

Cabinet Members for Prosperity and Procurement, Assets & Shared Services

Agenda

Date: Tuesday, 21st December, 2010
Time: 1.30 pm
Venue: Committee Suite 1, Westfields, Middlewich Road, Sandbach
CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**
2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the meeting. Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

Contact: Paul Mountford, Democratic Services
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4. **Consultation on Greater Manchester's Minerals and Waste Plans** (Pages 1 - 6)

To consider the proposed response to the consultation on Greater Manchester's Minerals and Waste Plans.

5. **Alsager School - Disposal of Land to Christ Church** (Pages 7 - 12)

To consider the proposed transfer of land at Alsager School to Christ Church.

6. **Exclusion of the Press and Public**

The report relating to the remaining item on the agenda has been withheld from public circulation and deposit pursuant to Section 100(B)(2) of the Local Government Act 1972 on the grounds that the matter may be determined with the press and public excluded.

The Cabinet Member for Procurement, Assets and Shared Services may decide that the press and public be excluded from the meeting during consideration of the following item pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

PART 2 – MATTERS TO BE CONSIDERED WITHOUT THE PUBLIC AND PRESS PRESENT

7. **Lease of Fellowship House, Congleton to Visyon** (Pages 13 - 18)

To consider the grant of a lease of Fellowship House, Congleton to Visyon

CHESHIRE EAST COUNCIL

Cabinet Member for Prosperity

Date of Meeting:	21 st December 2010
Report of:	Stuart Penny, Planning Policy Manager
Subject/Title:	Consultation on Greater Manchester's Minerals and Waste Plans
Portfolio Holder:	Councillor Jamie Macrae

1.0 Report Summary

- 1.1 As a neighbouring authority, Cheshire East has received two separate consultations from Greater Manchester on the development of their Minerals Plan (Preferred Approach) and Waste Plan (Publication Document). Both plans are being produced by AGMA (the Association of Greater Manchester Authorities) on behalf of the ten Greater Manchester Local Authorities and contain planning policies concerning minerals and waste development within this area. This report sets out the proposed response from Cheshire East on both consultations.

2.0 Recommendations

- 2.1 That the Cabinet Member for Prosperity
- (1) approves that comments be provided in agreement with the aims and objectives of the Minerals Plan and in relation to the identification of Mineral Safeguarding Areas as detailed in Appendix 1 to the report; and
 - (2) offers no comments on the Waste Plan as it is considered in accordance with national policies and is not likely to lead to any significant adverse effects on Cheshire East.

3.0 Reasons for Recommendation

- 3.1 The Minerals Plan's overall aim of providing a spatial planning framework which allows Greater Manchester to meet its own mineral supply needs is supported, as is the facilitation of a greater use of recycled aggregates and secondary mineral products. These aims are consistent with sustainable minerals development as set out in national minerals planning policy (MPS1).
- 3.2 Importation of aggregate minerals from other authority areas including Cheshire has been acknowledged in the Plan. Whilst it is accepted that cross boundary movement of minerals is largely determined by the market, ensuring an adequate supply of aggregates from suitable local sources whilst facilitating re-use and recycling can reduce the need for importation. Promoting sustainable methods of

mineral transportation (where practicable) is supported as this can limit the impacts of importation.

- 3.3 National minerals planning policy requires plans to identify Mineral Safeguarding Areas to alert to the presence of various mineral resources. As minerals naturally lie across the authority boundaries, Cheshire East has an interest in the policy approach taken by Greater Manchester in identifying such areas.
- 3.4 Consultation on the Waste Plan is to allow for representations to be made in connection with issues of 'soundness' (i.e. whether the Plan is justified, effective and consistent with national policy) and legally compliant only. On reviewing this version, it is considered that the Plan accords with national planning policy and does not contain any policies or proposals that would have any significant adverse effects on Cheshire East. As a result, it is not considered necessary to comment on the soundness or otherwise of the document.

4.0 Wards Affected

- 4.1 N/A

5.0 Local Ward Members

- 5.1 N/A

6.0 Policy Implications including - Climate change - Health

- 6.1 N/A

8.0 Financial Implications (Authorised by the Borough Treasurer)

- 8.1 N/A

9.0 Legal Implications (Authorised by the Borough Solicitor)

- 9.1 None for this Authority. Adjoining LPAs (and Minerals and Waste Planning Authorities) are required to consult this Council regarding the content of their Development Plan Documents.

10.0 Risk Management

- 10.1 N/A

11.0 Background and Options

Minerals Plan

- 11.1 Greater Manchester have published a 'Preferred Approach' Report to their Minerals Plan for consultation between 15th October and 26th November. This is the fifth consultation in the preparation of the Plan. Drawing on previous comments,

information and evidence, it details the preferred policy directions concerning sustainable minerals development within the Greater Manchester area. It focuses on:

- Aim and Objectives;
- Planning for Minerals in Greater Manchester;
- Future Mineral Developments (including identification of sites, preferred areas and areas of search);
- Defining Mineral Safeguarding Areas;
- Development Management Policies; and
- Monitoring and Implementation.

- 11.2 A series of questions relating to these aspects of policy have been put forward to consultees throughout the document. It has not been considered necessary to respond to each of these. Responses have only been provided concerning policy matters considered to have implications for Cheshire East; namely the aims and objectives and defining mineral safeguarding areas. These responses are detailed in Appendix 1.
- 11.3 Cheshire East has not formally commented on earlier consultations associated with this Plan. However, officer comments were made by the Minerals and Waste Policy Unit of Cheshire West and Chester (a former shared service) and representatives of Cheshire East Spatial Planning have provided feedback during technical stakeholder events hosted by Greater Manchester. Comments received as part of this consultation will feed into the Publication Stage of the Minerals Plan which is scheduled for consultation summer 2011.

Waste Plan

- 11.4 Greater Manchester have published the 'Publication Report' of their Joint Waste Development Plan Document (DPD) or 'Waste Plan' for consultation between 1st November and 13th December. This is the sixth consultation in the preparation of the Plan. This stage brings all comments and information received at the previous stages of consultation, together with evidence developed as part of overall plan preparation, to develop the final version of the Waste Plan prior to submission to the Secretary of State.
- 11.5 The plan aims to set out Greater Manchester's waste planning strategy to 2027 enabling adequate provision of waste management facilities in appropriate locations for municipal, commercial and industrial, construction and demolition, and hazardous wastes. The Plan focuses on the following areas:
- Aim and Objectives;
 - Future Waste Management Requirements;
 - Site and Area Allocations;
 - Development Management; and
 - Monitoring and Implementation

- 11.6 In accordance with legal requirements, the report is accompanied by a Sustainability Appraisal (SA) - an independent process of weighing and assessing the policies and proposals in the Report for their social, environmental and economic impacts.
- 11.7 The intention of issuing this Publication version is to allow for representations to be made in connection with issues of soundness (i.e. whether the Waste Plan is justified, whether it is effective and whether it is consistent with national policy) and legal compliance only.
- 11.8 Cheshire East has not formally commented on the earlier stages of the Plan's consultation. However, officer comments were made during the 'Issues and Options' stage by the former Cheshire County Council and on the 'Preferred Approach' stage by the Minerals and Waste Policy Unit of Cheshire West and Chester (a former shared service).

12.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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- Greater Manchester Minerals Plan: Preferred Approach Report
<http://www.gmmineralsplan.co.uk/docs.html>
- Greater Manchester Waste Plan: Publication Report
<http://www.gmwastedpd.co.uk/coredocs.html>

Question 1

Do you agree with the aim as expressed in the Preferred Approach? Is there anything else that should be included?

Aim

To provide a spatial planning framework to deliver a steady and sustainable supply of minerals to meet Greater Manchester's needs, particularly for economic development, and facilitate greater use of recycled aggregates and secondary mineral products.

Response

Agree. The overall aim of providing a spatial planning framework which allows Greater Manchester to meet its own mineral supply needs is supported, as is the facilitation of greater use of recycled aggregates and secondary mineral products. These aims are consistent with sustainable minerals development as set out in MPS1.

Question 2

Do you agree with the objectives as expressed in the Preferred Approach? Is there anything else that should be included?

Objectives

- 1. Reduce the importation of aggregates into Greater Manchester by:

 - i. Ensuring an adequate supply of existing sources within Greater Manchester, if suitable; and*
 - ii. Facilitating the re use of secondary and recycled aggregates.****
- 2. Safeguard potentially economically viable mineral resources from sterilisation and encourage the appropriate use of high quality materials;***
- 3. Protect and enhance local communities and the natural and built environment from the impacts of minerals development and promote and ensure the achievement of effective restoration (reclamation) once operations have ceased;***
- 4. Promote, where practicable, the sustainable transport of minerals; and***
- 5. Support the development of local energy minerals (excluding peat) where required to supplement the energy mix nationally and regionally.***

Response

Agree. The importation of aggregate minerals from other authority areas including Cheshire has been acknowledged in the Plan. Whilst it is accepted that cross boundary movement of minerals is largely determined by the market, ensuring an adequate supply of aggregates from suitable local sources whilst facilitating re-use and recycling can reduce the need for importation. Promoting sustainable methods of mineral transportation (where practicable) is supported as this can limit the impacts of importation.

Greater Manchester's key role in contributing towards sub-regional aggregate apportionment is acknowledged in paragraphs 1.11, 2.22 and detailed further in paragraphs 3.4-3.15. This should be included or incorporated into the objectives.

Question 15

Do you agree with the Preferred Approach to Mineral Safeguarding Areas set out in Policy Direction 4? (Please give details) Do you agree with developments as listed under paragraph 5.41 to be exempt from this policy is comprehensive? Do you think any developments needed to be added/removed from this list? (Please provide details)

Proposed response

It is recognised that mineral resources lie across authority boundaries. It is noted that Map 9 indicating the proposed mineral safeguarding area for coal identifies areas outside of the Greater Manchester boundary (including Cheshire East) however this does not appear to have been done for other mineral types.

Cheshire East as neighbouring Minerals Planning Authority is responsible for mineral safeguarding policies within its boundaries and will be preparing its own policies concerning minerals safeguarding in due course. As such it will take into account the approach taken by Greater Manchester.

CHESHIRE EAST COUNCIL

Cabinet Member for Procurement, Assets and Shared Services

Date of Meeting:	21 st December 2010
Report of:	Assets Manager
Subject/Title:	Alsager School - Disposal of Land to Christ Church
Portfolio Holder:	Councillor Peter Mason

1.0 Report Summary

- 1.1 The purpose of this report is to provide the Portfolio Holder with the background information to enable a reasoned decision to be made in respect of the proposed transfer of land at Alsager School to the Christ Church (the Purchaser) at nil consideration.

2.0 Recommendation

- 2.1 That approximately 35 sq/m of land at Alsager School (shown coloured green on the plan attached to the report) be disposed of to Christ Church for nil consideration.

3.0 Reasons for Recommendations

- 3.1 Alsager School (the School) is now a Foundation School. During the transfer to foundation status, two boundary discrepancies were identified in close proximity of one another. These two areas were excluded from the foundation transfer so to remain in the control of the Council to enable the discrepancies to be investigated and rectified by the Council's Property Services Department. These two areas of land have now been declared surplus to operational requirements by the Children's Services Department. This report addresses the boundary discrepancy between the School and the adjacent Christ Church.
- 3.2 A boundary discrepancy between the School and the Property was identified when the Purchasers attempted to register the church hall at Her Majesty's Land Registry (HMLR). The area subject to the discrepancy is amounts to approximately 35 sqm and is shown coloured Green on the attached plan. As can be seen on the plan, there is some confusion in respect of the OS feature lines.
- 3.3 Part of the Church Hall has been built upon land that is included in the School's HMLR title, owned by the Council.

- 3.4 The Purchasers requested that in the interest of good relations and cost saving, the Green land be transferred to them at nil consideration, this option being favoured to the alternative which is to commence a protracted and time consuming adverse possession claim with HMLR.
- 3.5 The Purchasers have enjoyed uninterrupted enjoyment of the Green land for over 50 years, making a claim for adverse possession credible and realistic.
- 3.6 Further to carrying out investigations with the Purchasers, the School and the Council's own records, the following facts have been confirmed;
- i. The Green land is within the Council's ownership. It was included on the Schools HMLR title prior to the school transferring to foundation status and has been retained in Council ownership by Children's Services to allow the transfer to the Purchasers to continue.
 - ii. The Church Hall was built on the Green land over 50 years ago.
 - iii. There has never been a boundary line or feature on the ground to delineate the Green land. No boundary line or fence has ever been altered by either the School or the Purchasers.
 - iv. The School has never considered that the Green land was or is owned by the School. It has never been used by the School and there are no implications should the title transfer.
 - v. The School Governors have confirmed that they approve the proposed transfer of the Green land to the Purchasers at nil consideration.
 - vi. The Purchasers have confirmed that they will pay the Council's fees in dealing with the transaction.
 - vii. Further to the transfer to Foundation status, the Green land is now landlocked preventing maintenance without agreement from the School.
 - viii. It is considered that the Purchasers would succeed in an adverse possession claim of the Green land due to the fact that they have enjoyed uninterrupted enjoyment of it for over 50 years. In this event, the Council would lose all rights to, and control over the land.
 - ix. If the Council gives consent to the proposed transfer, the Council will be able to impose covenants by agreement to retain rights to safeguard their long term interests in the land against further or alternative development.
- 3.7 The proposed transfer of the Green land from the Council to the Purchasers is considered the most appropriate course of action and allows the Council to retain rights over the land, which would otherwise be lost if the transfer were denied and the Purchasers pursued and succeeded with an adverse possession claim.

4 Wards Affected

- 4.1 Alsager

5.0 Local Ward Members

- 5.1 Councillor Shirley Jones
Councillor Rod Fletcher
Councillor Derek Hough

6.0 Policy Implications including - Climate change, Health.

- 6.1 None.

7.0 Financial Implications 2010/11 and beyond (Authorised by the Borough Treasurer)

- 7.1 None.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The Council may dispose of an interest in land on such terms as it considers fit but subject to it obtaining the best consideration. In the circumstances of this case it would seem likely that an application for adverse possession either because the Council did not object to the application or that the claimant could show that he was in adverse possession of land adjacent to his own under the mistaken but reasonable belief that he was the owner of it. In requiring the Church to pursue this remedy the Council will be incurring costs on land which is likely to have nil value. In considering what represents best consideration, S123 is likely to be satisfied in obtaining the restrictions on the land as set out above.

9.0 Risk Management

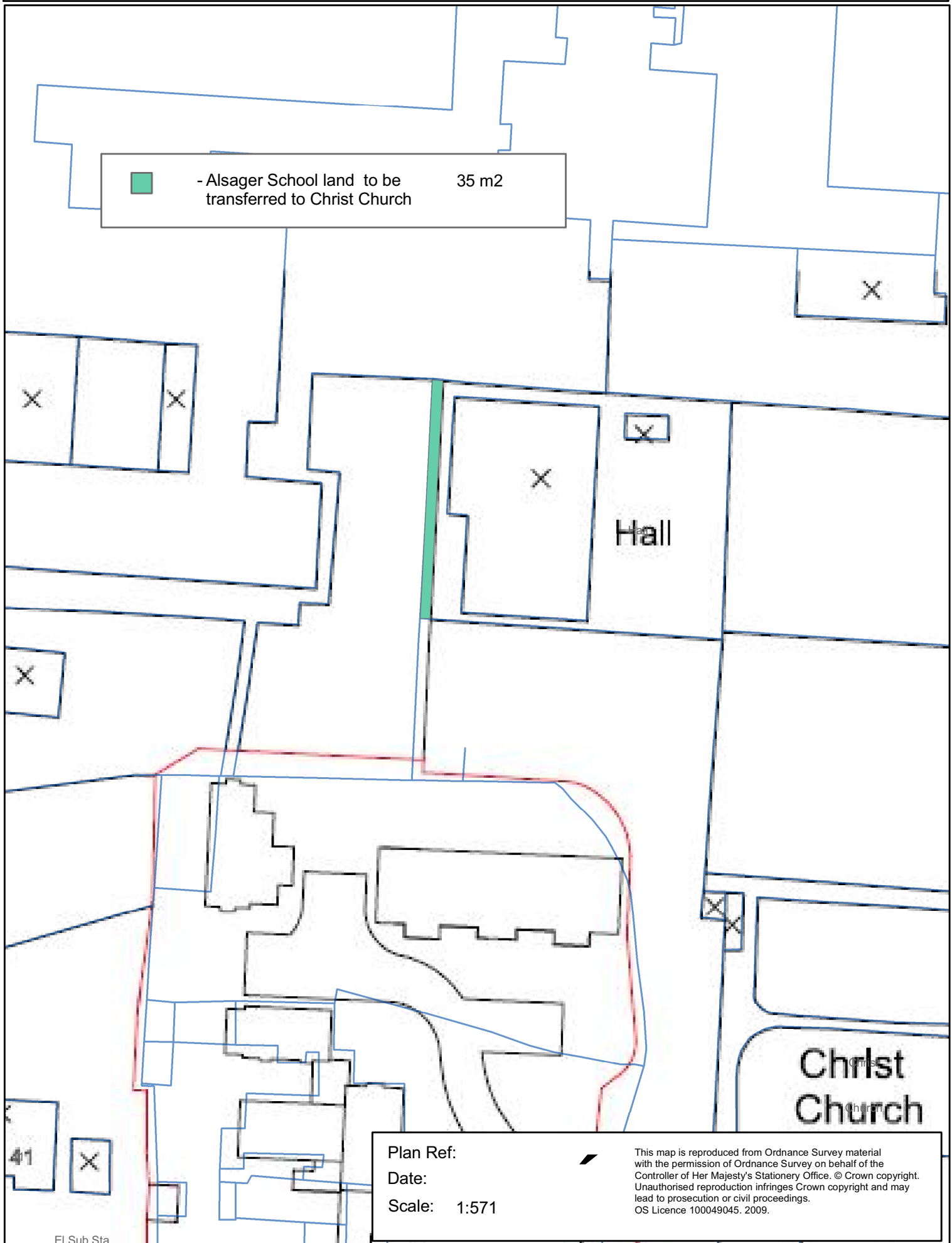
- 9.1 Future risk against future development could be safeguarded by allowing the transfer and including covenants

The background papers relating to this report can be inspected by contacting the report writer:

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Alsager School Church Land



Plan Ref:

Date:

Scale: 1:571

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of the Local Government Act 1972.

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