



Report to South Buckinghamshire Area Planning Committee

Site Location:

Land Adjacent To Limewood Gate, Poyle Lane, Burnham, Buckinghamshire, SL1 8LE,

Proposal:

Outline application for development of a single detached dwelling with all matters reserved.

Application Number:	PL/20/0671/OA
Applicant:	Mrs Messum
Case Officer:	Ian Severn
Ward affected:	Burnham Church And Beeches
Parish Town Council:	Burnham Parish Council
Valid date:	24 February 2020
Determination date:	
Recommendation:	Refuse permission

1.0 Summary & Recommendation/ Reason for Planning Committee Consideration

- 1.1 The application seeks outline planning permission for a new dwelling within the curtilage of an existing residential property. All other matters are reserved.
- 1.2 An outline application for the same proposal was refused by delegated authority in October 2017 (Reference: 17/01382/OUT) on the grounds that it would constitute inappropriate development in the Green Belt and would have an adverse impact on the visual amenity of the site itself and the surrounding locality.

- 1.3 Since the previous application was determined National Policy has been updated in the form of a revised National Planning Policy Framework (2019), the application has been submitted on the basis that it falls to be assessed under the new Policy and provides additional information not considered under the 2017 application. Having considered all the submitted information, it is considered that the previous reasons for refusal have not been overcome and the recommendation is to refuse planning permission.
- 1.4 The application has been called to Committee for determination by Councillor Kelly as he considers the application to meet the requirements of relevant Local and National Policies.
- 1.5 The recommendation for this application is Refusal.

2.0 Description of Proposed Development

- 2.1 The application seeks Outline planning permission solely in relation to the principle of a new dwelling within the application site. The application is accompanied by plans showing the outline of a dwelling in the site, these should be considered as useful but indicative only.
- 2.2 The application is accompanied by:
 - a) Planning Support & Design and Access Statement
 - b) Appendices accompanying the Planning Support & Design and Access Statement, including: plan showing the site and its surroundings (appendix A), Density comparisons with nearby residential properties (appendix A); density comparisons with selected nearby residential properties; submitted plans, decision notice and officer's report for refused application 17/01382/OUT (appendix B); examples of Appeal Decisions and a High Court Judgement each located outside of the South Bucks area (appendix C); Decision notice and plans for walls and gates at the application site (Reference 16/00417/CLOPED) (appendix D); information relating to the planning status of residential gardens and selected text from a High Court Judgement (appendix E); a letter from South Bucks District Council dated 01 February 2002 (appendix F); documents in relation to the 1977 approval of the existing dwelling and curtilage of Limewood Gate, Poyle Lane (appendix G); An assessment of the Council's housing needs and provision undertaken for the applicant by one of the planning agents associated with this application (appendix H); applicant's site photographs (appendix I); appendix J is cited as being an email from the police in relation to refused application 17/01382/OUT, this does not appear to have been attached as an appendix; letters from The Frost Partnership (dated 30 June 2017) and John Andrews Associates (dated 9 July 2017) stating knowledge of the site and a potential development proposal in the 1950's-1970's, documents relating to the 1977 approval of the existing dwelling and curtilage of Limewood Gate, Poyle

Lane, a letter from A.C.Frost & Co (dated 15 July 1977) seeking advice on development of the site and an extended area following refusal of an application for additional dwellings (appendix K)

- c) Five further Appeal Statements submitted on 15 July 2020

3.0 Relevant Planning History

- 3.1 Relevant planning history for the site:
17/01382/OUT Outline Application for redevelopment of site to provide a detached dwelling. (Refused)
16/00417/CLOPED Application for certificate of lawfulness for proposed: Construction of boundary wall, entrance gates and piers. (Certificate granted)
15/02288/CLOPED Application for a certificate of Lawfulness for proposed: Construction of boundary wall and entrance gates. (Certificate granted)

4.0 Summary of Representations

Public consultation responses

Comments in relation to (determined and potential) applications on land immediately adjoining the application site are noted but not considered to be relevant in relation to this application. A rebuttal from one of the agents for the application has been received in relation to an objection letter, the contents of this are noted but not included in the summary below.

Objecting (18 properties represented in 19 representations)

- Does not comply with Green Belt Policies / inappropriate development
- Impact on wildlife
- Loss of trees
- Road unsuitable for construction traffic
- Overdevelopment / 'squeezed in' / not in keeping with locality
- Overlooking of neighbouring property
- Impact on traffic / highway safety
- Impact on environment
- Would set precedent
- Access and associated gates / walls / fences already built
- Vegetation has previously been removed
- Impact on drainage
- Overbearing / over dominant when viewed from neighbouring property
- Potential for neighbouring residents to contract virus' from construction workers
- Cumulative impact of this and recently approved development in Burnham on infrastructure
- Impact on Burnham Beeches SSSI

Supporting (23 properties represented in 25 representations)

- Similar to other 'infill development' in area
- Would add character to street scene
- Would make a suitable family home
- Would make positive contribution to local economy
- Will improve security of site and neighbouring properties
- Development would be well screened by vegetation
- Would help meet housing demand
- Good use of vacant land
- Would not impact wildlife
- Would not impact highways
- Would not impact vegetation
- Would benefit from Burnham's infrastructure
- Conforms with Local Plan

Councillor Paul Kelly (Support)

- Would make a positive contribution to the site
- Would help meet housing demand
- Would allow for a self build home providing a dwelling for a family to move back to the area

Councillor Lyn Hazell (Support)

- Suitable 'infill site'
- Supporting letters (including those from a former Senior Planning Officer for South Bucks known to the Councillor) demonstrate logical grounds for merits of application

5.0 Policy Considerations and Evaluation

- National Planning Policy Framework (NPPF), February 2019.
- Planning Practice Guidance
- National Design Guidance, October 2019
- South Bucks Core Strategy Development Plan Document - Adopted February 2011
- South Bucks District Local Plan - Adopted March 1999 Consolidated September 2007 and February 2011;
- South Bucks District Local Plan Appendix 6 (Parking standards)
- Draft Chiltern and South Bucks Local Plan 2036.
- South Bucks District Council Residential Design Guide Supplementary Planning Document (SPD) - Adopted October 2008
- Chiltern and South Bucks Community Infrastructure Levy (CIL) Charging Schedule
- Burnham Beeches Special Area of Conservation (SAC) Mitigation Strategy, March 2020

Principle and Location of Development

- Core Strategy Policies:
CP1 (Housing provision and delivery)

 - Local Plan Saved Policies:
GB1 (Green Belt boundaries and the control over development in the Green Belt)
- 5.1 The application site comprises a narrow strip of land which widens out to the rear and lies between Dunsinane and Limewood Gate. The land is separated from the adjoining residential properties and the planning history indicates that it has not historically been used in connection with Limewood Gate. This was confirmed in an application for a Certificate of Lawfulness (reference: 15/02288/CLOPED) submitted in 2015 which stated in the application form that ‘The land used to form part of the manor house, which was situated on land to the rear of the site. Since this time the site has been used for informal car parking.’ This application granted a certificate for walls and gates and these have since been erected and there is also some hardstanding installed leading a short distance away from the newly formed entrance to the vacant land.
- 5.2 The site fronts Poyle Lane which runs in a north westerly direction out of the built up settlement of Burnham and into the open Green Belt which surrounds the village. The site is located within the Green Belt with its south east boundary adjoining the boundary of the settlement.
- 5.3 In 2017 the site was subject to a planning application for the same scheme as currently proposed. The principle of a dwelling in this location was considered unacceptable on the grounds that it would constitute inappropriate development in the Green Belt. This is reflected in the first reason for refusal which states as follows:

“The site is located within the Metropolitan Green Belt as defined in the South Bucks District Local Plan (adopted March 1999). Within the Green Belt there is a presumption against development other than for a limited number of specified exceptions or in very special circumstances. The erection of a residential dwelling does not fall within any of these categories and as such, the proposed development constitutes inappropriate development in the Green Belt which by definition is harmful to the Green Belt. As well as being unacceptable in principle, the proposed development, by virtue of the introduction of a building on this site, is not consistent with preserving the open and undeveloped character of the Green Belt, and would significantly detract from its open and undeveloped character. No very special circumstances exist in this case sufficient to warrant an exception to Green Belt policy. As such the proposal is contrary to policy GB1 of the South Bucks District Local Plan (adopted March 1999) and section 9 (Protecting Green Belt Land) of the NPPF.”

- 5.4 Since the previous application was determined National Policy has been updated in the form of a revised National Planning Policy Framework (2019). The application has been submitted on the basis that it falls to be assessed under the new Policy and the applicant has provided additional information not considered under the 2017 application.
- 5.5 The NPPF was published on the 27th March 2012 and updated in 2018 and 2019. Whilst this replaced the previous Planning Policy Statements and Guidance Notes, it does not altogether replace the Development Plan. It does state however, that the weight that should be given to these existing local policies and plans will be dependent on their degree of consistency with the NPPF. Therefore, the closer the policies in the development plan to the policies in the Framework, the greater the weight that may be given to them. In this instance it is considered that Local Plan Policy GB1 largely accords with the NPPF, but not fully. All other relevant local policies, as highlighted throughout this report, are in accordance with the NPPF. Where there is a difference or conflict in policy, then the NPPF takes precedence.

Green Belt Assessment

- 5.6 As noted, the application site is within the open Green Belt where, in accordance with Section 13 of the National Planning Policy Framework (NPPF), the fundamental aim is to prevent urban sprawl by keeping land permanently open. Most development is considered to be inappropriate development within the Green Belt other than the exceptions within paragraphs 145 and 146 of the NPPF and Development Plan Policy GB1, which also sets out categories of development which are exceptions to inappropriate in the Green Belt similar to the NPPF. Para 145 (e) of the NPPF considers 'limited infilling in villages' as one of the exceptions where the construction of new buildings can be considered appropriate development in the Green Belt. It is noted that this point has also been highlighted within the submitted Planning Statement.
- 5.7 It is important to note that, there is no statutory or policy definition of 'infilling'; consequently, the word 'infilling' should be given its ordinary objective meaning in the same way as other words used in a planning context where there is no definition either in the Planning Acts or the NPPF (per Lang J in Braintree District Council v Secretary of State for Communities and Local Government & Others [2017] EWHC 2743 (Admin) (15 November 2017), at [24]). The Collins English Dictionary says that 'infilling' means "the act of filling or closing gaps etc. in something, such as a row of buildings", and in the Cambridge Dictionary 'infilling' is defined as meaning "development of new homes, business buildings, etc. on land between other buildings in already developed areas".
- 5.8 Policy GB1 of the Local Plan similarly seeks to protect against inappropriate development in the Green Belt, and like the Framework, allows limited infilling in existing villages. Policy GB3 sets out that such infilling should take place within

the boundaries of the Green Belt Settlements as defined on the Proposals Map and is defined as "the filling of small gaps within the settlement and would normally involve development in a gap in a continuously built up frontage". Policy GB3 also sets out that the proposal should not detract from the open undeveloped character of the Green Belt and should be compatible with and not adversely affect the character and amenities of nearby properties. The application site is not located within the Boundary of a Green Belt Settlement identified in Policy GB3 and the proposals map. As such the proposal does not meet with the requirements of Local Plan Policies GB1 and GB3. However, in relation to the exception to inappropriate development within the Green Belt, the implications of Court of Appeal decision in *Wood v Secretary of State for Communities and Local Government* [2014] EWHC 683 (Admin) places a requirement on the decision maker to consider the physical boundaries to a village/settlement irrespective of boundaries shown in the local plan and found that the policy wording in the NPPF relating to limited infilling in villages required the decision maker to consider whether the physical characteristics of a site appears to be in a village.

- 5.9 In this regard it is necessary to consider whether the site falls within the extent of the village of Burnham. The village is structured around the railway and main Bath Road in the south, with a number of other, busy north-south routes. The village is largely surrounded by open countryside although it also partly borders the larger and more urban town of Slough to the south east. The focal point of the village comprises the historic High Street and this is largely surrounded by residential estates with a distinct change in character taking place between the residential estates and the countryside that surrounds them. This is reflected in the settlement of Burnham having been excluded from the Green Belt on the Adopted Proposals Map, with the settlement boundaries separating the built up area of the village from the more spacious and dispersed forms of development that surround it.
- 5.10 The application site is located outside the settlement boundary and forms the start of a more open area immediately adjacent to the built up area. The site fronts Poyle Lane which runs in a north westerly direction out of the built up settlement and out into the surrounding countryside. The part of the road that is within the built up area comprises a continuously built up frontage. However, the north west boundary of Dunsinane also forms the boundary with the Green Belt and once the road moves out into the Green Belt the built development on the road begins to peter out with development becoming sparser, less integrated and more openly spaced. When viewed in context it is clear that the development within the built up area contains dwellings in close proximity on relatively small plots. By direct comparison the dwelling of Limewood Gate and the other dwellings located in the Green Belt enjoy a comparatively significant level of spaciousness in terms of their plot sizes and, more importantly, in openness between built form. As such, there is a distinct difference between the built up area and the countryside that surrounds it. Taking this into account it is considered that in this instance the line which defines the boundary between

the Green Belt and built up area can be considered to be a logical boundary to define the village of Burnham for the purposes of assessing the exception to inappropriate development set out in Para 145 (e) of the NPPF. As such, whilst it is acknowledged that the proposed dwelling would be set between two residential plots and would infill a gap between the respective buildings at Limewood Gate and Dunsinane it is considered that the site would be located outside the village of Burnham and the proposal cannot be considered to constitute a form of limited infilling within a village.

- 5.11 It is noted that the applicant has provided appeal decisions to demonstrate that the boundary of a village as shown on the Council's adopted proposal map should not necessarily be regarded as the village boundary. This point has been researched by the Case Officer for this report by reviewing the cases and it is agreed that the boundaries shown on Council's Proposal Maps do not necessarily set a defined boundary to a village. Notwithstanding this, they do provide indication of a village boundary to be taken into consideration along with the context of the site's surroundings. The assessment of each proposal needs to be considered on its own merits having regard to the specific context of the application site and this has been carried out in the above assessment.
- 5.12 In the case of Chobham referred to by the applicant the Inspector found that *'The appeal site is outside of the defined village boundary, but is part of the continuous residential development that extends for a short distance beyond it.'* He stated that the application site is clearly within a built up area, with the *'continuous residential development'* described by the Inspector extending for several houses. It is surrounded on all sides by existing residential development and would form a site which would be consistent with its immediate locality. Taking account of these factors it is understandable that the Inspector found that the Chobham case amounted to *'limited infilling in a village'* and as such should be considered as an exception to inappropriate development under Paragraph 145 of the NPPF.
- 5.13 The applicant has also provided two examples of Appeal Decisions in close proximity to each other in Felbridge, again the Inspector notes that the pattern of surrounding development is a contributing factor with regards to whether the application site lies within the village and whether the proposal amounted to infilling. Each of these examples is similar to the Chobham case with the Inspector for one (Appeal ref: APP/M3645/W/16/3141780, paragraph 30) observing that *'There is continuous development along this side of Copthorne Road and the appeal site backs onto other existing development rather than open countryside.'*
- 5.14 The applicant also provides a High Court Judgement (C1/2014/1144) which again acknowledges that *'It is common ground that that while a village boundary as defined in a Local Plan would be relevant consideration, it would not necessarily be determinative, particularly in circumstances where the boundary as defined*

did not accord with the inspector's assessment of the extent of the village on the ground.' (paragraph 12). The Judgement then includes paragraph 7 of the Inspectors report which provides a description of the application site and its surroundings. This reads: *'The appeal site is located on the south side of Pear Tree Lane and comprises a plot of open land adjacent to the car park of a public house. It is surrounded on all sides by housing, and is bounded by conifer hedges and timber fencing. To the west and south is a continuously built up area, while to the east it adjoins a line of detached properties extending into the countryside. On the opposite side of the road is a row of similar bungalows (Ridgeway Bungalows) on deep plots behind which are open fields.'*

- 5.15 It is considered important to note that each of the examples provided make reference to surrounding built form on all sides and continuation of development along the frontage of the application site in each direction. Taking these factors into account it is understandable that a conclusion was reached that they form part of a built up area included as part of a village and that they amount to infilling by definition. However, as is apparent from the assessment set out above, there are significant differences between all these cases referred to and the current application, particularly in terms of the amount of built form that surrounds the proposed development.
- 5.16 To conclude on the issue of limited infilling it is acknowledged that the proposed dwelling would be set between two residential plots. However, when compared to the examples given, clear contrasts are apparent as to whether the proposed application site should be considered as part of the 'village'. Taking into account all of the information provided by the applicant and compared with the application case subject to this report it is considered that the application site falls outside of the village for the reasons given and so would not be subject to favourable determination by Paragraph 145 e) of the NPPF.
- 5.18 The applicant's Planning Statement also provides that, in the event that the Council feels that the proposal should not be supported under Paragraph 145 e) of the NPPF then the applicant considers that Paragraph 145 g) supports the application and should lead to favourable determination. As noted above Paragraph 145 includes exceptions to inappropriate development and exception g) allows for the 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.
- 5.19 The applicant has provided a High Court Judgement identifying residential garden land as being 'previously developed land' for the purposes of the above paragraph and this is not disputed. The planning history for this site indicates that it is currently an independent plot and does not appear to form part of a

garden. However, notwithstanding whether the plot of land should be regarded as previously developed land, the first part of the exception requires that the proposed development must 'not have a greater impact on the openness of the Green Belt than the existing development'. The second part of the exception is not considered to apply as the proposal would not offer affordable housing.

- 5.20 In terms of the impact of the proposal on the openness of the Green Belt, the application site comprises largely open land with a small amount of hardstanding and a wall and vehicular gates to the front. The proposal would introduce new development on the site in the form of a dwelling. The details relating to the dwelling have been reserved for subsequent approval. However, given the site currently has limited physical development the introduction of a new dwelling would inevitably result in a reduction in the level of openness of the Green Belt. A dwelling would also result in an intensification of the use of the site through increased vehicular movements and the introduction of domestic paraphernalia across the site. As such, it is considered that the proposal would result in a greater impact on the openness of the Green Belt and would not therefore meet with the exception set out in Paragraph 145 g) of the NPPF.
- 5.21 Thus, overall, paragraphs 145(e) and 145(g) of the NPPF 2019 cannot be applied as an exception to the proposed development and therefore, the proposal would constitute inappropriate development in the Green Belt which is harmful by definition.
- 5.22 In addition to the harm by reason of inappropriateness it is also necessary to consider whether there is any other harm to the Green Belt. Paragraph 133 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. As set out above, the introduction of a new dwelling would result in a reduction in openness on the site and would therefore be in conflict with the fundamental aims of the Green Belt. Furthermore, by closing the gap between the built up area and the existing dwelling at Limewood Gate the proposal would also be in conflict with one of the purposes of the Green Belt by failing to safeguard the countryside from encroachment.
- 5.23 To conclude the proposal would constitute inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The proposal would also result in further harm to the Green Belt by reason of loss of openness and being in conflict with one of its purposes. Paragraph 144 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' 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.

- 5.24 The applicant does not agree that the proposal would constitute inappropriate development and has not therefore put forward a case of very special circumstances. However, in support of the application it is stated that the proposal would allow a former Burnham resident to return to the area and that the proposal would provide additional security to a neighbouring property which has been subject to trespass. Whilst these are obviously desirable, no significant weight can be afforded to who would potentially occupy the property. With regards to security for the neighbouring property, it is considered that this can be afforded only minimal weight in consideration of this application, with other means to increase security available. As such it is not considered that very special circumstances exist to outweigh the harm to the Green Belt and any other harm and the proposal is contrary to Section 13 of the NPPF and Policy GB1 of the Local Plan.

Transport matters and parking

- Local Plan Saved Policies:
TR5 (Access, highways work and traffic generation)
TR7 (Traffic generation)

- 5.25 The means of access and parking provision would be subject to any reserved matters application. The Highways Authority have calculated that the proposal would result in an average of 4-6 two way vehicular movements per day. They consider that the existing road network can accommodate this and have stated requirements to be met in relation to access arrangements can be sought via reserved matters. It is also considered that the proposal could accommodate sufficient parking provision to meet the Council's standards. No objections are therefore raised with regard to parking or highway impacts.

Raising the quality of place making and design

- Core Strategy Policies:
CP8 (Built and historic environment)
- Local Plan Saved Policies:
EP3 (The Use, Design and Layout of Development)
EP4 (Landscaping)
H9 (Residential development and layout)

- 5.26 The previous was previously refused on the grounds that it would have an adverse impact on the visual amenity of the site itself and the surrounding locality. The reason for refusal stated as follows:

“The proposed development, by virtue of the narrow plot would appear 'squeezed in' between 'Limewood Gate' and 'Dunsinane' and would be at odds with the surrounding spacious residential layout. It would appear cramped and

constitute an overdevelopment of the plot and would be incompatible with the character of the surrounding area. As such it is considered that the erection of a detached dwelling on this site would have an adverse impact on the visual amenity of the site itself and the surrounding locality, contrary to saved Local Plan policies EP3 and H9 set out in the South Bucks District Local Plan (adopted March 1999) and Core Policy 8 of the South Bucks Core Strategy (adopted February 2011). “

The relevant National and Local Plan Policies have not fundamentally changed since the previous application was determined. The applicant has noted that the width of the plot is comparable to others on Poyle Lane. However, as noted above the site is outside the built up area of Burnham and forms part of the countryside that surrounds the village where development on the road begins to peter out with development becoming sparser, less integrated and more openly spaced. The proposal would result in a plot which would have a far narrower appearance than the other properties located in the countryside around this part of Burnham. The built form of the proposed dwelling shown would also take up almost the full width of the plot where it is located and would reduce the characteristic openness by sitting in relatively close proximity to neighbours on either side. Taking this into account it is considered that the proposal would have an adverse impact on the visual amenity of the site and the surrounding locality and is contrary to saved Local Plan policies EP3 and H9 and Core Policy 8.

Amenity of existing and future residents

- Local Plan Saved Policies:
 - EP3 (The use, design and layout of development)
 - EP5 (Sunlight and daylight)

5.27 As assessed by the Officer in relation to the previous outline permission “It is difficult to fully assess the impact of the proposal on the living conditions of the neighbouring properties given that no detailed drawings have been supplied and that the proposal is an outline application. However, it is considered that the dwelling could be designed such that it would not have an adverse impact on the light, outlook and privacy enjoyed by the neighbouring properties.”

5.28 The application site widens to the rear of where the proposed dwelling would likely be located, this area would afford sufficient private amenity space for future occupiers.

Infrastructure and Developer Contributions

- Core Strategy Policies:
 - CP6 (Local infrastructure needs)
 - CP9 (Natural environment)

5.29 The site is located within 5.6km of Burnham Beeches. Recreation within Burnham Beeches has resulted in an adverse impact on the health of the site.

Impacts include trampling, soil compaction, climbing damage to trees, dog fouling, the spread of disease and an import of non-native species.

- 5.30 Natural England have advised that due to new evidence coming to light as part of the evidence base for the emerging Chiltern and South Bucks Local Plan, it is recognised that new housing within 5.6km of the internationally designated Burnham Beeches Special Area of Conservation (SAC) can be expected to result in an increase in recreation pressure. They advise that the 5.6km zone represents the core area around the SAC where increases in the number of residential properties will require Habitats Regulations Assessment.
- 5.31 In light of the new evidence relating to the recreation impact zone of influence, Natural England advise that planning authorities must apply the requirements of Regulation 61 of The Conservation of Habitats and Species Regulations 2017 (as amended), to housing development within 5.6km of the SAC boundary. The authority must decide whether a particular proposal, alone or in combination with other plans or projects, would be likely to have a significant effect on the SAC.
- 5.32 Development in accordance with the new evidence would not be likely to have a significant effect on the SAC because it will provide, or make an appropriate contribution to, acceptable avoidance and mitigation measures. The planning authority can grant planning permission to such developments in accordance with the Regulations.
- 5.33 The mitigation would be in the form of a financial contribution towards the Burnham Beeches Access Management Scheme, or any subsequent scheme which replaces it, and this would be secured by way of a legal agreement.
- 5.34 However, development proposals which are not in accordance with the new evidence would be likely to have a significant effect on the SAC, either alone or in combination with other plans and projects.
- 5.35 In this instance, an HRA undertaken by the Council concludes that the proposed development is likely to lead to significant effects on the SAC as a result of increasing recreational pressure, and that mitigation is required to address it. An Appropriate Assessment undertaken by the Councils for this application concludes that the Strategic Access Management and Monitoring Strategy (SAMMS) which has been agreed with Natural England is robust and capable of mitigating the likely significant effects of the proposal provided the proposal pays a contribution towards the Strategic Access Management and Monitoring Strategy and legal fees to the Council. A copy of the Appropriate Assessment can be found attached to the end of this report.
- 5.36 Provided a legal agreement is completed which secures this financial contribution, Natural England are satisfied with the development and do not raise an objection on grounds relating to its impact on Burnham Beeches.

- 5.37 The applicant has been advised of the above and asked to complete and return the Unilateral Undertaking provided to them as a sign of intent to comply with the requirement. The Council has not received a completed Unilateral undertaking and must therefore add the impact on the SSSI as a reason for refusal.
- 5.38 The application would also be subject to the Council's Community Infrastructure Levy (CIL) scheme, for which a further fee would be applicable.

Other Matters

- Core Strategy Policies:
CP12 (Sustainable energy)
 - Local Plan Saved Policies:
L10 (Proposals involving felling or other works affecting trees covered by a Tree Preservation Order)
- 5.39 The Council's Tree Officer and Waste team have been consulted and have no objection to the principle of a dwelling.

6.0 Weighing and balancing of issues / Overall Assessment

- 6.1 It is acknowledged that the Council is currently unable to demonstrate a five-year supply of deliverable housing sites. It is also acknowledged that The Framework, at paragraph 11 is clear that in such circumstances, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. However, land designated as Green Belt, as well as Designated Heritage Assets, and SSSI/SAC sites are included within the list of policies that protect areas or assets of particular importance and which provide a clear reason for refusing the proposed development.
- 6.2 The proposal would be inappropriate development, and this harm, together with the other harm identified within this report, would not be outweighed by the benefits of the scheme. As such, the very special circumstances necessary to justify the development do not exist. Thus, the Framework, as a material consideration, does provide a clear reason for refusing the development. Consequently, the presumption in favour of sustainable development, as envisaged by paragraph 11, does not apply in this case.
- 6.3 For the reasons presented in this Statement, Officers consider that the proposed development would conflict with National and Local Policy and should therefore be refused.

7.0 Working with the applicant / agent

- 7.1 In accordance with paragraph 38 of the NPPF (2019) the Council approach decision-taking in a positive and creative way taking a proactive approach to

development proposals focused on solutions and work proactively with applicants to secure developments.

7.2 The Council work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application.

7.3 In this instance -

- The applicant was informed/ advised how the proposal did not accord with the development plan, that no material considerations are apparent to outweigh these matters and provided the opportunity to amend the application or provide further justification in support of it.
- The applicant/agent was informed of the reason for refusal in relation to the SSSI and how they could be overcome but a completed Unilateral Undertaking has not been received.

Recommendation: Refuse permission

For the following reasons:-

- 1 The site lies within the Metropolitan Green Belt wherein most new development is considered to be inappropriate and there is a general presumption against such development. Development which is not inappropriate is set out in Local Plan Policy GB1 and the National Planning Policy Framework. The proposed development would not fall under any of the exceptions to inappropriate development within the above guidance and policy. The proposal therefore constitutes inappropriate development which by definition is harmful to the Green Belt. Furthermore, the proposed building would result in an adverse impact on the openness of the Green Belt and would be contrary to one of its purposes by failing to safeguard the countryside from encroachment. No very special circumstances exist that are sufficient to outweigh the harm caused to the Green Belt by the reason of inappropriateness and other harm identified. As such, the proposal is contrary to Section 13 of the National Planning Policy Framework and Policy GB1 of the South Bucks District Local Plan (adopted March 1999).}
- 2 The proposed development, by virtue of the narrow plot would appear 'squeezed in' between 'Limewood Gate' and 'Dunsinane' and would be at odds with the surrounding spacious residential layout within its countryside setting. As such it is considered that the erection of a detached dwelling on this site would have an adverse impact on the visual amenity of the site itself and the surrounding locality, contrary to saved Local Plan policies EP3 and H9 set out in the South Bucks District Local Plan (adopted March 1999) and Core Policy 8 of the South Bucks Core Strategy (adopted February 2011).

- 3 The occupants of the proposal would add to the recreational disturbance of the Burnham Beeches Special Area of Conservation as the proposal would not contribute satisfactorily to mitigate its impacts in this respect. In the absence of a planning obligation to secure suitable strategic access management and monitoring, to the satisfaction of the Local Planning Authority, the proposal is contrary to Core Policy 9 of the South Bucks Core Strategy (adopted February 2011) and Section 15 of the NPPF.

Appendix A: Consultation Responses and Representations

Appendix B: Site Location plan

Appendix C: Burnham Beeches SSSI Appropriate Assessment

APPENDIX A: Consultation Responses and Representations

Waste Management

"Waste notes the proposal for a new dwelling. We have no objections, resident to present their waste & recycling containers at the property boundary adjacent to Poyle Lane. All collections to take place in accordance with council policies."

Highways

"I note the Highway Authority has previously provided comments for this site under application number 17/01382/OUT (detached dwelling) which, in a response dated the 27th September 2017; the Highway Authority had no objection.

Due to the similarity with the aforementioned previous application, I consider this application does not make a difference in highway terms. As such, I would like to reiterate comments made within that application which I have repeated below for clarity:

"Poyle Lane is an unclassified road subject to a speed limit of 30mph. The applicant seeks planning permission to erect a detached dwellinghouse on land adjacent to Limewood Gate. It is my understanding that this is an outline application with all matters reserved and as such I will comment upon the principle of development only. I will however, set out what will need to be submitted as part of a reserved matters application.

In terms of trip generation, I would expect a dwelling in this location to generate between 4-6 daily vehicular movements, two-way. I am confident that these additional vehicular movements can be accommodated within the local highway network. It will need to be demonstrated as part of a reserved matters application that adequate visibility can be achieved from the proposed access. Visibility splays of 2.4m x 43m are required in both directions from the proposed access commensurate with a speed limit of 30mph. These visibility splays will need to be achieved within the publicly maintained highway or within land under the control of the applicant."

Mindful of the above, the Highway Authority would have no objection to the proposed development subject to (one specified) condition being included on any planning consent you may grant"

Tree Officer

"I have not visited property because of current travel restrictions in regards to coronavirus. I have previously comment on this site for planning application 17/01382/OUT in August 2017 and for your convenience I have included these comments below: The site is subject to an Area designated Tree Preservation Order no.3, 1963 which only covers trees growing at the time when the Order was made. The submitted DAS paragraph 5.13 & 5.14 mentions the screening benefits of trees on either side of existing access/site and they are being retained. I do not consider there are any significant (self-set sycamores and cypresses) trees that should constrain development until you get to the rear of the site next to adjoining woodland. If planning permission is granted I recommend the following conditions to ensure retained trees are adequately protected with new planting. NT01 NT02 NT14 I have reviewed the submitted photographs and no tree information has been submitted to help

support application. If planning permission is permitted I suggest the following planning conditions: ST4 ST12"

Natural England

"Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Due to new evidence coming to light as part of the evidence base for the emerging Chiltern and South Bucks Local Plan, Natural England recognises that new housing within 5.6km of the internationally designated Burnham Beeches Special Area of Conservation (SAC) can be expected to result in an increase in recreation pressure.

The 5.6km zone proposed within Policy DM NP3 of the emerging Chiltern and South Bucks Local Plan represents the core area around the SAC where increases in the number of residential properties will require Habitats Regulations Assessment. Mitigation measures will be necessary to rule out adverse effects on the integrity of the SAC from the cumulative impacts of development.

NATURAL ENGLAND'S ADVICE

OBJECTION - FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES - DEVELOPMENT WITHIN 5.6 KILOMETRES OF BURNHAM BEECHES SPECIAL AREA OF CONSERVATION (SAC)

WITHIN 5.6 KILOMETRES

Between 500 metres to 5.6km from Burnham Beeches SAC, a Habitats Regulations Assessment is required to determine Likely Significant Effect. Mitigation measures will be necessary to rule out adverse effects on integrity. This should be in line with emerging Local Plan Policy DM NP3, which requires proposals to;

1. Make financial contributions towards the Burnham Beeches Access Management Scheme, or any subsequent scheme which replaces this; and
2. Demonstrate that no adverse impacts on the SAC will arise as a result of additional visitors to the SAC from the development. Mitigation will need to be determined in agreement with Natural England.

Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

Please re-consult Natural England once this information has been obtained.

Impacts to the SAC as a result of increasing recreation pressure are varied and have long been a concern. These impacts, which have the potential to adversely affect its interest features, include:

- Contamination (e.g. dog fouling, litter, spread of plant pathogens);
- Increased fire risk;

- Trampling/wear (e.g. loss of vegetation, soil compaction, erosion, damage to trees from climbing);
- Harvesting (e.g. fungi, wood);
- Difficulties in managing the site (e.g. maintaining the grazing regime);
- Disturbance (e.g. affecting the distribution of livestock and deer).

In light of the new evidence relating to the recreation impact zone of influence, planning authorities must apply the requirements of Regulation 61 of The Conservation of Habitats and Species Regulations 2017 (as amended), to housing development within 5.6km of the SAC boundary. The authority must decide whether a particular proposal, alone or in combination with other plans or projects, would be likely to have a significant effect on the SAC.

Development in accordance with the emerging Chiltern and South Bucks Local Plan's DM NP3 Policy and emerging Avoidance and Mitigation Strategy would not be likely to have a significant effect on the SAC because they will provide, or make an appropriate contribution to, acceptable avoidance and mitigation measures. The planning authority can grant planning permission to such developments in accordance with the Regulations.

However, development proposals which are not in accordance with the above would be likely to have a significant effect on the SAC, either alone or in combination with other plans and projects. In accordance with Regulation 61, before granting planning permission for such a proposal, the planning authority must undertake an appropriate assessment of the implications of the development on the SAC, in light of the site's conservation objectives. The conservation objectives are to maintain and, where not in favourable condition, to restore, the Atlantic acidophilous beech forest habitat.

Consequently, it is Natural England's view that the planning authority will not be able to ascertain that this proposed development as it is currently submitted would not adversely affect the integrity of the SAC. In combination with other plans and projects, the development would be likely to contribute to a deterioration of the quality of the habitat by reason of increased access to the site including access for general recreation and dog-walking. There being alternative solutions to the proposal and there being no imperative reasons of overriding public interest to allow the proposal, despite a negative assessment, the proposal will not pass the tests of Regulation 62."

Councillor Paul Kelly (Support)

"Thank you for your email. I do not have any pecuniary interest in this matter. I thought that the previous 2017 refusal was wrong and all that I have seen in the present application which has had more detailed and clearer supporting material has reconfirmed that view.

I have read closely the case statement put in with the application by JSB Planning Law and can see no weaknesses in it at all, so if you ask what my planning reasons are for requesting the matter to go to committee then my answer is that I endorse that planning case unreservedly. It seems to me that the most important part of it is that NPPF paragraph 145 (e) applies, which states that infill in villages is not harmful to the Green Belt. I am clear as the Burnham Parish Council evidently are that both the plot and Limewood Gate beyond it

have to be viewed as being in the village as they are part of the built up frontage on Poyle Lane, where all of the other properties are clearly within the village. I have not pored over all of the cases about what being in a village does and does not mean but unless you can claim that JSB is misrepresenting them then they show that the plot is in the village and 145 (e) applies. Also, if there were any real harm to the Green Belt then Parish Council would have objected and they did not.

Please also give me clear cut answers to the following questions:

You use the word 'concerns' about whether there will be harm to the Green Belt. If you can show that there will actually be harm then please spell out why that would arise and how great it would be, bearing in mind that the plot is only into the Green Belt boundary by width and has houses to both sides of it .

Why do you claim that the plot would be too narrow when it is as wide as Grass Croft, next door but one, beyond Dunsinaine, and is wider than other properties in the locality, including Redwood ones behind it, e.g. no 3. Are you claiming that these properties are 'cramped and squashed in', in which case why did the Council give permission for them? I also note the Density comparison by Front Architects showing that the plot is well over twice as large as the Grasscroft Plot and that the house illustrated on it would result in a density of less than half of Grasscroft.

The Green Belt boundary runs along the boundary of the plot and Dunsinaine, as does the boundary drawn a long time ago for the village. Are you also saying that if the plot were on the other side of Dunsinaine you could sustain a refusal of an outline application of it on the basis that whatever house could be designed for it, that could not be other than 'cramped and squashed in'? That claim seems to be completely absurd based on all of the measurements.

Also, I am struggling to understand how you can claim that an as yet un-designed detached house on the plot, but necessarily having space between its side walls and the side walls of both Dunsinaine and Limewood Gate, could fairly be said to be 'cramped and squashed in' when Dunsinaine's garage is on the boundary with the plot and it is semi-detached with Grasscroft. Furthermore, there are other similar close spacings and linkages along Poyle Lane. Also, Dunsinaine is on a smaller plot than the application plot and again, going by the Front table, has a site coverage of some 70% more than the application plot would, have based on the illustrative footprint.

I have checked with the applicant's father, my constituent, about what she has to say about the Burnham Beeches SSSI. As you know, all that is needed is that applicants have to pay a contribution to cover any impact that their development may have. I am assured that the applicant is willing to do so and she confirms that her agents and JSB have never suggested otherwise. The only debate has been about the timing of this payment, but I understand that she is willing to pay it on the grant of outline permission. Officers have control of this because they would not grant permission under delegated powers without the Council having received the payment. I am very concerned, as I am with the alleged narrowness argument, that this is another example of officers artificially adding dubious grounds of

refusal to shore up a decision that they want to make for one particular reason, in this case your interpretation of Green Belt Policy which seems to me to run counter to all of the evidence and logic.

I do indeed reiterate my wish for the matter to be called in to the Committee and I shall reserve my right to add to what I have said when I have seen your replies to my questions above and seen your report. Please provide the replies as soon as possible and inform me when you will be sending me the report.

Thank you.”

Councillor Lyn Hazell (Support)

“I have seen the Outline Application online and have noted the relevant plans and documentation supporting the submitted above Application.

I know the subject site well and note that it is the last piece of land along the stretch of Poyle Lane, from Dropmore Road to Limewood Gate, and Poyle Farm beyond, (on the opposite side of the lane).

It is sandwiched between two existing properties and is plenty large enough to be considered as being a suitable “infill site”.

I have also read the many other supporting letters which clearly demonstrate several logical grounds to describe the merits of the application, especially those views expressed by an ex Senior Planning Officer of South Bucks Council, Mr John Andrews, whom I have come across during my earlier involvement with the Council.

I fully support this application.”

Parish Council

The Committee RESOLVED to state they had NO OBJECTIONS.

Public consultation responses

Comments in relation to (determined and potential) applications on land immediately adjoining the application site are noted but not considered to be relevant in relation to this application. A rebuttal from one of the agents for the application has been received in relation to an objection letter, the contents of this are noted but not included in the summary below.

Objecting (18 properties represented in 19 representations)

Does not comply with Green Belt Policies / inappropriate development

Impact on wildlife

Loss of trees

Road unsuitable for construction traffic

Overdevelopment / 'squeezed in' / not in keeping with locality

Overlooking of neighbouring property

Impact on traffic / highway safety

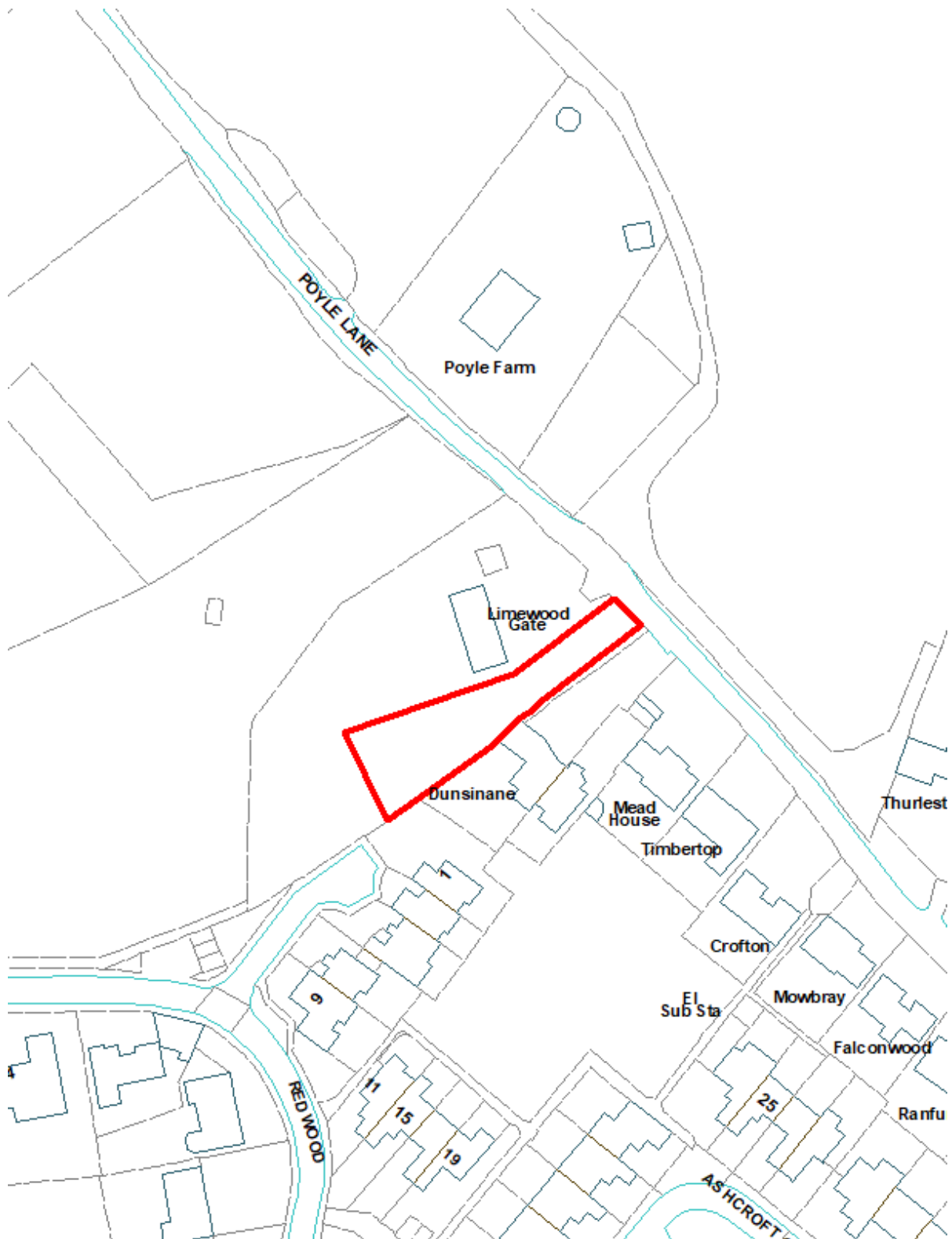
Impact on environment

Would set precedent
Access and associated gates / walls / fences already built
Vegetation has previously been removed
Impact on drainage
Overbearing / over dominant when viewed from neighbouring property
Potential for neighbouring residents to contract virus' from construction workers
Cumulative impact of this and recently approved development in Burnham on infrastructure
Impact on Burnham Beeches SSSI

Supporting (23 properties represented in 25 representations)

Similar to other 'infill development' in area
Would add character to street scene
Would make a suitable family home
Would make positive contribution to local economy
Will improve security of site and neighbouring properties
Development would be well screened by vegetation
Would help meet housing demand
Good use of vacant land
Would not impact wildlife
Would not impact highways
Would not impact vegetation
Would benefit from Burnham's infrastructure
Conforms with Local Plan

APPENDIX B: Site Location Plan



Do not scale – this map is indicative only

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Appendix C: Burnham Beeches SSSI Appropriate Assessment

Appropriate Assessment

Application Ref. PL/20/0671/OA

Proposal: Outline application for development of a single detached dwelling with all matters reserved.

Summary

Buckinghamshire Council, as Local Planning Authority, has carried out a Habitats Regulations Assessment (HRA) for net new homes in proximity to the Burnham Beeches Special Area of Conservation (BB SAC)ⁱ. The HRA screened in recreational disturbance from net new homes as having a likely significant effect on the integrity of the conservation purposes of the BB SAC. The HRA sets out what development is likely to have significant effects on the integrity of the conservation objectives of the BB SAC. It concluded that any net new homes within 500 metres of the boundary BB SAC should be avoided. It also concluded that any net new homes between 500 metres and 5.6 kilometres of the BB SAC need to be mitigated. The conclusions of this HRA can help inform the individual Appropriate Assessments of Planning Applications and Permitted Development.

Informing individual Appropriate Assessment of Planning Applications and Permitted Development

Evidence from the Council's Consultants Footprint Ecologyⁱⁱ has concluded that likely significant effects on the integrity of the BB SAC from recreational disturbance would derive from a net increase in new homes within a linear distance of 5.6 kilometres from the boundary of the BB SAC. The disturbance is from additional human and dog presence. Using this evidence, Buckinghamshire Council's HRA determined that the likely significant effects within a 500 metre linear distance of the BB SAC boundary zone were so likely to harm the integrity of the conservation purposes of the BB SAC that net new homes should be avoided as it would not be possible to mitigate the impacts from the recreational disturbance. It also determined that net new homes within a linear distance between 500 metres and 5.6 kilometres of the BB SAC's boundary would need to be mitigated. The HRA concluded that Planning Applications and Permitted Development, which provide for a net increase in new homes within the 500 metres to 5.6 kilometres zone would have a significant likely effect on the conservation features of the BB SAC and that such applications and permitted development can only be permitted if the applicant enters into a legal agreement with Buckinghamshire Council, as Local Planning Authority, to pay towards Buckinghamshire Council's Strategic Access Management and Monitoring Strategy. Natural England (NE), the Government's conservation advisor, agreed with the findings in the HRA.

Appropriate Assessment of Planning Application reference number PL/20/0671/OA

1. The Conservation of Habitats and Species Regulations (2017)

In accordance with Regulation 63 of The Conservation of Habitats and Species Regulations (2017), a competent authority (in this case Buckinghamshire Council), before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—

- a. is likely to have a significant effect on a European site...(either alone or in combination with other plans or projects), and

- b. is not directly connected with or necessary to the management of that site

must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives.

A person applying for any such consent, permission or other authorisation must provide such information as Buckinghamshire Council may reasonably require for the purposes of the assessment or to enable it to determine whether an appropriate assessment is required. Buckinghamshire Council must, for the purposes of the assessment, consult the Conservation Body, NE, and have regard to any representations made by that body. It must also, if it considers it appropriate, take the opinion of the general public, and if it does so, it must take such steps for that purpose as it considers appropriate. In the light of the conclusions of the assessment, and subject to Regulation 64 (Considerations of overriding public interest), Buckinghamshire Council may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site.

In considering whether a plan or project will adversely affect the integrity of the site, Buckinghamshire Council must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given.

2. Stages 1-3 Screening for Likely Significant Effects

Buckinghamshire Council accepts that this proposal is a 'plan or project' which is not directly connected with or necessary to the management of the Burnham Beeches Special Area of Conservation (BB SAC). The potential likely significant effects on the integrity of the BB SAC is from recreational disturbance. A net increase in homes is likely to result in additional visits to the BB SAC with consequential erosion and pollution within the BB SAC.

At this stage Buckinghamshire Council cannot rule out the likely significance effects on the BB SAC (alone or in combination with other plans or projects) because the proposal could undermine the Conservation Objectives of the SAC. This is because the proposal lies between 500 metres and 5.6 kilometres of the boundary of the BB SAC and represents a net increase in homes within this zone which will lead to an increase in local population and a likely increase in recreational disturbance within the SAC.

As the likely significance effect cannot be ruled out at this stage an Appropriate Assessment must be undertaken.

3. Stage 4 Appropriate Assessment

500 metres or more to 5.6 kilometres

Based on the information proposed by the applicant, Buckinghamshire Council must decide whether or not an adverse effect on site integrity (alone or in combination with other plans or projects) can be ruled out. Mitigation may be able to be provided so that the proposal can reduce adverse effects.

The Council considers that the Strategic Access Management and Monitoring Strategy (SAMMS) which has been agreed with Natural England is robust and capable of mitigating the likely significant effects of the proposal over 500 metres and up to 5.6 kilometres provided the proposal pays a contribution towards the Strategic Access Management and Monitoring Strategy and legal fees to the Council. The SAMMS is attached as Appendix 1.

a. Fees and Mitigation

For this proposal the following apply:

- Buckinghamshire Council List of Fees and Charges (Fees)
- Strategic Access Management and Monitoring Strategy (SAMMS)

If paid, the project as proposed would not adversely affect the integrity of the BB SAC.

Legal Fees

To cover Buckinghamshire Council's reasonable legal costs and disbursements incurred in connection with the Unilateral Undertaking and the Council's Monitoring Fee.

The monitoring fee is £541.02 and the legal costs will be determined on a case by case basis.

Strategic Access Management and Monitoring Strategy Contribution

The development will be required to make a contribution towards the SAMMS. SAMMS includes projects for visitor access management, monitoring and education measures on the BB SAC to mitigate the effects of new development on it.

A contribution to the SAMMS of £2,023.87 is required for this development of one dwelling.

4. Conclusion

An Appropriate Assessment has been carried out for this development in accordance with the Habitats Regulations 2017. Without mitigation measures the Appropriate Assessment concludes that the development is likely to have a significant effect upon the integrity of the SAC with the result that the Council would be required to refuse this planning application. Buckinghamshire Council considers, following consultation with NE, that the above measures will prevent a likely adverse effect on the integrity of the BB SAC. Pursuant to Article 6(3) of the Habitats Directive (Council Directive 92/43/EEC) and Regulation 63(5) of the Conservation of Habitats and Species Regulations (2017), and permission may be granted subject to any other planning considerations.

Conclusion

Provided that the applicant has entered in to a Unilateral Undertaking to secure legal and SAMMS fees the planning application will be in accordance with the SAC mitigation requirements.

If the applicant does not agree with the above mitigation and enter into a Unilateral Undertaking to secure the mitigation, then the application must be refused using the following reason for refusal.

5. Reasons for Refusal

The occupants of the proposal would add to the recreational disturbance of the Burnham Beeches Special Area of Conservation as the proposal would not contribute satisfactorily to mitigate its impacts in this respect. In the absence of a legal obligation to secure suitable strategic access management and monitoring, to the satisfaction of the Local Planning Authority, the proposal would be contrary to the findings of the appropriate assessment.

ⁱ <https://www.chiltern.gov.uk/article/10331/Chiltern-and-South-Bucks-Local-Plan-Submission-Documents>

ⁱⁱ <https://www.chiltern.gov.uk/article/10331/Chiltern-and-South-Bucks-Local-Plan-Submission-Documents>