.

Contributing to and Enhancing the Natural Environment

Paragraph 174 of the NPPF 2021 states that the planning policies and decisions should contribute to and enhance the natural and local environment. The development will result in the loss of around 0.5ha of woodland with dwellings and garden. There will also be a loss of bird nesting opportunities. A biodiversity net gain assessment has been provided which accepts that a net loss will occur at the site level for area based habitats with a gain of hedgerow habitat. The full metric does not appear to have been provided, but GMEU would dispute the methodology.

GMEU would regard this as quite a simple assessment in that it is the loss of around 0.5ha of woodland in GMEU accept is in fairly poor condition due to the dominance of invasive species in the ground layer being replaced with garden and dwellings and do not agree that each tree should be individually assessed. This in one way benefits the developer as whilst this results in a significantly larger loss of biodiversity units in percentage terms actually reduces the gross number of BU lost. GMEU therefore recommend the BNG assessment is recalculated utilising the simpler approach they have recommended.

With regards biodiversity mitigation and enhancement bird and bat boxes should be provided as has been indicated on the landscape proposal. The numbers shown are proportionate, but GMEU would recommend targeting of woodland bird species not house sparrow at this location. GMEU would recommend all replacement tree planting is native and that prior to determination information supplied on how compensation for the loss of biodiversity units will be provided.

As above, due to the identified impact of the proposal in terms of impact on the SBI, Trees and Green Belt this additional survey work has not been requested during the application period as it is considered that the principle of development has not been secured.

Whilst noted that there would be a gain in hedgerows on site, there would be an overall loss of biodiversity net gain units within the site and the Biodiversity Impact Assessment submitted by the applicant concludes that offsetting would be required. Considering that the site is an SBI this is not considered to be acceptable in this instance and as such it is considered that the proposal would fail to comply with paragraph Paragraph 174 of the National Planning Policy Framework.

Access and Parking

UDP Policy EN1/2 - Townscape and Built Design requires the consideration of the design and appearance of access, parking and service provision. This is further supported by UDP Policy H2/2 - The Layout of New Residential Development that requires proposals to demonstrate adequate car parking provision, access for both vehicles and pedestrians, and provision for public transport and the existence of any public rights of way, and UDP Policy HT6/2 - Pedestrian/Vehicular Conflict that requires developments to reduce pedestrian/vehicular conflict.

The plot can be accessed by public right of way 146BUR bridleway which is accessed from Owlbarrow Lane, or from 143BUR bridleway also known as Leigh Lane. As such UDP Policy RT3/3 - Access to the Countryside is also applicable as it requires the Council to seek to improve and extend the existing network of Public Rights of Way. It is not clear which of these public rights of way the applicant wishes to utilise as the main route of access to the site and the applicant has not demonstrated that they have private vehicular rights over the public rights of way. Due to the close proximity of a school to the site, outside of the usual users of bridleways the access is also heavily used by school children.

Whilst private rights of access would be a non-material planning consideration, the proposal would intensify the use of the public rights of way through the introduction of more traffic. It is acknowledged that this would only add two additional dwellings, but considering there are only 2 dwellings and a kennel use at this part of the public rights of way system there would be an intensification. Various visits to the site by the case officer over the years confirms that the bridleways that could be used to access the site are not ideal for vehicular traffic. Previous works at the site also appear to have resulted in damage to 146BUR bridleway.

As such, it is considered that the applicant would need to first acknowledge and identify which public right of way they intend to utilise to access the site not only in the future but during construction works. In order to maintain the existing network of public rights of ways, and ensure that the vehicles required to deliver materials to site, and construct the proposals do not negatively impact on the condition of the bridleway a condition could be attached to provide a dilapidation survey of bridleway in the event that subsequent remedial works are required following construction of the development.

UDP Policy H2/2 requires proposals to consider design for safety and security. This is further supported by NPPF chapter 8. As there is limited access to the site Greater Manchester Fire and Rescue have been consulted on the application. They have given a number of conditions that need to be met to ensure that vehicular access for a fire appliances can be made within 45 metres of all points within the proposed dwellings. No details have been provided by the applicant as to whether these measures can be met, and no provision for sprinklers appears to have been included within the application. Whilst this information could be asked for during the application period, as with other areas that are lacking within the application pack this information has not been requested due to the acknowledged lack of principle of development and the details could not be dealt with via means of condition.

In terms of parking standards UDP Policy HT2/4 requires all applications for development to make adequate provision for their car parking and servicing requirements . Supplementary Planning Document 11 provides parking standards for developments.

The site is located just outside of an area of high accessibility as set out within SPD 11. 4 bed properties within low access areas would be required to provide a maximum of 3 parking spaces. As these standards are a maximum, the 2 parking spaces per dwelling that are proposed within the curtilage of the site are considered to comply with parking standards set out within SPD 11.

Amenity

Neighbouring Amenities

UDP Policy H1/2 states that the council will have regard to various factors when assessing a proposal for residential development, including whether the proposal is within the urban area, the availability of infrastructure and the suitability of the site, with regard to amenity, the nature of the local environment and the surrounding land uses. This is further supported by Policy H2/1 that requires an assessment of the impact of developments on residential amenity and the position and proximity of neighbouring properties. There are no adopted aspect standards for new build residential properties however, Supplementary Planning Document

6 provides guidance on aspect standards between residential properties and as such, would be a reasonable guide in this case.

For clarity the following aspect standards would be applicable:

- 20 metres between directly facing habitable room windows;
- 13 metres between an existing habitable room window and a proposed two storey blank wall
- 6.5 metres between an existing habitable room window and a proposed single storey blank wall
- 7 metres between a proposed first floor habitable room window and a directly facing boundary with a neighbouring property.

The proposed site plan does not identify which property is Type 1 and which property is Type 2 however the Type 2 property has a smaller footprint. It would therefore appear that the Type 1 dwelling is located nearest to the shared boundary with Scholes House/kennels.

The ground floor windows within Type 1 that would face towards Scholes House would be secondary windows and would be screened by the existing boundary fence. No first floor windows are proposed facing towards this boundary. The first floor side window for bedroom 3 would be 12.8 metres from the side boundary exceeding the 7 metres required. The ground floor side window relating to bedroom 2 and associated ensuite would be screened by boundary treatments. The first floor side window relating to bedroom 4, ground floor side window relating to bedroom 1 and the ground floor bathroom window would face towards the proposed parking area for this dwelling and access track and would be approximately 24 metres from the directly facing boundary. The proposed south facing windows at ground floor and first floor would be 40 metres from the directly facing boundary.

The two storey element of the dwelling itself is sited approximately 8.6 metres off the rear boundary with Scholes House/Kennels, and is located approximately 61 metres from the rear elevations of these buildings exceeding aspect standards.

It would therefore appear that the Type 1 dwelling complies with aspect standards.

The front windows relating to the Type 2 dwelling would face towards the access track for the site. The proposed rear windows would be located approximately 16 metres from the directly facing rear boundary. The proposed first floor side window relating to bedroom 4 is located approximately 1.8 metres from the directly facing boundary. The ground floor side windows relating to bedroom 1 would also face towards this side boundary, which is proposed to be depicted by timber post and rail boundary details, as the gap between the side boundary and this window appears to be too narrow to introduce the hedge that is depicted along the majority of this side boundary. Whilst there are a number of TPO trees along this side boundary that have the potential to provide a screen, G6 within the arboricultural report, these trees are located on neighbouring land and the report confirms they have not been accessed to inspect in detail and as such it can not be confirmed that these trees are viable for retention. The applicant should also not be relying on screening outside of their ownership to mitigate for substandard aspect standards.

There are no defined boundaries, for the two dwellings indicated on the submitted plans and therefore aspect standards between the windows, and potential internal boundaries has not been assessed. The dwellings are off set from each other to prevent direct overlooking between windows.

Occupant Amenity

The house types have been assessed to ensure that they would all comply with the minimum gross internal floor area requirements and associated minimum bedroom dimensions of the 'Technical housing standards – nationally described space standard'. As no areas have been provided on the plans the case officer has done their own assessment

from the floor plans.

Both properties are 4 bedroom properties. Whilst double beds are shown in all bedrooms a conservative view has been taken that there is 1 double bedroom, and 3 single occupancy bedrooms - therefore a 4 bed 5 person dwelling. Each dwelling would therefore need to provide 97 square metres of gross internal floor areas. Type 1 dwelling provides approximately 200 square metres and Type 2 dwelling provides approximately 155 square metres.

Double bedrooms should be 2.75m wide, and single bedrooms should be 2.15 metres wide. Each bedroom within the properties meet these widths. Each double bedroom should provide a floor area of 11.5 square metres and each single bedroom should be 7.5 square metres. It is unclear if only velux windows for bedroom 3 of house Type 2 would provide suitable natural light and ventilation for this room.

Scholes House, and the associated kennels are located to the north of the proposed dwellings. Whilst the area is not considered to be residential in nature UDP policy H3/2 - Existing Incompatible Uses can give principles to which the relationship between the proposed residential uses, and the existing kennel use can be assessed. Where existing incompatible uses operate within residential areas, the Council will seek to ensure that any existing conflicts are resolved where possible and where opportunities arise. UDP Policy EN7/2 - Noise Pollution does not permit development which could lead to an unacceptable noise nuisance to nearby occupiers and/or amenity users.

The kennels is an existing use, and there has been a facility at this site since the 1960s. As such this use should not be detrimentally impacted by a proposal on a neighbouring site. Part of running a kennels requires the neighbouring site to be in possession of an animal welfare licence, which includes the provision of and adhering to a "noise plan" that includes keeping noise levels down for local residence but also includes maintaining noise levels so as not to cause distress to animals. If this is compromised, we are at risk of loss of our licence. As such Environmental Health have been consulted as part of the planning application. Environmental Health have some concerns regarding possible noise emanating from the dog kennel and the effect this would have on the proposed development. Therefore, Environmental health have recommend that a suitable noise investigation shall be conducted to the satisfaction of the Local Planning Authority (LPA) to determine the suitability of the site for the proposed development. This should be in the form of a BS8233 Assessment.

The application and submitted plans therefore contain insufficient information in relation to potential noise. Due to the identified impact of the proposal in terms of impact on the SBI, Trees and Green Belt this additional survey work has not been requested during the application period as it is considered that the principle of development has not been secured.

The Environment Section have been consulted in relation to contaminated land. A desk study and preliminary risk assessment has not been submitted with the application and is required. The application and submitted plans therefore contain insufficient information in relation to potential contamination which is required to secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and Enhancing the natural environment.

Drainage

In terms of drainage any proposal should include a surface water scheme that must be based on the hierarchy of drainage options in the National Planning Practice Guidance and include assessment of potential SuDS options for surface water drainage with appropriate calculations and test results to support the chosen solution. It must be designed in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems

(March 2015). Details of proposed maintenance arrangements should also be provided. Details of this drainage scheme however could be conditioned.

Conclusion

The report above has outlined a number of adverse impacts that would be created through the proposed development. It is considered that when applying the tilted balance within paragraph 11d of the NPPF that the benefits of providing 2no. dwellings at the site, would not significantly or demonstrably outweigh the adverse impacts identified and therefore the application should be refused.

Response to representations

It is considered that the material planning considerations raised within the representations submitted have been considered within the main body of the report.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed development would, by reason of its size, position and design introduce a discordant, intrusive and permanent development which would have a detrimental and long term harmful impact on the character and openness of the locality, Green Belt and Special Landscape Area. The applicant has failed to demonstrate very special circumstances that would outweigh the harm caused to the openness of the Green Belt. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies H2/1- The Form of New Residential Development, H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design, EN9/1 - Special Landscape Areas, OL1/2 - New Buildings in the Green Belt and Chapter 13 of the National Planning Policy Framework - Protecting Green Belt land.
- 2 The application has failed to demonstrate any reasoned justification for the removal of trees protected by means of Tree Preservation Order number 201 and in addition, the proposal fails to adequately replace protected trees that are proposed to be lost including those that have been previously removed and are subject to a Tree Preservation Order. The damage to or loss of these trees is considered to be unacceptable due to the impact on the general visual amenity and character of this Green Belt site. The development is therefore contrary to the following policies of the Bury Unitary Development plan: EN8 - Woodland and Trees; EN8/1 - Tree preservation Orders
- 3 The proposed development would result in the permanent loss of around 16% of Cyrus Ainsworth's Nurseries & Parkers Lodges Grade B Site of Biological Importance, a significant negative impact to a site classed as being of district wide importance. In addition the proposed development would lead to an overall loss in biodiversity units across the site without scheme adjustment or mitigation. The

proposed development would therefore be contrary to Bury Unitary Development Plan Policy EN6/2 - Sites of Nature Conservation Interest (LNR's and Grade B and C SBI's) and Chapter 15 - Conserving and enhancing the natural environment of the National Planning Policy Framework

- 4 The application and submitted plans contains insufficient information in relation to essential ecological surveys. The submitted botanical and breeding bird surveys, and their findings can not be considered to be a true reflection of the vegetation and habitats present prior to clearance, nor have they been undertaken during the optimal periods. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies: EN6 - Conservation of the Natural Environment, EN6/2 - Sites of Nature Conservation Interest (LNR's and Grade B and C SBI's), EN6/3 - Features of Ecological Value, EN6/4 - Wildlife Links and Corridors and Chapter 15 - Conserving and enhancing the natural environment of the National Planning Policy Framework.
- 5 The location of house type 2 would result in unacceptable overlooking of land outside of the applicant's ownership by reason of the sub-standard distances between habitable windows (bedroom 1 and bedroom 4) and the directly facing boundary and the lack of screening under the control of the applicant. The proposed development therefore conflicts with Unitary Development Plan Policies H1/2 - Further Housing Development, H2/1 - The Form of New Residential Development and Supplementary Planning Document 6: Alterations and Extensions to Residential Properties.
- 6 The application and submitted plans contain insufficient information to enable them to be properly assessed in relation to the impact of the adjacent kennels on the residential amenities of future occupiers, by reason of the noise, disturbance and general activity associated with the established neighbouring use. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan: EN7/2 - Noise Pollution and H3/2 - Existing Incompatible Uses.
- 7 The application and submitted plans contain insufficient information to ensure that adequate fire and rescue access is achievable in relation to the safety of the future occupiers. The proposed development would therefore be contrary to Bury Unitary Development Plan Policy H2/2 - The Layout of New Residential Development and National Planning Policy Framework Chapter 8 - Promoting healthy and safe communities.
- 8 The application and submitted information contain insufficient information in relation to potential contamination of the site which is required to secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and Enhancing the natural environment.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP 01/06/2023		DM 01/06/23	