



Northern Planning Committee Agenda

Date: **Wednesday, 11th September, 2019**

Time: **10.00 am**

Venue: **The Capesthorne Room - Town Hall, Macclesfield SK10 1EA**

Please note that members of the public are requested to check the Council's website the week the Northern Planning Committee meeting is due to take place as Officers produce updates for some or all of the applications prior to the commencement of the meeting and after the agenda has been published.

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 in the report.

It should be noted that Part 1 items of Cheshire East Council decision making and Overview and Scrutiny meetings are audio recorded and the recordings will be uploaded to the Council's website.

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

1. Apologies for Absence

To receive any apologies for absence.

2. Declarations of Interest/Pre Determination

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests and for Members to declare if they have a pre-determination in respect of any item on the agenda.

3. Minutes of the Previous Meeting (Pages 3 - 6)

To approve the Minutes of the meeting held on 14 August 2019 as a correct record.

Please Contact: Sarah Baxter 01270 686462

E-Mail: sarah.baxter@cheshireeast.gov.uk with any apologies or request for further information
Speakingatplanning@cheshireeast.gov.uk to arrange to speak at the meeting

4. Public Speaking

A total period of 5 minutes is allocated for each of the planning applications for the following:

- Ward Councillors who are not members of the Planning Committee
- The relevant Town/Parish Council

A period of 3 minutes is allocated for each of the planning applications for the following individuals/groups:

- Members who are not members of the planning committee and are not the Ward Member
- Objectors
- Supporters
- Applicants

5. 19/1955M-Erection of a dwelling house with associated works including landscaping, Land adjacent to Withinlee Hollow, Withinlee Road, Prestbury for Mr Peter Busby (Pages 7 - 22)

To consider the above application.

6. 19/0399M-Development of a car park associated with the operation of Manchester Airport, demolition of 48 and 52 Moss Lane with associated outbuildings, provision of a new landscaping belt, footpath and ecological mitigation, Hollytree Cottage, 52 Moss Lane, Styall for Mr Andrew Cowan, Manchester Airport plc (Pages 23 - 48)

To consider the above application.

7. Cheshire East Borough Council (Adlington - Little Breck, Sugar Lane) Tree Preservation Order 2019 (Pages 49 - 76)

To consider the above Tree Preservation Order 2019.

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Northern Planning Committee**
held on Wednesday, 14th August, 2019 at The Capesthorne Room - Town
Hall, Macclesfield SK10 1EA

PRESENT

Councillor C Browne (Chairman)
Councillor T Dean (Vice-Chairman)

Councillors L Braithwaite, S Edgar (Substitute), JP Findlow, A Gregory,
A Harewood, S Holland, I Macfarlane, N Mannion and B Puddicombe

OFFICERS IN ATTENDANCE

Mrs S Baxter (Democratic Services Officer), Mrs N Folan (Planning Solicitor),
Mr P Hooley (Planning & Enforcement Manager) and Mr N Jones (Principal
Development Officer)

19 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors L Roberts and L
Smetham.

20 DECLARATIONS OF INTEREST/PRE DETERMINATION

In the interest of openness in respect of application 18/6202M, Councillor
A Gregory declared that he was a former business colleague of Town
Councillor Jon Newell who was speaking on the application.

In the interest of openness in respect of application 19/0399M, Councillor
N Mannion declared that as part of his role as Portfolio Holder he was
required to take a place on the Manchester Airport Joint Consultative
Committee. He had yet to attend a meeting and had not been aware of
the planning application until he had received a copy of the agenda.

In the interest of openness in respect of application 19/2311C, Councillor
S Holland declared that she knew the applicant.

In the interest of openness in respect of application 19/0399M, Councillor I
Macfarlane declared that he was a member of the Manchester Airport
Consultative Committee and had attended one meeting.

21 MINUTES OF THE PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 10 July 2019 be approved as a correct record and signed by the Chairman subject to the inclusion of Sarah Baxter, Democratic Services Officer in the list of Officers present.

22 PUBLIC SPEAKING

RESOLVED

That the public speaking procedure be noted.

23 18/6202M - RESIDENTIAL DEVELOPMENT COMPRISING 4, 2-STORY DWELLINGS WITH ACCOMMODATION IN ROOFSpace, FOLLOWING DEMOLITION OF THE EXISTING DWELLINGHOUSE, BLACKFORD, WILMSLOW PARK NORTH, WILMSLOW, FOR WILMSLOW PARK (GB) LIMITED

Consideration was given to the above application.

(Councillor T Fox, the Ward Councillor, Town Councillor Jon Newell, representing Wilmslow Town Council, Peter Yates, representing Garth Heights Residents' Association and Kath Ludlam, representing the applicant attended the meeting and spoke in respect of the application).

RESOLVED

That the application be refused for the following reason:-

The proposed development would have a harmful effect on the character and appearance of the area. By virtue of scale, height and mass, the proposal would conflict with policies SD2 and SE1 of the Cheshire East Local Plan Strategy, 2017 and Policy DC41 of the Macclesfield Borough Local Plan which aim to ensure that all development contributes positively to an area's character and identity, creating or reinforcing local distinctiveness and that windfall and infill development takes into account the existing character and density of the surrounding area. There is also conflict with the Design Guide for Wilmslow Park which requires development to reflect the characteristics of a specific area, including density of building on a particular site and with paragraph 60 of the National Planning Policy Framework.

(This decision was contrary to the Officer's recommendation of approval).

24 19/0399M - DEVELOPMENT OF A CAR PARK ASSOCIATED WITH THE OPERATION OF MANCHESTER AIRPORT, DEMOLITION OF 48 AND 52 MOSS LANE WITH ASSOCIATED OUTBUILDINGS, PROVISION OF A NEW LANDSCAPING BELT, FOOTPATH AND ECOLOGICAL MITIGATION, HOLLYTREE COTTAGE, 52 MOSS LANE, STYAL, FOR MR ANDREW COWAN, MANCHESTER AIRPORT PLC

Consideration was given to the above application.

(Andrew Murray, the agent for the applicant attended the meeting and spoke in respect of the application).

RESOLVED

That the application be deferred in order for further information to be provided by the applicant in relation to the need for the car park and the lack of alternative options.

- 25 **19/2311C - FRONT EXTENSION OVER GARAGE, REAR SINGLE STOREY EXTENSION TO REAR, 10, ASCOT CLOSE, CONGLETON, FOR P AKERS-SMITH**

Consideration was given to the above application.

RESOLVED

That for the reasons set out in the report the application be approved subject to the following conditions:-

1. Commencement of development (3 years)
2. Development in accord with approved plans
3. Materials as application

The meeting commenced at 10.00 am and concluded at 12.02 pm

Councillor C Browne (Chairman)

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Application No: 19/1955M

Location: LAND ADJACENT TO WITHINLEE HOLLOW, WITHINLEE ROAD, PRESTBURY, SK10 4AT

Proposal: Erection of a dwelling house with associated works including landscaping

Applicant: Mr Peter Busby

Expiry Date: 13-Sep-2019

SUMMARY

Planning permission was previously refused for two reasons: 1. Conflict with policies H12 and BE1 and 2. Concerns that the development would have an adverse impact on highway safety.

With the subsequent appeal, the Inspector found the development to be acceptable in terms of highway safety. However, the development was found to be unacceptable in terms of its impact on the surrounding area. The current proposal is considered to adequately address this issue.

The proposal would provide a single dwelling within a reasonably sustainable location. Whilst the site area would fall below the minimum standards of 0.4ha stated within policy H12, this figure should not be applied rigidly.

The revised scheme has reduced the footprint and spread of development. The proposed dwelling would on balance reflect the spacious character of properties within the surrounding area and would not appear unduly prominent from the wider site.

The Highway Authority has not raised any objections to the proposal. Subject to conditions, the proposal would have an acceptable relationship with the trees adjacent to the site boundaries.

SUMMARY RECOMMENDATION

Approve subject to conditions

REASON FOR REPORT

The application has been called to Committee by the local Ward Member, Cllr Findlow for the following reasons:

"Extensive concerns expressed locally relating to:

- 1.the inadequate restricted plot size for the scale and mass of the proposed dwelling, on this wet, boggy site which requires stabilisation not significant earthworks.*
- 2.contrary to policy H12, Low Density Housing Area, which requires plot sizes to be 1acre/0.4hectare, and the proposal is some one quarter less, changing the required housing density factor.*
- 3.the planning Inspector for the last dismissed application concluded it "would have a detrimental effect on the character and appearance of the area."*
- 4.the deleterious impact on "the desirability of maintaining an area's prevailing character and setting." (NPPF)*
- 5.the cumulative impact of instances of not abiding by policy H12, causing irrevocable harm to the immediate and wider area.*
- 6.the unacceptable visual impact, given the increased height level compared with the dismissed appeal proposal.*
- 7.excessive physical scale and form, and incompatibility with the generous space and privacy standards prevalent in the area.*
- 8.adverse consequences on the existing trees/protected trees, resulting in overshadowing given the proximity of the proposed dwelling to existing trees on the boundary.*
- 9.highway access issues onto Withinlee Road, and a shared driveway unsuitable for increased traffic volumes."*

DESCRIPTION OF SITE AND CONTEXT

The application site lies within a predominately residential area of Prestbury. The area is also classed as a Low Density Housing Area, and the site borders an Area of Special County value and Green Belt as identified in the MBLP.

There are protected trees along the Southern boundary of the site and at the entrance to the access road (TPO reference numbers: 28-005 and 39-024).

DETAILS OF PROPOSAL

The application seeks full planning permission for the construction of a detached dwelling on the existing paddock. The house would be laid out over 3 levels with the lower ground floor partially submerged.

RELEVANT PLANNING HISTORY

15/1886M - The erection of a single contemporary two-storey 4-bedroom dwelling – Refused 10.05.2016; Appeal dismissed 02.12.2016

14/3658M – The erection of a single contemporary 2 storey 4 bedroom dwelling - Withdrawn 11.11.2014

14/2837M – Outline application for erection of a single contemporary two storey 4/5 bedroom dwelling – Withdrawn 21.07.2014

12/0309M – Demolition of Existing house. Construction of Replacement Dwelling House. Resubmission of 11/2386M - Approved 16.03.2012

11/2386M – Replacement of existing dwelling
Withdrawn 09.09.2011

POLICIES

Cheshire East Local Plan Strategy (CELPS)

MP 1 – Presumption in Favour of Sustainable Development
PG 2- Settlement Hierarchy
SD 1 – Sustainable Development in Cheshire East
SD 2 – Sustainable Development Principles
IN 2 – Developer Contributions
SE 1 – Design
SE 2 – Efficient Use of Land
SE 3 – Biodiversity and Geodiversity
SE 5 – Trees, Hedgerows and Woodland
SE 13 – Flood Risk and Water Management
CO 1 – Sustainable Travel and Transport

Macclesfield Borough Local Plan (MBLP)

H12 – Low Density Housing Areas
DC3 – Design – Amenity
DC6 – Design – Circulation and Access
DC9 – Design – Tree Protection

Other Material Policy Considerations

National Planning Policy Framework (NPPF 2019)

Chapter 12 – Achieving well-designed places
Chapter 15 – Protecting the natural environment

CONSULTATIONS (EXTERNAL TO PLANNING)

Environmental Health – No objections subject to conditions relating to hours of construction works, piling, contamination and the provision of electric vehicle infrastructure.

United Utilities – No objections

Strategic Infrastructure Manager – No objections

Prestbury Amenity Society - Objection: the modifications have reduced the plot size; reduction in vehicle access and removal of TPO trees. Unsympathetic treatment of the surrounding area and is unneighbourly. Object strongly to changes - the proposal does not align with policy H12.

Prestbury Parish Council – Object on the following grounds:

30 August 2019

Re-assert the objections of 16 May 2019. See below summary.

31 July 2019

The revised plans show minimal change with an increase in height of roof ridge, increasing the effect of the mass. The strong objections remain unchanged.

16 May 2019

The plot is not of a size that can accommodate such a large property and vehicular access may present an issue.

Policy H12 is considered of upmost importance in safeguarding the character of Prestbury. Due regard should be had to this policy. The application does not meet this policy.

Proposal is not sympathetic to the character of the established residential area, taking into account its physical scale and form. The plot width and space between the sides of the dwelling does not appear to be commensurate with the surrounding area and high standards of space and privacy have not been maintained.

Existing tree and ground cover should be retained in line with Policy H12.

The plot would be 25% smaller than the 0.4ha recommended by H12, thus considerably altering the density of housing in the area and supporting an existing unwelcome precedent.

The low density high quality characters of the established residential areas are currently under serious threat in Prestbury. Planner should work to help safeguard Prestbury and its character for future generations.

Cumulatively, developments not aligned to the H12 Policy can cause irrevocable harm to the existing high quality residential areas and the Parish Council object in the strongest possible terms.

REPRESENTATIONS

Initial consultation responses

11 representations and a petition signed by 16 residents were received. The main points are summarised as follows:

Principle of development

- Policy H12 requires a plot close to 0.4ha. The site is smaller than the dismissed scheme and more restricted. It should be refused for the same reason.

Character and appearance

- The proposed dwelling would be 4.5m higher than the dismissed scheme and would be much more visually intrusive
- It would be for a much bigger and more intrusive house on a smaller plot and would not reflect the landscape setting of adjacent properties
- Bulk, massing and height of the scheme mean it would have a significantly greater visual impact on the surrounding area.
- Design of the house is not compatible with surrounding house
- House much larger than the existing bungalow on the plot

Neighbour Amenities

- Development would overlook windows and balcony of Withinlee Court
- Adverse visual impact on Withinlee Court and Clover Heights
- Too close to the boundary with Withinlee

Impact on Trees

- The house is closer to protected trees, which would be significantly affected by the works. All affected trees should be subject to TPOs and protected in accordance with BS5837:2012 during and after construction

Highway safety

- Existing access is narrow and does not allow for turning
- The figures used by the Inspector to calculate vehicle movements were unsafe. A more recent survey suggested different levels of vehicle movement. The Highway Officer should reconsider the projected level of traffic movement and the impact on highway safety

Inaccuracies/omissions

- Errors within the application form regarding the amount of the site covered by built form.
- The information regarding the size of the site is misleading
- Significant level changes on the site. No cross sections have been provided to show how these levels impact the development.

Housing supply

- At the time of the appeal, the Council was unable to demonstrate a 5 year supply of housing land. The most recent update showed the Council had a deliverable housing supply of 7.2 years. As the supply of housing is up to date, no weight can be given to the provision of a single house on an unsustainable site.
- Much of the demand for housing in Prestbury is shown to be met within the draft local plan. The proposal would do little to help meet this draft housing target

Other matters

- Alternative access needs to be provided to the field beyond. Field access needs to be maintained.
- New local plan policies can only be afforded limited weight
- Development could set a precedent for development of other plots in the area.

Second consultation

A further five representations were received on the additional plans and agent's letter. The main points are summarised as follows:

Character and appearance

- Comparative figures omit key information regarding floor space, volume and height, which would show the development to have a more detrimental impact on the site

Highway safety

- Inspector was misled in previous application with regards to the highway data. Surveys were carried out by both Cheshire East and the owners of Withinlee Court. Many of the vehicle movements were incorrectly attributed to the Horse Charity on the site, rather than Withinlee Court. This impacted on the accuracy of the information presented to the Inspector

Impact on trees

- No reference to tree protection along the access. Previously suggested condition, should apply again
- Development would adversely affect the trees adjacent to the site boundaries, even if all the protection measures are put into practice.
- Limited information on relationship between house and trees
- Provided cross sections do not contain information regarding the impact of earthworks on the root protection areas.

Neighbour amenity

- Higher amenity standards set out in policy DC41 should be met, rather than the minimum standards of policy DC38.

Housing supply

- Development would not help meet the future housing need of Prestbury

Inaccuracies/omissions

- Additional information has not addressed the 4.5m increase in height
- Existing discrepancies have not been addressed.

Other matters

- Insufficient time given to neighbours to comment, given the amount of time given to the applicant
- Significant differences between the cases referred to by the applicant and the current proposal
- Additional plans do not overcome the issues raised previously

Third consultation

A further six representations were received on the amended plans. The main points are summarised as follows:

Principle of development

- Proposal would not comply with policy H12

Drainage

- Drainage a problem in the area due to clay soils. The drainage is not adequate; it is unclear how soakaways would work
- Environment Agency should be consulted on the development on proposed drainage and septic tank
- Concerns regarding the suitability of the site for a septic tank and soakaways

Trees/highways

- Issues with trees and highways have not been overcome
- No protection proposed for trees along the access road
- Concerns regarding highway safety and field access

Neighbour amenity

- Concerns regarding the windows which would face over Clover Heights

Other matters

- Inaccuracies and omissions with regards to the height of the proposed dwelling
- Conditions should be imposed to protect entrance way trees during construction
- Proposed dwelling would have a greater impact on the surrounding area than the refused scheme
- Inaccuracies between the location plan and the arboricultural plans.

OFFICER APPRAISAL

Principle of development

The site lies within a predominately residential area in Prestbury. Prestbury is identified as a local service centre within CELPS policy PG 2. This policy confirms that within Prestbury

small scale development to meet needs and priorities will be supported where they contribute to the creation and maintenance of sustainable communities.

The site lies within a low density housing area, where policy H12 applies. This policy states that new housing development will not normally be permitted, unless certain criteria are met. Amongst other matters, it states that within Prestbury, both the new housing plot and the remaining plot should be approximately 0.4ha.

This saved policy forms part of the adopted plan and as such should be given full weight. There is no equivalent of policy H12 brought forward into the emerging local plan. The draft plan is currently undergoing its second round of consultation. It can only be attributed limited weight at this stage. It does however indicate the general direction of travel.

The submitted location plan indicates that the proposed dwelling would have a site area of 0.23ha, excluding the driveway. The area of land remaining to Withinlee Hollow would extend to over 0.4ha. As such, the plot available to the proposed dwelling would fall short of the minimum size set out within policy H12.

That being said, in dismissing the appeal for application 15/1886M, the Inspector concluded that plot size is only one part of the assessment. They concluded that the 0.4ha referred to in this policy should not be applied rigidly.

There have been no changes to planning policy or site circumstances, which would warrant policy H12 being applied differently in this instance. The fact that the site does not meet the minimum plot size of 0.4ha is not in itself a reason to warrant a refusal of planning permission.

Character and appearance

CELPS policy SE 1 states that development proposals should make a positive contribution to their surroundings. It seeks to ensure design solutions achieve a sense of place by protecting and enhance the quality, distinctiveness and character of settlements.

Amongst other criteria, policy SD2 of the CELPS also expects all development to contribute positively to an area's character and identity, creating or reinforcing local distinctiveness in terms of:

- a. Height, scale, form and grouping;
- b. Choice of materials;
- c. External design features;
- d. Massing of development - the balance between built form and green/public spaces;
- e. Green infrastructure; and
- f. Relationship to neighbouring properties, street scene and the wider neighbourhood

Saved policy H12 of the MBLP states that within low density housing areas, proposals should be sympathetic to the character of the established residential area. It also advises that the plot width and space between the sides of housing should be commensurate with the surrounding area.

In the dismissed appeal, the Inspector raised concerns over the extent of plot coverage in terms of the building, driveway, garage and courtyard areas. They concluded that as a

result, the proposal would not share the spacious landscape setting of its immediate neighbours and in this respect would harm local character.

The revised scheme has reduced the overall coverage of the site. The submitted plans indicate that the building's footprint has been reduced from 433sqm to 276sqm, which equates to a reduction of 36%. The overall coverage of buildings and driveway has been reduced from 641sqm to 397sqm. This equates to a reduction of around 38%.

The building would be located on the northern part of the site, with the southern portion remaining clear of development. This reduction in footprint and leaving the driveway unchanged has significantly reduced the extent of the plot covered by built form and hardstanding

However, footprint is not the only consideration, affecting how a development sits within its surroundings. The height and architectural design of the scheme are also important in ensuring that a development assimilates into its surroundings.

The dismissed scheme was for a flat-roofed two storey building. This design helped to keep the height down however, it resulted in an increase in mass. Whilst the Inspector acknowledged the modern architectural style was different to others within the area, they did not raise any objections to its height or design.

The current proposal has a more traditional appearance, with a dual-pitched gabled roof form, which picks up on architectural features within the surrounding area. It also includes some modern elements such as the flat roof central gable projection and the mono-pitch linked garage. There is some variety in terms of architectural design within the local context. The design of the proposed dwelling is not objectionable in itself.

Sections and comparative elevations have been submitted as part of this application. The comparative elevations indicate that the overall height of the proposed dwelling would be increased by around 0.6m. However, these comparative elevations are based on the land being flat, which it is not. The proposed dwelling would be located at the northern end of the site, where land levels are higher. As such, the overall increase in height would appear greater, when viewed from Withinlee Hollow to the South.

Given the land levels, the proposed dwelling would not appear overly visible in views of the site. It would not be an unduly prominent feature. Whilst taller than the refused scheme, it would not be taller than the surrounding dwellings, other than Withinlee Hollow. In context, the height of the proposed dwelling would appear acceptable.

It is considered that whilst the site area does not comply with the minimum standards set out within policy H12, the development would appear suitably spacious and would satisfactorily reflect the character of the wider area. It would comply with the requirements of CELPS policies SD 2 and SE 1.

Neighbour amenity

Paragraph 127f) of the NPPF 2019 states that developments should create a good standard of amenity for existing and future occupiers.

Saved MBLP policy DC3 states that development should not significantly injure the amenities of nearby residential properties. This includes as a result of privacy; overbearing effect and loss of sunlight and daylight. Saved MBLP policy DC38 sets out guidelines for space, light and privacy standards. Policy DC41 states that in areas within higher space, light and privacy standards than the minimum prescribed standards, new dwellings should meet the high local standards.

Concerns have been raised within the letters of representation regarding the impact on the neighbouring properties, in terms of loss of privacy and visual amenities.

Withinlee Hollow (to south of site)

Over 30m would remain between the proposed dwelling and the existing bungalow at Withinlee Hollow. Given the distance and angle between the properties, any loss of privacy would be minimal. The proposal would have an acceptable relationship with this neighbour.

Withinlee Court (to west of site)

Concerns have been raised that the proposed development would overlook the house, balcony and gardens of Withinlee Court.

The front elevation of the proposed development would face towards this neighbour. The proposed house would be set off the boundary and would be separated from this neighbour by the private drive. The proposed house would also be at a lower ground level than this neighbour.

There would be over 30m between the built form of the proposed dwelling and the built form of Withinlee Court. This would be sufficient to prevent any issues of overlooking or loss of visual amenities.

Withinlee (to east of site)

The proposed dwelling would be set off the boundary with this neighbour by around 12m. A distance of over 40m would remain between the built form of Withinlee and the new dwelling. The relationship between these two properties would be acceptable.

Clover Heights & Withinlee Cottage (to north of site)

Excluding the linked garage, the main bulk of the two storey dwelling would be set off the northern boundary by around 20m. This distance of separation would be sufficient to prevent the proposed dwelling appearing unduly overbearing when viewed from these properties.

A side window is shown serving the first floor windows. This window is shown to be 2m above finished floor level; therefore it would not result in any overlooking.

The proposed development would have an acceptable relationship with these neighbours in accordance with policies DC3 and DC38 of the MBLP.

Highways

CELPS policy CO 1 deals with sustainable travel and transport. It supports a shift from car travel to public transport and seeks to guide development to sustainable and accessible locations.

As a local service centre, it is accepted that Prestbury is a suitably accessible and sustainable location for an additional dwelling.

The appeal site would be accessed via the private driveway, which serves Withinlee Hollow and also Withinlee Court. The driveway is around 80m in length before reaching the gated entrances of both Withinlee Court and Withinlee Hollow. It has a good surface, is of reasonable width, and is well maintained with mature shrubs on either side.

With the dismissed appeal, the Inspector accepted that the existing access did not meet minimum visibility splays. However, they concluded that the development would not intensify the use of the access driveway and would not adversely affect highway safety in the vicinity of the site.

The proposal is for a single dwelling, as per the dismissed appeal. Therefore, there is no reason to come to a different conclusion regarding highway safety in this case.

The Strategic Infrastructure Manager has confirmed that no objections can be raised on highway grounds, given the appeal decision.

The plans indicate two garage spaces and a further two spaces on the drive. Appendix C of the CELPS requires 3 spaces for houses with 4/5+ bedrooms. Sufficient off-street parking would be provided, in line with these standards. A condition is recommended requiring the provision of parking areas prior to first occupation.

The proposal would comply with CELPS policy CO 1 and MBLP policy DC6.

Trees

CELPS policy SE 5 deals with trees, hedgerows and woodland. It states that the local planning authority will not normally permit developments, which result in the loss of or threat to trees which make a significant contribution to amenity, biodiversity and landscape character.

Saved MBLP policy DC9 relates to tree protection. It advises that developments which would result in the loss of or threat to protected trees will not be allowed, except in certain circumstances.

There are trees along the site boundaries. There is a group of protected Oak and Ash along the Southern boundary of the site (TPO number: 39-024). There are more protected trees along the site entrance (TPO number: 28-005). The trees along the other boundaries are not protected. However many are of amenity value, making a positive contribution to the green character of the wider area.

The applicant has submitted an Arboricultural Implications Assessment as part of their application, along with site sections. The Council's Forestry Officer initially raised concerns that the impact of the development on the protected and trees of amenity value had not been fully considered.

Following, on from the submission of further information, the Forestry Officer removed their objection. The proposed plans show no level changes within the root protection areas of the retained trees. While tree losses were greater than the 2015 application, the trees to be removed are low (c) category specimens or unsuitable for retention (U category) due to arboricultural defects.

Concerns have been raised by third parties regarding the impact of the development on the protected trees along the entrance. With the previous scheme, a condition was recommended regarding protection measures for these trees along the entrance. Such a condition is again recommended for this current application.

Subject to a condition requiring the works to be carried out in accordance with the submitted arboricultural implications Assessment, Method Statement and Tree Protection Plan, the development would have an acceptable relationship with the trees on the site. The development would comply with CELPS policy SE 5 and MBLP policy DC9.

Impact of trees on living conditions

Concerns have been raised regarding the relationship between the proposed dwelling and the boundary trees, particularly in terms outlook and light.

The most affected windows are along the eastern elevation. Bedrooms 4 and 5 would have their sole outlook towards the trees along the boundary. However, they would also be served by a lightwell, to give additional light. Given that these are partially subterranean rooms, they are considered to be acceptable.

At ground floor level, the main living space is dual aspect, with the remaining windows along the eastern elevation, serving non-habitable rooms.

On the upper floor, bedroom 3 would also have a high level window along the northern elevation, ensuring adequate light. As with the ground floor, the remaining windows would serve either non-habitable rooms or be secondary windows to these rooms.

The garden is of a sufficient size, with areas that would be unaffected by trees.

It is considered that the living environment for the proposed dwelling would be acceptable in accordance with paragraph 127f) of the NPPF.

Nature Conservation

Policy SE 3 deals with biodiversity and geodiversity, and the application is supported by an Ecological Survey Report. The application has been reviewed by the Council's Nature Conservation Officer. They have advised that if planning permission is granted, conditions should be imposed to protect breeding birds, provide ecological enhancements within the

building and provide a lighting scheme to prevent any light spill onto features which could be used by bats, such as hedgerows, trees and watercourses.

Housing supply

At the time of the appeal, the local planning authority was not able to demonstrate a five year supply of housing land. The Inspector gave moderate weight to the provision of an additional dwelling, in what they considered to be a reasonably sustainable location.

The Council can now demonstrate a five year housing land supply. Nevertheless, the proposal would still create an additional residential unit in what is a reasonably sustainable location. This carries some weight in favour of the development.

Other matters

Concerns have been raised regarding drainage on the site. The application site lies in flood zone one. However, the matter has been passed onto the Council's Flood Risk Team, and further details will be provided as an update.

Environmental Health have suggested conditions relating to working hours and piling works. As these matters are covered by other legislation, they are not normally conditioned. Instead informatics are recommended, advising the applicant of appropriate working hours.

Conclusions

The proposal would provide a single dwelling within a reasonably sustainable location. Whilst the site area would fall below the minimum standards of 0.4ha stated within policy H12, this figure should not be applied rigidly.

The proposed dwelling would on balance reflect the spacious character of properties within the surrounding area and would not appear unduly prominent from the wider site.

Subject to the following conditions, the proposal would be acceptable in all other regards. A recommendation of approval is therefore made, subject to conditions.

1. Three year timeframe
2. In accordance with the approved plans
3. Details of materials
4. Surface water drainage scheme to be submitted
5. Works in accordance with the approved arboricultural information
6. Tree protection during construction works
7. Provision of parking areas
8. Lighting scheme to be submitted
9. Nesting bird survey to be submitted
10. Details of ecological enhancements to be submitted
11. Electric Vehicle Infrastructure
12. Gas Protection Measures

13. Contamination found during works



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Application No: 19/0399M

Location: Hollytree Cottage, 52 Moss Lane, Styal, SK9 4LG

Proposal: Development of a car park associated with the operation of Manchester Airport, demolition of 48 and 52 Moss Lane with associated outbuildings, provision of a new landscaping belt, footpath and ecological mitigation

Applicant: Mr Andrew Cowan, Manchester Airport plc

Expiry Date: 12-Jul-2019

REASON FOR DEFERRAL

The application was deferred from the Northern Planning Committee on 14 August 2019 “*in order for further information to be provided by the applicant in relation to the need for the car park and the lack of alternative options.*”

POLICY

Since the deferral of the application, the Council has published the Site Allocations Development Plan Document to invite representations before it is submitted for examination by a planning inspector. Of particular relevance to the current proposal is draft policy INF 4, which states:

“The Manchester Airport operational area is shown on the adopted policies map. In the operational area, development and uses that are necessary for the operational efficiency and amenity of the airport will usually be permitted. These types of development and uses are likely to include operational facilities and infrastructure; passenger facilities; cargo facilities; airport ancillary infrastructure; landscaping works; and internal highways and transport infrastructure.”

Given the stage of this document it is considered that only limited weight can be afforded to this policy.

REPRESENTATIONS

One letter of representation has been received since the deferral from a local resident objecting to the proposal on the following grounds:

- Access too close to new junction of Styal Road and new by-pass
- Car park should be accessed off Moss Lane or further down Styal Road

APPLICANT'S SUBMISSION

The applicant has submitted an additional statement and accompanying plan to further demonstrate the need for the car park and alternative options. The statement outlines the following:

Local Policy

- In Cheshire East, there has been a consistent policy approach since 1988 (Wilmslow, Macclesfield & Cheshire East Local Plans). This defines the boundaries of the Airport Operational Area and allocates land for the airport's operational efficiency and growth. A range of appropriate uses is also set out.
- For the application site, the expected types of development specifically include car parking, and other low rise or lower density uses.

National Policy

- In June 2018 the Government updated its aviation policy. This supports the growth of Manchester (and other UK airports) up to the capacity of its existing runways (subject to environmental impacts). This overall growth inevitably has to include expansion of the facilities and activities which underpin the airport's core operation.
- Aviation 2050: The Future of UK Aviation December 2018 (Cmnd paper 9714) recognises that Manchester's economic and transport role is a national one and re-emphasises the importance of safeguarding land "*to maintain a supply of land for future national requirements and to ensure that inappropriate developments do not hinder sustainable aviation growth.*

Need for the development

- The Airport's Sustainable Development Plan (SDP) defines an Airport Operational Area of 800 ha with clear long-term boundaries. The SDP explains how much land is needed for future growth and the location of uses. Many of these have very specific locational requirements, especially the runways, taxiways, apron, terminals, hangars and cargo facilities. Other uses, such as car parking, have therefore been steadily displaced and moved to the periphery of the site as airside access is not required.
- Within this overall balance of uses, is the land needed for car parking. This has to be sufficient to meet peak summer passenger demand (Winter occupancy c.70%; Summer c.100%). Failure to do so will result in significant operational disruption, congestion and problems for passengers.
- Parking on site lies between public transport and kiss and fly / taxi use in the hierarchy of preferred modes. The airport's surface access strategy sets clear targets for each mode as part of a concerted approach to reduce road traffic, emissions and congestion and increase sustainable modes. The target is to reduce kiss and fly / taxi use from 54% in 2015, when the airport handled 23 million passengers, to 30% by the time it reaches 45 million passengers. As public transport use increases, so the % of passengers parking on site will also reduce gradually. This is shown in the table below.

	2013/14	2018/19	2022/23
Passenger numbers	22.3m	30m	32m
Target mode share – on site parking	21%	18%	17%

Actual share	19.1%	17.7%	n/a
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- The parking strategy includes not just the number of spaces, but also pricing and the need to offer different types of parking to meet the varying needs of customers. Initially, increasing parking prices was seen as a way of moving passengers onto public transport. However, in practice, it actually had the opposite effect. Higher charges led to a significant increase in kiss & fly and taxi use, defeating one of the principal aims of reducing road traffic. Moving to a competitively priced, long stay product and undercutting taxi fares has been far more effective. This application relates to parking of this type.
- The airport also has had to absorb additional demand due to the significant reduction in off-airport spaces. In 2007 there were 32,000 off site spaces. By 2014 it was 24,000 spaces on 32 sites (Local Authority Survey) and has since fallen by 80% to nearer 5,000 spaces on 21 sites.
- Appeal decisions elsewhere have recognised that parking on site, under the control of the airport operator, is an important part of an integrated transport strategy. At Manchester, the approach is to encourage public transport use, and suppress kiss and fly / taxi use. The full strategy is in the SDP but examples of the approach to different modes, and linkages, are shown below.

Kiss & fly / Taxi (Demand management)

- No pick up allowed at the forecourts; charge for Arrivals
- Pick up car parks (no free period).
- Charging for drop off at the terminal (no free period). Remote free drop off car park – bus to Terminals.
- Pricing on site car parking to undercut taxi fares (1 week parking £51; taxi to Knutsford £58).
- Funding co-ordinated action with local authorities to deal with taxi & fly parking. Funding of residents parking schemes; signing and monitoring ‘hot-spots’ for anti-social parking.

Off airport (Supply)

- Authorised sites declining as redevelopment takes place (see Annex 3 & 4 Planning Statement); no allocated sites in Local Plans in Cheshire East, Manchester, Stockport or Trafford.
- Unauthorised sites enforced against.
- Raise passenger awareness of the risks of using unauthorised operators.
- Competitive pricing of on-site parking.

Parking on site

- Manage supply to accommodate shift from Kiss & fly.
- Pricing competitive enough to attract taxi / kiss & fly users.
- Airport is the provider of last resort (has to meet peak demand).

- Range of products to meet passenger needs and offer choice. ‘Park Mark’ accreditation.
- Frequent, high quality hybrid buses for transfer to the terminals.

Public transport (Promotion and incentives)

- Capital spend £60m. Ongoing revenue support for public transport services. Sustainable Transport Fund set up (top slice parking revenue).
- Expand the network: rail, coach, bus, tram.
- Metrolink extension to T2; potential ‘tram-train’; safeguard ‘western rail link’ route on site
- Improve service quality – new rolling stock (TPE & Northern); improved station facilities on & off site.
- Extended operating hours (especially early morning) to match passenger check in times.
- Marketing & promotion in conjunction with airlines, travel trade and train / bus operators.

Alternatives

- The alternatives to parking on site are identified above. For those passengers using the car, there has historically been a choice between off site operators or on-site car parks. The supply of off-site spaces has dramatically reduced in recent years, which has increased the need for careful monitoring and for the airport to ensure it can always accommodate peak demand; especially as many passengers still need flexibility or choose not to pre-book their parking in advance.
- In terms of alternative locations on site, the Airport’s SDP makes clear that future supply will be concentrated on two main sites in the eastern part of the Airport Operation Area (AOA). These sites have been gradually developed as the airport has grown. The large site at Shadowmoss Road was developed in 2014. Jet Parks 3 has been developed in a phased way since 2007. The application site (2.9ha) is the final piece of that phased programme (JP3 total area = 17ha) and will be the final piece of undeveloped land in this part of the AOA, and the last allocated development site in Cheshire East.
- The strategy is to consolidate surface parking into two large sites, which are more efficient to operate and allow much higher utilisation of space. Smaller sites, closer to the terminals, are being developed for terminal and apron expansion and other uses needing an airside or central location. Consequently, there are no alternative sites within the AOA able to accommodate surface parking on this scale in the timescale required to accommodate demand. A summary of existing and proposed surface car parking spaces is shown in the table below.
- None of these surface car parks are suitable for decking or multi story car parks due to operational restrictions (proximity to the runways), Public Safety Zone limits; impact on nearby residential properties and visual impact beyond the site. Lower cost, more peripheral sites can be competitively priced, both to meet the needs of ‘budget’

passengers and also to maintain the policy of being very competitive in comparison to taxi fares.

LONG STAY		Current	Next 2 years	Medium term	Comment
Surface car parks	Jet Parks Ringway	9,100	9,300	9,300	Site fully developed.
	Jet parks 3	7,000	7,800	7,800	Assumes 800 spaces on application site
	JP 1 & 2	1,100	Removed	0	Temporary site outside AOA lost to employment uses (Airport City developer).
	Moss Nook North	0	0	1,100	Awaiting land assembly post A6MARR.
	T2 long stay	1,280	1,280	Removed	Lost due to T2 apron expansion.
	Land at J5 M56	0	0	0	Land locked site within motorway junction. No access. May be needed for HS2 related highway works.
TOTALS		18,480	18,380	18,200	

- There are also a number of multi-storey car parks on site, which are used intensively by shorter stay parking. These are summarised below. In order to make the most efficient use of land in the AOA, there has been an increasing trend to develop suitable sites for decked / multi storey car parks in the central terminal zone. Previously, these have been used solely to accommodate short stay parking demand. But, due to increasing pressures on land for aircraft related activities, their use is now being expanded to also accommodate medium stay, 'meet and greet' customers, arrivals pick up and some staff parking.

Type		Current	Next 2 years	Medium term	Comment
Multi storey car parks	T1	1,625	1,625	1,625	Will close when T1 closes.
	T2	3,920	4,670	7,670	Potential additional site T2 West (depends on Metrolink & T2 road improvement scheme).
	T3	3,120	6,475	8,805	New A1/2 car parks open in phases.
Totals		8,665	12,770	18,100	
Staff		5,350	6,050	6,200	11 sites across the campus.

RESPONSE TO OBJECTIONS

The comments received in representation are acknowledged however the traffic impact issues were addressed within the original report.

CONCLUSION

The applicant has submitted the above information to address the reasons for deferral of the application and to support their contention that there is a need for the proposed car park extension. The development of the airport is considered to be of regional and national significance; the provision of the proposed car park is considered to be justified when considered in the context of the wider development strategy and operational needs of the airport.. The Airport's surface access strategy is aimed at reducing the number of kiss & fly / taxi trips to the site in order to reduce the total numbers of trips to the Airport by cars. A range of transport options are available to passengers, and as is highlighted above, the Airport has strategies in place to achieve a significant reduction in kiss & fly / taxi journeys. This includes improvements to public transport, but also the provision of adequate, competitively priced car parking spaces. These spaces are provided in surface car parks multi-storey car parks, which serve different passenger requirements and durations of stay.

Having regard to the above information and the details set out within the original report, it is considered that the proposed extension to the Jet Parks 3 car park is necessary for the operational efficiency and amenity of the airport, and there are no alternative options, and a recommendation of approval is therefore made.



UPDATE TO ORIGINAL REPORT PUBLISHED 12 AUGUST 2019

NORTHERN PLANNING COMMITTEE – 14 August 2019

UPDATE TO AGENDA

APPLICATION NO.

19/0399M

LOCATION

Hollytree Cottage, 52 Moss Lane, Styal

UPDATE PREPARED

09 August 2019

CONSULTATIONS

Lead Local Flood Authority (LLFA) – No objections

KEY ISSUES

Flood Risk

Policy SE13 of the CELPS states that developments must integrate measures for sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity within the borough. The submitted drainage details explain that the drainage of the site will be to controlled waters via the Manchester Airport drainage system at a rate equivalent to greenfield run-off. The car park surface will be constructed to slope towards the existing drains in a controlled manner and will pass through a hydrobrake and existing oil interceptors.

The LLFA are satisfied with the drainage details and plans that have been submitted, and as such the proposals are not considered to raise any flood risk issues. A condition is recommended to ensure that the drainage strategy implemented on site is in line with the submitted details. The proposal is therefore considered to comply with policy SE13 of the CELPS.

Public Right of Way

As noted in the original report the application site is adjacent to public footpath Wilmslow No.6. Contrary to what is reported in the original report, it has now been confirmed that the public right of way will be unaffected by the proposal. The applicant may seek a diversion of the footpath by an alternative procedure to the Town & Country Planning Act at some point in the future. However, for the purposes of the current application the Right of Way is unaffected, and the Public Rights of Way Team raises no objection. A revised plan is awaited to show the proposed footpath through the landscape buffer along the eastern boundary as a permissive path, as opposed to a public footpath.

CONCLUSION

As in the original report a recommendation of approval is made, subject to the following additional condition:

19. Implementation of drainage strategy

ORIGINAL COMMITTEE REPORT PUBLISHED 6 AUGUST 2019

SUMMARY

The proposal is considered to be an inappropriate form of development in the Green Belt, which reduces openness, encroaches into the countryside, and contributes to the unrestricted sprawl of large built up areas.

The considerations in favour of the proposal, including the applicant's strategy to reduce the amount of kiss and fly / taxi journeys to the airport, the limitations of the existing public transport services, the operation of existing on site car parking facilities at capacity during the summer months, and the reduction of third party off site car parking options over recent years are considered to demonstrate that the car park is necessary for the operational efficiency and amenity of the airport in accordance with policy T23 of the MBLP. Compliance with this policy is considered to amount to the required very special circumstances to outweigh the identified harm to the Green Belt.

The visual amenity of the Green Belt will be adequately maintained, and the proposal will not result in any significant injury to the amenity of nearby residential properties. The impacts on ecology have been satisfactorily addressed, and in some cases enhanced. The proposal is not considered to generate any adverse traffic or highway safety issues. The visual and landscape impacts of the development are acceptable. No significant environmental effects have been identified.

The proposal is therefore considered to be a sustainable form of development under the definition of The Framework.

Consequently, for the reasons outlined above, there are not considered to be any significant adverse impacts that would outweigh the presumption in favour of sustainable development in this case. Therefore, the application is recommended for approval subject to the satisfactory receipt of outstanding consultee responses, consultation with the Secretary of State (due to the scale of the proposal in the Green Belt), and conditions.

SUMMARY RECOMMENDATION

Approve subject to conditions

REASON FOR REPORT

The application has been referred to Committee because the site area exceeds 2 hectares and under the Council's Constitution such an application is required to be determined by Planning Committee.

DESCRIPTION OF SITE AND CONTEXT

The application site comprises two residential properties, one of which is vacant, and a paddock with stable building, all located to the south of the site. To the centre and north, the site is relatively open with some overgrown coniferous plantation former nursery stock present. The site is bordered to the north and west by existing surface parking serving the airport, and Moss Lane to the south. The application site extends to 2.9 hectares in area and is located within the Operational Area of Manchester Airport and the Green Belt as identified in the Macclesfield Borough Local Plan.

DETAILS OF PROPOSAL

This application seeks full planning permission to demolish 48 and 52 Moss Lane and their associated outbuildings, and construct an extension to an existing surface car park comprising 800 spaces associated with the operation of Manchester Airport with a new landscaping belt, footpath and ecological mitigation. The car park will operate 24 hours a day, and customers will self-park and then board buses to access the terminals.

RELEVANT HISTORY

05/2968P - DEVELOPMENT OF NEW SURFACE CAR PARK AND ASSOCIATED LANDSCAPE WORKS – Refused 27.02.2006, Appeal dismissed 04.07.2007

18/3657M - Prior notification of a proposed demolition of a dwelling unit named Holly Cottage – Prior approval not required 29.08.2018

POLICIES

Cheshire East Local Plan Strategy (CELPS)

Relevant policies of the CELPS include:

MP1 Presumption in favour of sustainable development

PG1 Overall Development Strategy

SD1 Sustainable Development in Cheshire East

SD2 Sustainable Development Principles

IN1 Infrastructure

IN2 Developer Contributions

SC1 Leisure and Recreation

SE1 Design

SE2 Efficient use of land

SE3 Biodiversity and geodiversity

SE4 The Landscape
SE5 Trees, Hedgerows and Woodland
SE6 Green Infrastructure
SE12 Pollution, land contamination and land stability
SE13 Flood risk and water management
CO1 Sustainable travel and transport
CO3 Digital connections
CO4 Travel plans and transport assessments

Macclesfield Borough Local Plan saved policies (MBLP)

NE11 Nature conservation
NE17 Nature conservation in major developments
GC1 Green Belt
T20 Impact of Airport on Green Belt
T21 Airport related development
T23 Airport Operational Area
DC3 Residential Amenity
DC6 Circulation and Access
DC8 Landscaping
DC9 Tree Protection
DC14 Noise
DC63 Contaminated land

Other Material Considerations

National Planning Policy Framework (The Framework)
National Planning Practice Guidance

Styal Neighbourhood Plan

The Styal Neighbourhood Plan has reached Regulation 7 (Neighbourhood Area Designation) stage. No draft plan or policies are currently available; therefore no weight can be afforded to it.

CONSULTATIONS (External to Planning)

Manchester Airport (safeguarding) – No objection subject to conditions relating to bird hazard management plan, lighting and glint and glare assessment.

Environment Agency – No objection

United Utilities – No objection subject to development being carried out in accordance with the submitted drainage design drawing.

Health & Safety Executive – No comments received

Cheshire Constabulary – No comments received

Manchester City Council – No comments received

Environmental Health – No objection subject to condition relating to contaminated land

Flood Risk Manager – Comments awaited

Strategic Infrastructure Manager – No objection

Public Rights of Way - It appears unlikely that the proposal would affect the public right of way

Styal Parish Council – No comments received

REPRESENTATIONS

None received

OFFICER APPRAISAL

Green Belt

Paragraph 146 of the Framework and policy PG3 of the CELPS identify engineering operations and local transport infrastructure which can demonstrate a requirement for a Green Belt location as forms of development that are not inappropriate development in the Green Belt, subject to them preserving the openness of the Green Belt and not conflicting with the purposes of including land within it.

Saved policy T20 of the MBLP relates specifically to airport relates development in the Green Belt and states that "*the Borough Council will seek to minimise the impact of the airport within the Green Belt and development will not be permitted, except in very special circumstances, in accordance with the Borough Council's policies*".

Further to this, saved policy T21 of the MBLP states that "*Airport-related development other than that referred to in policy T20 will not be permitted. The Borough Council will encourage development to be located within the airport operational area or within nearby urban areas where this is compatible with other local plan policies*".

The car park would provide 800 new parking spaces and the hard surfacing would cover an area of approximately 2 hectares. Whilst the existing buildings on the site would be demolished, these only occupy a very small part of the existing site, with the majority currently undeveloped. Such a scale of development within this context would significantly reduce the openness of the Green Belt, and would conflict with two of the purposes of Green Belts, namely safeguarding the countryside from encroachment and checking the unrestricted sprawl of large built up areas. The proposal is therefore considered to be inappropriate development in the Green Belt.

Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the Framework advises 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.

The applicant has put forward a number of material considerations in favour of the proposal, which they consider do amount to the required very special circumstances to outweigh the identified harm. These are explored in detail later in this report.

Landscape / character

CELPS policy SE4 states that all development should conserve the landscape character and quality and where possible enhance and effectively manage the historic, natural and manmade features that contribute to local distinctiveness of both rural and urban landscapes. Policy SD2 of the CELPS expects all development to contribute positively to an area's character and identity, and reinforce local distinctiveness.

The existing site comprises two residential properties, one of which is vacant, and a paddock with stable building, all located to the south of the site. To the centre and north, the site is relatively open with some overgrown coniferous plantation former nursery stock present. Airport operations are evident to the north and west of the site due to the presence of the existing Jet Parks 3 car park serving the airport.

The proposed development comprises loose bound granular material for parking areas with tarmac running lanes to match the adjoining car park and paladin fencing to the car park boundaries, also to match the existing. The northern and western boundaries will border the existing car park, and a landscaped buffer ranging from 13m to 34m in depth is proposed along the southern and eastern boundaries, providing a softer edge to the wider Green Belt.

The application includes a Landscape and Visual Impact Appraisal (LVIA) carried out in accordance with the Guidelines for Landscape and Visual Impact Assessment third edition. The appraisal considers eight photo viewpoints within the zone of theoretical visibility which show that the site is generally well screened by vegetation within the wider landscape and along its southern and eastern boundaries.

The appraisal does not include a viewpoint from Moss Lane directly in front of the proposed development, however visualisations of the existing view, at year 1, at year 7 and at year 15 have been provided, which illustrate that views of the development from Moss Lane would be largely screened or filtered after 15 years.

The LVIA concludes that:

"Important landscape and visual effects of the proposed development are much localised and are during construction and year one. No important effects remain by year fifteen. It is considered that due to the appropriate screening and sympathetic retention of existing vegetation along the southern and eastern boundaries as part of the landscape and ecology mitigation plan, the proposed development would result in acceptable changes in landscape character and visual amenity".

Whilst there will be a significant change to the character of the application site, the proposal is an extension to a substantial car park, which borders the site to the north and west. The most sensitive views of the site will be from the south and east, and the conclusions of the LVIA are broadly accepted. However, whilst the landscape proposals are generally acceptable, landscape conditions are recommended to secure amendments to the landscaping to include the filling of gaps along the Moss Lane frontage with hedging (such as Holly) and some standard trees - to improve screening from the outset. Minor amendments to the proposed

native hedgerow mix are also required and further details should be submitted for the proposed pond, fencing planting, footpath, bridge, benches etc. Subject to these conditions, the proposal is considered to comply with policies SE4 and SD2 of the CELPS.

Living conditions

The objectives of policy SE12 of the CELPS include seeking to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon noise or light pollution which would unacceptably affect the natural and built environment, or detrimentally affect amenity or cause harm.

Policy DC3 of the MBLP seeks to protect the amenities of adjoining or nearby residential properties, and policy DC13 of the MBLP states that noise generating developments which cumulatively would increase the ambient noise level to an unacceptable level, will not normally be permitted.

Air Quality

In terms of air quality, the site is located in an area that is dominated by the airport and associated operations, including car parking, all of which will have an impact upon air quality by their very nature. An air quality assessment has been submitted with the application, which identifies that both the construction and operation phases of the development will have a negligible impact upon local air quality. The proposed car park is a relatively modest extension to an existing facility and is not considered to result in any significant impact upon air quality. Environmental Health has also raised no objections in terms of air quality, noting that the proposal is also not suitable for electric vehicle charging due to its use as a long stay car park, and as such so cars will not be able to be left charging for that length of time.

Noise

The nearest residential properties are located on Moss Lane. Number 46 lies immediately adjacent to the south east boundary of the application site, and is the nearest receptor to any noise arising from the car park. The proposed layout plans show a 13m wide landscape buffer to the eastern boundary and therefore any car parking will be over 13m from this neighbour's boundary. It is also important to note that there will not be any access to the proposed car park from Moss Lane. All vehicles accessing the site will use the existing access from Hollin Lane, which serves the wider car park, and therefore vehicles will approach the site from the north, away from the nearest residential properties. Consequently, whilst there will be some noise associated with the comings and goings within the car park, potentially 24 hours a day, it is considered that the extent to which it will impact upon the living conditions of 46 Moss Lane, will be limited given the long stay nature of the car park and the distance to this property. A submitted noise assessment also confirms that there will be no significant impact upon this neighbour.

The properties at 66-88 Moss Lane, lie further to the south of the site and the proposed development comes no closer to these dwellings than the existing car park. As such there should be no greater impact upon these properties.

Lighting

Lighting is proposed to the car park area, and a condition is recommended requiring the submission of the lighting detail to ensure the proposed lighting has an acceptable impact upon neighbouring properties.

Living conditions conclusions

Subject to the condition relating to lighting above, the proposal will not have a significant impact upon the living conditions of neighbouring properties. The development therefore complies with policy SE12 of the CELPS, and policies DC3 and DC13 of the MBLP.

Ecology

Policy SE3 of the CELPS and policy NE11 of the MBLP seek to protect and enhance areas of biodiversity and geodiversity. A number of ecological surveys and reports have been submitted with the application, and the following matters are relevant to the proposal. It should also be noted that on and off site mitigation proposals are put forward. The offsite mitigation relates to an area of airport owned land to the south of the application site, to the west of Wilkins Lane, between Holly Lane and Moss Lane, and includes proposals for hedgerow and tree planting, wildflower meadow, earth mounds, and ponds and habitats for newts.

Bats

A bat roost was recorded at one of the existing dwellings on site (Hollytree Cottage, 52 Moss Lane) during the bat activity surveys. An internal inspection of the building has also now been completed; however this was constrained by health and safety issues.

Evidence of bat activity in the form of a minor roost of a relatively common bat species has been recorded within the building proposed for demolition. The usage of the building by bats is likely to be limited to single-small numbers of animals using the buildings for relatively short periods of time during the year and there is no evidence to suggest a significant maternity roost is present. The loss of the roosts associated with the buildings on this site, in the absence of mitigation, is likely to have a low impact upon bats at the local level and a low impact upon the conservation status of the species as a whole.

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places.

In the UK, the Habitats Directive is transposed as The Conservation of Habitats and Species Regulations 2010. This requires the local planning authority to have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must consider the three tests in respect of the Habitats Directive, i.e. (i) that there is no satisfactory alternative, (ii) that the development is of overriding public interest, and (iii) the favourable conservation status of the species will be maintained. Evidence of how the LPA has considered these issues will be required by Natural England prior to them issuing a protected species license.

Alternatives

Due to the necessity for the car parking to be relatively proximate to the airport, and the planning constraints of surrounding land, there are no known alternatives.

Overriding public interest

The proposed development will meet an identified need for car parking serving the airport within the operational area of the airport. The provision of car parking within the operational area is linked to broader objectives of promoting sustainable methods of transport to the site. The actual or perceived lack of capacity within the operational area is a material consideration often put forward by unauthorised operators. Increasing this capacity will be in the wider public interest by helping to undermine this argument.

Mitigation

The submitted report recommends the installation of bat boxes on the nearby trees as a means of compensating for the loss of the roost and also recommends the supervision of the works to reduce the risk posed to any bats that may be present when the works are completed. The nature conservation officer advises that if planning consent is granted the proposed mitigation/compensation is acceptable and is likely to maintain the favourable conservation status of the species of bat concerned, and a condition is recommended to ensure that the development is carried out in accordance with the submitted bat mitigation and compensation measures. The requirements of the Habitats Regulations are therefore met.

Light spill resulting from the lighting of the car park is likely to reduce the suitability of the application site and the proposed landscape ecological buffer for foraging and commuting bats. This effect is unlikely to be significant enough to result in an offence under the habitat regulations. This effect would be compensated for through the creation of the proposed offsite habitat creation area.

Lighting

The lighting of the proposed car park has the potential to have a significant adverse impact on protected species, such as bats, badger and great crested newts and biodiversity in general around the site. The revised lux plan shows a general reduction in the light spill onto the adjacent landscape/ecological mitigation buffer area, however light levels are still high enough over part of the buffer to reduce its suitability for wildlife. Effects on the retained badger sett and biodiversity in general are discussed further below.

Great Crested Newts

A medium population sized of great crested newts has been identified breeding at a pond located approximately 60m from the boundary of the proposed development. In the absence of mitigation and compensation the proposed development would have a Low - Medium scale adverse impact on this species as a result of the loss of suitable terrestrial habitat and the risk of newts being killed or injured during the construction process.

Once again, given that a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must consider the three tests in respect of the Habitats Directive, i.e. (i) that there is no satisfactory

alternative, (ii) that the development is of overriding public interest, and (iii) the favourable conservation status of the species will be maintained.

Alternatives

Due to the necessity for the car parking to be relatively proximate to the airport, and the planning constraints of surrounding land, there are no known alternatives.

Overriding public interest

The proposed development will meet an identified need for car parking serving the airport within the operational area of the airport. The provision of car parking within the operational area is linked to broader objectives of promoting sustainable methods of transport to the site. The actual or perceived lack of capacity within the operational area is a material consideration often put forward by unauthorised operators. Increasing this capacity will be in the wider public interest by helping to undermine this argument.

Mitigation

The submitted ecological assessment provides only limited details of the impacts of the proposed development in terms of the extent of higher and lower quality great crested newt terrestrial habitat lost as a result of the proposed development and the extent and nature of compensatory habitat provided. Much of the proposed on site ecological mitigation area consists of existing habitats and so would not deliver an overall net gain in habitat for great crested newts. The submitted mitigation strategy for on site habitats therefore appears more to retain existing habitats with the addition of features such as additional hibernacula rather than deliver the creation of additional compensatory great crested newt terrestrial habitat.

The submitted layout plan shows a ‘proposed pond’ within the mitigation area. The submitted ecological assessment however states that one of the existing ponds on site would be retained and enhanced as part of the proposed development. This pond is located immediately adjacent to a proposed footpath and so would be subject to an increased risk of non-native invasive species and fish being introduced to the pond which would be to the detriment of great crested newts.

In order to provide sufficient compensation for great crested newts the applicant has now submitted proposals for the creation of habitat at an offsite location on land within control of the airport. The nature conservation officer advises that the delivery of the on and offsite mitigation and compensation would be sufficient to maintain the favourable conservation status of great crested newts. The requirements of the Habitats Regulations are therefore met.

Ponds

Higher quality ponds are a national and local priority habitat and hence a material consideration. Two ponds are present on site, which will be lost as a result of the development. One of these was dry during the submitted surveys and has remained dry during follow up surveys and the second is an artificial, lined pond.

The submitted ecological assessment states that the ponds on site are not of priority habitat quality, however insufficient survey effort has been undertaken to justify this conclusion. The conclusion of the ecological assessment also conflicts with the preliminary ecological appraisal which states that the ponds are of Local BAP priority habitat quality.

Notwithstanding this issue, a new pond is proposed on site and two new ponds proposed at the off site habitat creation location, which is an adequate level of compensation for that lost.

Badgers

A number of badger setts are present on site. Based on the current layout it appears feasible for the existing main sett to be retained as part of the proposed development. This sett may however potentially be affected by the lighting of the proposed car park. In order to reduce light spill onto the land in the vicinity of the sett, it is recommended that a tall close boarded fence be erected around the boundary of the car park in the vicinity of the retained sett.

It is likely that the other badgers setts present on site would be lost as a result of the proposed development. The applicant is proposing that these setts would be closed under the terms of a Natural England license. The submitted badger survey does however advise that 2.9ha of foraging habitat would be lost as a result of the proposed development. The nature conservation officer advises that this loss of foraging habitat is not considered to be significant, but some compensation should be provided through the provision of fruit trees around the periphery of the site. However, due to the proximity of the runway, fruit trees cannot be included as they may serve to attract birds, which would raise safeguarding issues for aircraft.

The precise nature of the impacts of the proposed development on badgers will depend on the levels of badger activity on site when works commence. A condition is therefore recommended requiring the submission of an updated badger survey prior to the commencement of development.

Hedgerows

Hedgerows are a priority habitat and hence a material consideration. The submitted ecological assessment states that lengths of hedgerow would be lost as a result of the proposed development and states that losses will be compensated for on a 2:1 basis. No information has been provided in the ecological assessment on the extent of hedgerows, however, extensive hedgerow creation is proposed at the offsite location and the applicant has confirmed that this is on the required 2:1 replacement ratio.

Semi-improved grassland

An area of semi-improved grassland was recorded in the south western corner of the site. Habitats of this type can have significant nature conservation value. This habitat was not however surveyed in detail due to safety concerns. Despite the lack of a detailed survey of this habitat, paragraph 5.2 of the ecological assessment states that this habitat is of moderate value and should be retained or replaced as part of the proposed development. This area of grassland would be lost as a result of the proposed development.

Hedgehog and common toad

No surveys have been completed for these two priority species. It is possible that these species could occur on site on at least an occasional basis. The development of a suitable great crested newt compensation strategy and the provision of replacement ponds on site would significantly reduce the severity of the impacts of the proposed development on toads, if present. The provision of features suitable for hedgehogs such as brash piles and replacement hedgerows would provide some compensation for the potential loss of habitat for hedgehog.

The ecological assessment also proposes that areas are hand searched for common toad and hedgehog prior to vegetation removal. This measure would reduce the risk of common toad and hedgehog being harmed during site clearance works. It is recommended that this is secured by condition.

Breeding Birds

A number of bird species were recorded on site during the ecological surveys that have been undertaken to date. This included a small number of species which are regarded as priority species which are a material consideration for planning. Breeding bird activity on site was mostly associated with the existing hedgerows and boundary trees. Therefore, in order to avoid a loss of habitat for these species an adequate level of new hedgerow and scrub planting must be provided on or off site, which is now the case with the off site mitigation area. A condition is also recommended to safeguard nesting birds.

Biodiversity Net Gain

CELPS policy SE3 (5) requires all development proposals to aim to deliver an overall benefit for biodiversity. In this case, given that the proposed development will result in the loss of the existing semi-improved grassland on site and areas of recent tree planting, in the absence of compensation it is likely that the proposed development would result in an overall loss of biodiversity.

In order to assess the residual ecological impacts of the proposed development the applicant has undertaken and submitted an assessment using the Defra biodiversity offsetting 'metric' methodology. This assessment shows that the proposed development, including on and offsite habitat creation proposals would deliver an overall gain for biodiversity.

Management Plan

If planning consent is granted a condition is recommended which requires the submission of a 25 year habitat management plan. The management plan should include detailed proposals for the management of non-native invasive plant species and cover both on and off site habitat creation areas.

Conclusion on ecological matters

The proposal will have an acceptable impact upon protected species, and through a combination of on and off site mitigation measures, the proposal will lead to an overall enhancement for biodiversity. It is therefore considered that the proposal is in accordance with policy SE3 of the CELPS and NE11 of the MBLP.

Trees

An Arboricultural Impact Assessment has been submitted with the application, which identifies 103 tree features within the site, 4 of which are High (A) category mature Oak which are proposed for retention. The extent of tree cover does make a significant contribution to the amenity and landscape character of the area.

Six individual trees and one group of trees assessed as Moderate (B) category, and 10 individual trees, 17 groups of trees , two hedges and part of one hedge categorised as Low (C) category all require removal to accommodate the proposed extension to the car park.

The majority of the trees to be removed are located in the central and western sections of the site. The trees along the northern, eastern and southern boundaries are largely retained and will provide the green buffer to the site.

One individual tree (T23) and a group of trees (G22) will potentially be affected by the removal of hard surfacing and a dwelling which are situated within the Root Protection Areas (RPA) of these features. The Assessment provides measures as part of a submitted Tree Protection Scheme on how this will be carried out without damage to root protection areas, which is broadly in compliance with BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations.

Policy SE5 of the CELPS states that the loss of trees that make a significant contribution to the amenity, biodiversity, landscape character or historic character of the surrounding will not normally be permitted, except where there are clear overriding reasons for allowing the development and there are no suitable alternatives. In this case there is not considered to be any suitable alternatives either outside of the Green Belt or within the operational area of the airport, as is explained further below.

Where such impacts are unavoidable, policy SE5 maintains that development proposals must satisfactorily demonstrate a net environmental gain by appropriate mitigation, compensation or offsetting.

The Assessment indicates that tree removals will be mitigated with a high quality scheme of new planting as part of a detailed landscaping scheme although as part of the Civil Aviation design principles this excludes block planting, trees with potential to exceed 20 metres in height, the reduction of certain berry producing trees and Oak, Elm and Hawthorn species. A Landscape Proposal Plan is included with the AIA which shows planting of 15 standard trees (2.5-3 metres in height) and a woodland mix (comprising of transplants) to the north west of the site. This replacement planting on its own is considered to be insufficient to result in a net environmental as required by policy SE5. However, as part of the offsite ecological mitigation proposals a significant amount of Oak tree and native hedgerow planting is proposed, which is considered to result in an overall net gain, including a net gain in tree cover.

The arboricultural officer has confirmed the drainage / services layout is acceptable in terms of their relationship to retained trees. The proposal is therefore considered to comply with policy SE5 of the CELPS.

Highways

The proposed development will form an extension to the existing Jet Parks 3 car park, which serves Manchester Airport. It is proposed to extend the current car park from 5,200 spaces to 6,000 spaces. The application site is located immediately adjacent to the existing Jet Parks 3 car park and the access to the existing and proposed car park is from Hollin Lane. No access will be taken from Moss Lane.

The impact of the additional car parking spaces has been modelled by the applicant using a Vissim model of the local road network. The result of the modelling is that whilst the network is congested at peak times the proposed increase in car parking spaces has little impact to journey times and delay. The main reason for this minor impact is that the car park provides

long term parking, and as such trips associated with it are spread out, resulting in a much lower impact during the peak hours.

The Head of Strategic Infrastructure has confirmed that the proposed car park extension does not have a material impact on the road network. Accordingly no further highways issues are raised.

Public Right of Way

The application site is adjacent to public footpath Wilmslow No. 6, which runs from Moss Lane in a northerly direction to the south west of the application site, and then continues on between two existing car parks until it terminates at the northern boundary of the Borough immediately adjacent to the airfield. As such it appears that this route does not connect onto other footpath routes to the north. It is understood that the footpath may be used by plane enthusiasts as it provides good views of the runway. The PROW officer initially reported that the proposal did not appear to affect the public footpath, but it has since been confirmed that the applicant is seeking to divert the footpath along the route shown by the purple dashed line on the Outline Design plan, through the landscaped buffer to the south and east of the site. Given the lack of any connectivity to the north, in planning terms the diversion is considered to be acceptable. Confirmation is awaited from the PROW officer on whether they have any objection to the proposed diversion. Further details will be provided as an update.

Flood Risk

Policy SE13 of the CELPS states that developments must integrate measures for sustainable water management to reduce flood risk, and avoid an adverse impact on water quality and quantity within the Borough.

Drainage of the site will be to controlled waters via the Manchester Airport drainage system at a rate equivalent to the greenfield run off rate. The car park surface will be constructed to slope towards the existing drains, and water will pass through a hydrobrake and then existing oil interceptors. Further information was requested by the LLFA, which has now been received and further comments will be reported as an update.

Contaminated land

Policy SE12 seeks to ensure that all development is located and designed so as not to result in a harmful or cumulative impact upon air quality, surface water and groundwater, noise, smell, dust, vibration, soil contamination, light pollution or any other pollution which would unacceptably affect the natural and built environment, or detrimentally affect amenity or cause harm.

The application site has a history of agricultural use and therefore the land may be contaminated. No pre-commencement work is required relating to contaminated land, however conditions are recommended to required actions in the event of any unidentified contamination being found, and the testing of imported soil. Subject to these conditions the proposal will comply with policy SE12 of the CELPS.

Considerations in favour of the development

The proposal has been identified as an inappropriate form of development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the Framework advises 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.

In this case, whilst the site lies within the Green Belt, the site is also located within the Airport Operational Area. Policy T23 of the MBLP refers to the Airport Operational Area, and this states that:

“development and uses which will be permitted within this area are those which can be demonstrated to the satisfaction of the local planning authority to be necessary for the operational efficiency and amenity of the airport. These shall include airfield operational facilities, airport ancillary facilities, transportation infrastructure and landscaping.”

At the time of the appeal in 2006, the Inspector and the Secretary of State (SoS) considered that such a policy could amount to a very special circumstance in its own right. However satisfaction of the criteria of the policy is not necessarily conclusive as to the acceptability of the development. The harm to other policies of the development also has to be taken into the balance.

The planning statement accompanying the application identifies a hierarchy of transport modes for passengers travelling to the airport, which are:

1. Public and sustainable transport modes
2. Parking on site
3. Kiss & fly (drop off) / taxi

Kiss and fly / taxi trips generate twice the number of road trips than parking on site, and a key focus of the Airport is to reduce the number of Kiss & fly / taxi trips. Their target is to reduce these from the current 52% of overall trips to the airport to 30% by the time they reach their planned growth to 45 million passengers per annum (mpa) (currently 29 million). This strategy requires improvements in public transport and improvements to the on site parking offer to make it as convenient and competitive as taxis.

In terms of public transport, the Airport is reliant on third parties to provide services, and they continue to work closely to secure improvements. Currently, train services run between the airport and Manchester city centre and the Metrolink is really only a viable option for those travelling from the north. Potential public transport users are therefore reliant on connecting services, and operation of services 24 hours a day, where it is currently limited. The applicant reports that these third party transport providers are constrained by funding and have a shared exasperation with the airport at some of the centrally made decisions. For example, train operating companies bidding for franchises have sought to improve services to the airport through extended operating hours and/or extending their reach into other franchise areas only to have those aspects of their bids ruled out by the Treasury. Notwithstanding this, major capital investment is committed to improving surface access including £60m on the Metrolink and the Ground Transport Interchange. Consequently, given that there are

deficiencies in the public transport options available for passengers, in terms of operating hours and availability of services; car parking on site is the next best option.

Within their planning statement, the applicant has pointed to a range of factors to demonstrate that there is a need for the proposed car park extension. These include:

- During the summer months the site is operating at capacity in terms of parking numbers.
- The off-site, third party operated sites have declined significantly over recent years as a result of sites being redeveloped for other uses, operators failing, and successful enforcement of unauthorised activity by Local Planning Authorities.
- Provision of on-site parking is one string of the Airport's Surface Access Strategy aimed at reducing the most inefficient means of access (kiss-and-fly / taxi) in terms of impact on the road network.

In sustainability terms, the use of public transport would clearly be the preferred option for passengers travelling to the airport, however, as noted above there are deficiencies in this service. Whilst, public transport is a genuine option for some passengers it is not universally available or convenient. There are also no other known alternative sites for the proposed car park. Taken together with the factors referred to above, this lends support for the provision of on site car parking, as proposed, as an alternative to the least sustainable option of kiss & fly / taxi in terms of it being necessary for the operational efficiency and amenity of the airport, as required by policy T23 of the MBLP.

Very special circumstances

The proposal is inappropriate development in the Green Belt. Substantial weight is attributed to this harm. In addition, the proposal will result in a loss of openness (both spatially and visually) and encroaches into the countryside. Substantial weight is attributed to this harm. No additional harm has been identified beyond the harm to the Green Belt. Impacts on amenity, ecology, landscape, environmental health, highways and PROW are considered to be neutral in the planning balance. Very special circumstances will not exist unless the harm identified is clearly outweighed by other considerations.

The availability of other transport options has been considered above, and there are no known alternative sites for the proposed car park. It is therefore concluded that, on balance, the proposed car park extension is necessary for the operational efficiency and amenity of the airport, in accordance with policy T23 of the MBLP.

All of the Operational Area of the Airport identified in the MBLP lies within the Green Belt, and the application site is the last remaining part of the defined Operational Area within the MBLP that does not comprise airport related development.

Overall, it is considered that compliance with policy T23 of the MBLP does amount to the required very special circumstances to clearly outweigh the identified harm to the Green Belt, by reason of inappropriateness, loss of openness, encroachment into the countryside, and contributing to the unrestricted sprawl of large built up areas. The proposal is therefore in accordance with policy PG 3 of the CELPS and paragraph 146 of the Framework.

CONCLUSIONS AND REASONS FOR THE DECISION

The proposal is considered to be an inappropriate form of development in the Green Belt, which reduce openness, encroaches into the countryside, and contributes to the unrestricted sprawl of large built up areas.

The considerations in favour of the proposal, including the applicant's strategy to reduce the amount of kiss and fly / taxi journeys to the airport, the limitations of the existing public transport services, the operation of existing on site car parking facilities at capacity during the summer months, and the reduction of third party off site car parking options over recent years are considered to demonstrate that the car park is necessary for the operational efficiency and amenity of the airport in accordance with policy T23 of the MBLP. Compliance with this policy is considered to amount to the required very special circumstances to outweigh the identified harm to the Green Belt.

The visual amenity of the Green Belt will be adequately maintained, and the proposal will not result in any significant injury to the amenity of nearby residential properties. The impacts on ecology have been satisfactorily addressed, and in some cases enhanced. The proposal is not considered to generate any adverse traffic or highway safety issues. The visual and landscape impacts of the development are acceptable. No significant environmental effects have been identified.

The proposal is therefore considered to be a sustainable form of development under the definition of The Framework.

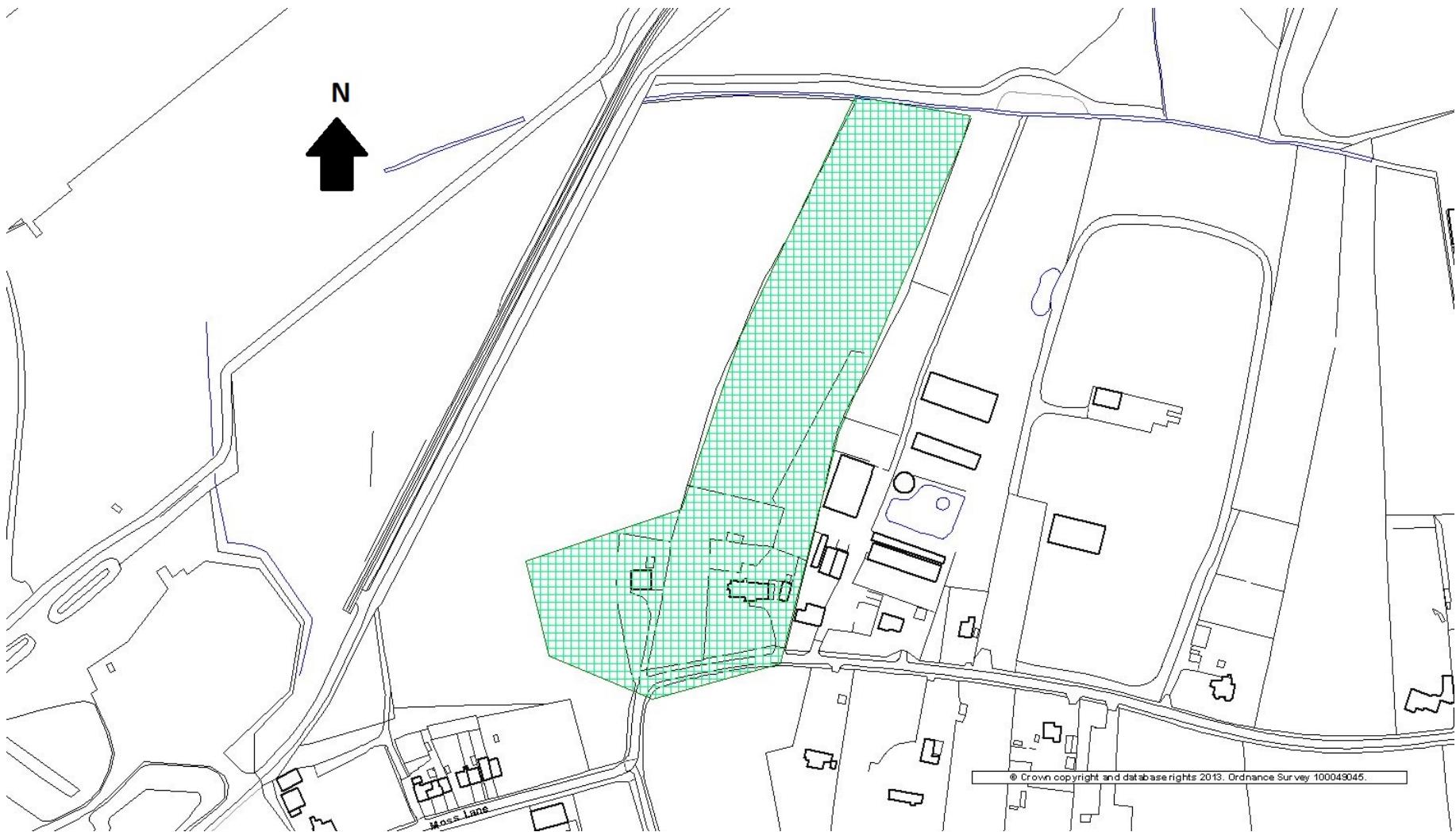
Consequently, for the reasons outlined above, there are not considered to be any significant adverse impacts that would outweigh the presumption in favour of sustainable development in this case. Therefore, the application is recommended for approval subject to the satisfactory receipt of outstanding consultee responses, consultation with the Secretary of State (due to the scale of the proposal in the Green Belt), and conditions.

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions / informatics / planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Planning (Regulation) has delegated authority to do so in consultation with the Chairman of the Northern Planning Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

RECOMMENDATION: Approve subject to following conditions

1. Commencement of development (3 years)
2. Development in accord with approved plans
3. Materials as application
4. Landscaping - submission of details
5. Landscaping (implementation)

6. Submission of landscape management plan
7. Landscaping to include details of boundary treatment
8. Bird hazard management plan to be submitted
9. Lighting details to be submitted
10. Glint and glare assessment to be submitted
11. Development to be carried out in accordance with submitted Arboricultural Impact Assessment
12. Imported soil to be tested for contamination
13. Measures in the event of any unidentified contamination being found
14. Development to be carried out in accordance with bat mitigation and compensation measures detailed in the submitted Ecological Appraisal Report. Details of the proposed bat boxes to be submitted.
15. Updated badger survey to be submitted
16. Implementation of mitigation measures for common toad and hedgehog as described in the submitted ecological assessment
17. Nesting bird survey to be submitted
18. Detailed design and habitat creation method statement to be submitted for on and off site habitat mitigation areas. Approved details to be implemented, and habitat management plan to be submitted
19. Implementation of drainage strategy



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Cheshire East Council

Northern Planning Committee

Date of meeting: 11th September 2019

Report of Emma Hood, Arboricultural Officer, Environmental Planning

Title: Cheshire East Borough Council (Adlington – Little Breck, Sugar Lane) Tree Preservation Order 2019

PURPOSE OF THE REPORT:

To inform the committee about the background and issues surrounding the making of a Tree Preservation Order on 21st June 2019 at Little Breck; to consider representations made to the Council with regard to the contents of the TPO and to determine whether to confirm or not to confirm the Order.

SUMMARY RECOMMENDATION:

The Head of Planning (Regeneration) recommend that the Northern Area Planning Committee confirm the Tree Preservation Order at Little Breck with no modifications.

WARD AFFECTED

Poynton West and Adlington

POLICIES

Cheshire East Local Plan – SE5 - Trees, hedgerows and woodland

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

The validity of a TPO may be challenged in the High Court on the grounds that the TPO is not within the powers of the Act or that the requirements of the Act or Regulations have not been complied with in respect of the TPO. When a TPO is in place, the Council's consent is necessary for felling and other works, unless the works fall within certain exemptions e.g. to remove a risk of serious harm. It is an offence to cut down, top, lop, uproot, wilfully damage or wilfully destroy any tree to which the Order relates except with the written consent of the authority.

RISK MANAGEMENT

The loss of trees could have a significant impact upon the amenity and landscape character of the area. The confirmation of this Tree Preservation Order will ensure that the Council maintains adequate control over trees of amenity value.

CIRCUMSTANCES

The circumstances are that application 18/6168M for a certificate of lawful development for extensions and the construction of a single storey outbuilding at Little Breck was part consented and part refused on 5th April 2019. A new application 19/2105M was subsequently submitted for a certificate of lawful development for a single storey side/rear extension and a single storey outbuilding which was granted on 12th July 2019.

The site is located within an area of Special County Value and within the Peak District National Park Fringe in an area of open countryside to the south side of Styperson pool. The property benefits from the presence of established wooded areas of trees along the northern and western boundaries which feature on Natural Englands National Forest Inventory and the Priority Habitat Inventory. The trees are adjacent to Adlington footpath 30 and 31. No arboricultural information has been submitted in support of the proposals and a number of tree removals have taken place within the wooded area to the west side of the property and driveway.

The most recent application indicates the positioning of the garage and access driveway close to the stem base of a mature Sycamore which is considered to be of high amenity value. The revised footprint of the side extension is in close proximity to the overhanging crown of a mature off site Sycamore located in the garden of Breck Cottage.

An amenity evaluation has determined that the trees contribute to the visual amenity and landscape character of the area and in the light of this assessment it was considered expedient to make an Order to protect the trees..

Under powers delegated to the Head of Planning (Regeneration), a Tree Preservation Order was made on 21st June 2019.

CONSULTATIONS

On making the TPO a planning authority must publish and serve copies on owners and occupiers of land directly affected by it. There is a 28 day period to object or make representations in respect of the Order. If no objections are made the planning authority may confirm the Order itself if they are satisfied that it is expedient in the interests of amenity to do so. Where objects or representations have been made, then the planning authority must take them into consideration before deciding whether to confirm the Order.

The Order was served on the owner/occupiers of the land and their Agents on 21st June 2019. Copies of the Order were also sent to adjoining landowners who are immediately affected by the Order and Ward Members.

VIEWS OF THE PARISH/TOWN COUNCIL

No comments have been received.

OBJECTIONS/REPRESENTATIONS

The Council has received one objection to the Tree Preservation Order from Ascerta on behalf of A.E Planning Consultants and their client. The objector objects to the Order and its implementation for the reasons detailed below;

- (i) *Area A2 description appears inaccurate and could lead to ambiguity:*

The description provided for A2 does not follow the prescribed format of the Model Order in that it states, “The trees of whatever species within area marked A1 on the map”, when it presumably should refer to A2. It is not clear whether this was the intention of the council or in fact an error, but the use of the document cannot rely on an assumption and therefore ambiguity needs addressing.

- (ii) *The plans are poor quality which could lead to misidentification of trees:*

The plan following the Specification of trees is of such poor quality that it is difficult to confidently identify the location of the trees subject to the Tree Preservation Order. The colour difference between roads and other land use is almost indistinguishable and the outlines of buildings are faded and almost non-existent for the property that is subject to this Order (Little Breck). The ‘Ordnance Survey Overlaid onto Current OS map’ is also unhelpful and does not contain clear identification of the Tree Preservation Order Area designations or any labels for the Areas or individual trees. The clarity of both plans needs to be improved if they are to be used reliably to inform any future decisions concerning the trees.

On the basis of the above points, we consider that the Order contains sufficient ambiguities and errors that it could be considered invalid. On this basis we recommend that it is not confirmed in its current form.

APPRAISAL AND CONSIDERATION OF THE OBJECTION

Objection by Ascerta

The decision to afford long term protection of the trees on the site was made following the recent removal of a number of trees and further to the assessment of information submitted with application 19/2105M. At the time of making the Order no arboricultural information had been submitted. In the light of the threat to remaining trees and following discussions with the Council's Planning Officer and Principal Forestry and Arboricultural Officer a TPO was authorised

The Area A2 description within the schedule is a typographical error and should read; "The trees of whatever species within area marked A2 on the map". Should the Order be confirmed, the TPO Schedule would be modified to reflect the correct description for A2 and all persons served with the original Order forwarded a copy of the modified Order in accordance with Government guidance.

A scanned copy of the original TPO is attached to this report. It is not considered that the plan is of such poor quality that it is not possible to distinguish the position of the protected trees. Government Guidance states that; '*The Order must have annexed to it, a map giving a clear indication of the position of the protected trees, groups of trees or woodlands*', it also states; '*legislation does not require authorities to describe the trees in the Order with full scientific names or plot them with pinpoint accuracy*'. The Local Authority considers that both of these criteria have been fulfilled and that it cannot be held accountable for the quality of any scanned copies of the Order which have been distributed.

The plan referenced; '*Ordnance Survey overlaid onto current OS map*' is located within the Landscape Appraisal, a document which supports the Council's Amenity Evaluation Checklist. The overlaying of historic maps onto current OS is a method regularly used to demonstrate the historic importance of trees as part of the Council's amenity appraisal. As part of this appraisal it is accepted that a margin of error can be expected with the positioning of OS Maps over 170 years old, onto up to date OS maps

The appraisal is not part of the TPO legal document but provides evidence to demonstrate that the Council has carried out an appraisal of the amenity value of trees in accordance with Government Guidance.

The Landscape Appraisal demonstrates the relative importance of tree cover in the locality over a period of time and is not used to identify the protected trees.

RECOMMENDATION

That the Cheshire East Borough Council (Adlington – Little Breck, Sugar Lane) Tree Preservation Order 2019 is confirmed without modification.

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24th July 2019

Your Ref:
Our Ref: P.1219.19

Ms Emma Hood
Arboricultural Officer
Cheshire East Council
PO Box 606
Municipal Buildings
Earle Street
Crewe CW1 9HP

By Email

Attention: Emma Hood

Dear Ms Hood,

TOWN & COUNTRY PLANNING ACT 1990
THE TOWN & COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND) REGULATIONS
2012
The Cheshire East Borough Council (ADLINGTON – LITTLE BRECK, SUGAR LANE)
TREE PRESERVATION ORDER 2019

We refer to the above Tree Preservation Order, (the Order) and by way of this letter we object to the Order on behalf of our client Mr Ron Scurr and respectfully request that the Order is not confirmed. This objection is in accordance with Regulation 6 of the Town & Country Planning (Tree Preservation)(England) Regulations 2012.

We object to the Order on the grounds that *(i) Area A2 description appears inaccurate and could lead to ambiguity; and (ii) the plans are poor quality which could lead to misidentification of trees.*

(i) Area A2 description appears inaccurate and could lead to ambiguity:

The description provided for A2 does not follow the prescribed format of the Model Order in that it states, “*The trees of whatever species within area marked A1 on the map*”, when it presumably should refer to A2. It is not clear whether this was the intention of the council or in fact an error, but the use of the document cannot rely on an assumption and therefore this ambiguity needs addressing.

(ii) The plans are poor quality which could lead to misidentification of trees:

The plan following the *Specification of trees* is of such poor quality that it is difficult to confidently identify the location of the trees subject to the Tree Preservation Order. The colour difference between roads and other land use is almost indistinguishable and the outlines of buildings are faded and almost non-existent for the property that is subject to this Order (Little Breck). The ‘*Ordnance Survey Overlaid onto Current OS map*’ is also unhelpful and does not contain clear identification of the Tree Preservation Order Area designations or any labels for

the Areas or individual trees. The clarity of both plans needs to be improved if they are to be used reliably to inform any future decisions concerning the trees.

On the basis of the above points, we consider that the Order contains sufficient ambiguities and errors that it could be considered invalid. On this basis we recommend that it is not confirmed in its current form.

Please acknowledge receipt of this objection and address the acknowledgement and any other correspondence in the matter of the objection and this order, to this office.

Yours sincerely

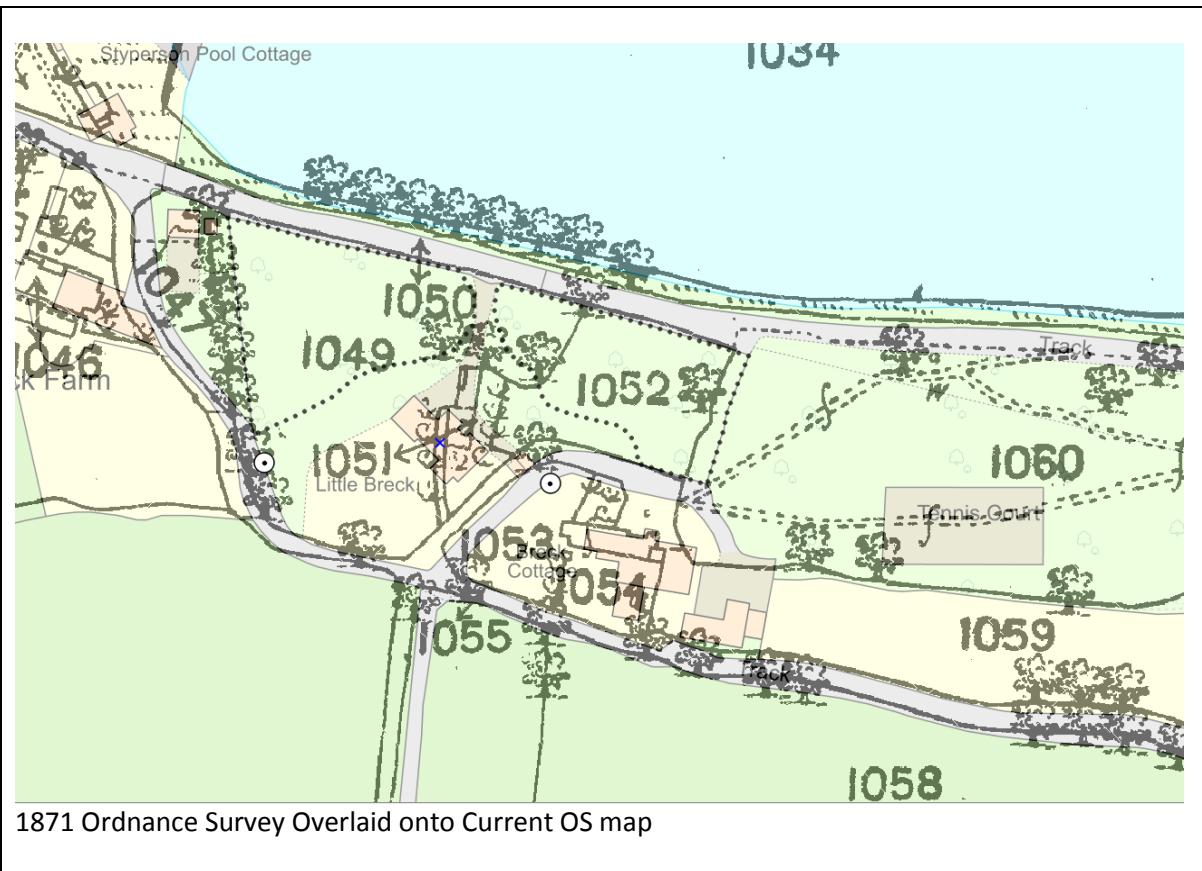
Robert Armitage BSc (Hons) MArborA
Ascerta

AEC – LANDSCAPE APPRAISAL**PHOTOGRAPHS OF TREES, THE SITE AND SURROUNDINGS**

REFERENCE:	01-016
SITE NAME:	Little Breck, Sugar Lane, Adlington
DATE OF VISIT:	14 th April and 18 th June 2019
COMPLETED BY:	Emma Hood
NOTE:	

PICTURE DESCRIPTION	PICTURE
Looking east from field gateway on Sugar Lane	
Looking south along access driveway towards Little Breck with T2 of the TPO to the left of the property and A2 to left side of drive	

Looking west along Adlington FP30 with A2 to left of picture		
A1 from rear southern garden boundary adjacent to Adlington FP31		
A1 looking west from side of property		
T1 looking south west from access driveway to property		



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Town and Country Planning Act 1990

CHESHIRE EAST BOROUGH COUNCIL
(ADLINGTON – LITTLE BRECK, SUGAR LANE)
TREE PRESERVATION ORDER 2019

The Cheshire East Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

Citation

This Order may be cited as **CHESHIRE EAST BOROUGH COUNCIL (ADLINGTON – LITTLE BRECK, SUGAR LANE) TREE PRESERVATION ORDER 2019**

Interpretation

- 1.— (1) In this Order “the authority” means the Cheshire East Borough Council.
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

- 2.— (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

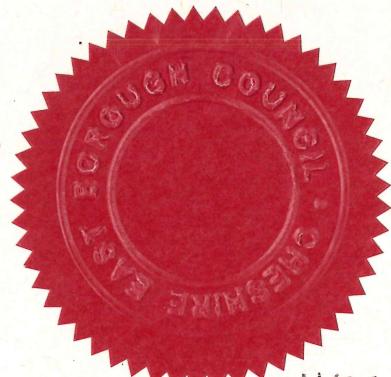
3. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 21st day of June 2019

The Common Seal of Cheshire East Borough Council

was affixed to this Order in the presence of—

Deborah A. Niclson



CONFIRMATION OF ORDER

This Order was confirmed by **Cheshire East Borough Council** without modification on the day of

OR

This Order was confirmed by the **Cheshire East Borough Council** subject to the modifications indicated by
on the day of

Signed on behalf of the **Cheshire East Borough Council**

.....
Authorised by the Council to sign in that behalf

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by **Cheshire East Borough Council** on day of

Signed on behalf of the **Cheshire East Borough Council**

.....
Authorised by the Council to sign in that behalf]

VARIATION OF ORDER

This Order was varied by the **Cheshire East Borough Council** on the day of by
a variation order under reference number a copy of which is attached

Signed on behalf of the **Cheshire East Borough Council**

.....
Authorised by the Council to sign in that behalf

REVOCATION OF ORDER

This Order was revoked by the **Cheshire East Borough Council** on the day of

Signed on behalf of the **Cheshire East Borough Council**

.....
Authorised by the Council to sign in that behalf

SCHEDULE**Specification of trees****Trees specified individually**

(encircled in black on the map)

<i>Reference on Map</i>	<i>Description</i>	<i>Situation</i>
T1	Sycamore	Standing adjacent to the Adlington FP 31, approximately 30 metres to the south east of Breck Farm Grid Ref: 393,149 – 379,462
T2	Sycamore	Standing adjacent to the garden wall boundary of Breck Cottage, approximately 40 metres to the south of Adlington FP30 Grid Ref: 393,212– 379,458

Trees specified by reference to an area

(within a dotted black line on the map)

<i>Reference on Map</i>	<i>Description</i>	<i>Situation</i>
A1	The trees of whatever species within area marked A1 on the map	Located to the north west side of the access driveway to Little Breck, to the south of Adlington FP 30 Grid Ref: 393,169– 379,498
A2	The trees of whatever species within area marked A1 on the map	Located to the north east side of the access driveway to Little Breck, to the south of Adlington FP 30 Grid Ref: 393,227– 379,482

Groups of trees

(within a broken black line on the map)

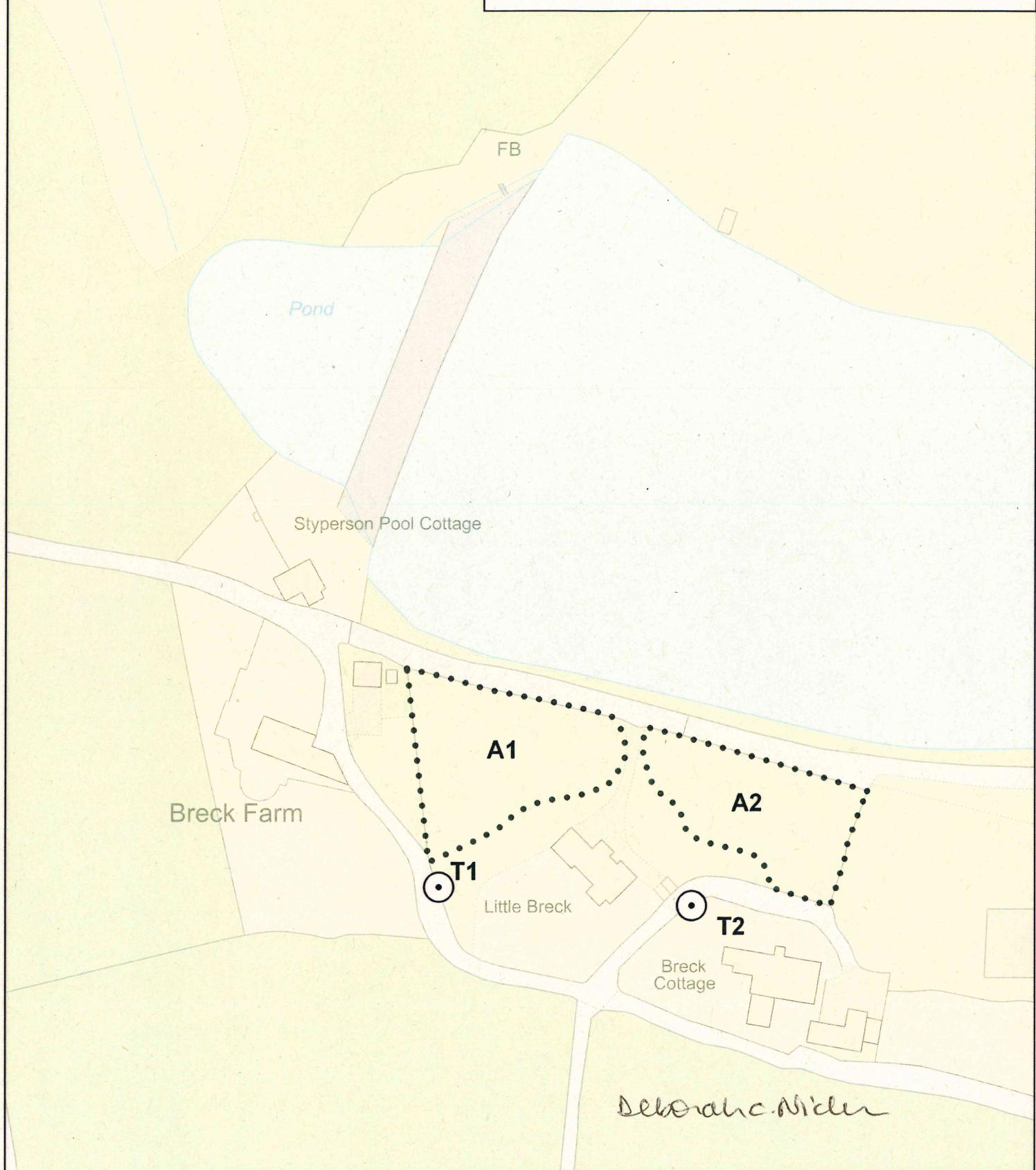
<i>Reference on Map</i>	<i>Description</i>	<i>Situation</i>
	None	

Woodlands

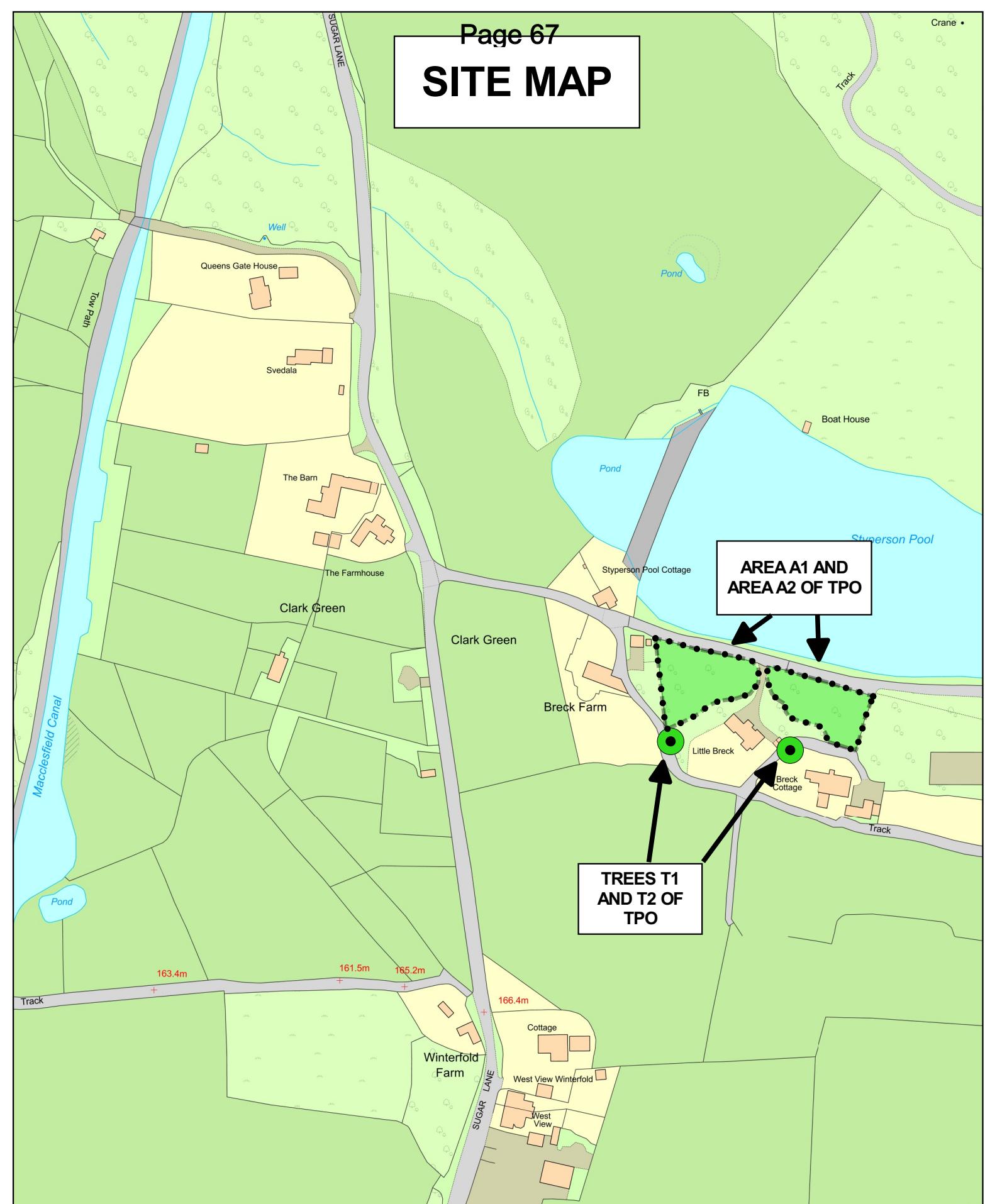
(within a continuous black line on the map)

<i>Reference on Map</i>	<i>Description</i>	<i>Situation</i>
	None	

CHESHIRE EAST BOROUGH COUNCIL
(ADLINGTON - LITTLE BRECK, SUGAR LANE)
TREE PRESERVATION ORDER 2019



SITE MAP



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Amenity Evaluation Checklist

Completed by:

E Hood

Date form completed:

17/06/2019

Form status:

Draft

Reference

01-016

Attachments

Address

Little Breck, Sugar Lane

Town

Adlington

Postcode

SK10 5SH

Ward:

Poynton West and Adlington

1. BACKGROUND FILE CHECK:

Any existing TPOs on or adjacent to the site/land?

No

Is the site within a conservation area?

No

Is the conservation area designated partly because of the importance of trees?

N/A

Is the site adjacent to a Conservation Area?

No

Are there any Listed Buildings on or adjacent to the site?

No

Local Plan land-use designation

Cheshire East Borough Council Local Plan:

Area of Special County Value (ASCV) Policy NE1

Peak District National Park Fringe Policy SE15

Open Countryside Policy PG6

Are there currently any designated nature conservation interests on or adjacent to the site?

Within 40 metres of Grade A SBI grassland at Styerson Park

Tree coverage on the site is recorded on National Englands Priority Habitat Inventory and the National Forest Inventory

Relevant site planning history (incl. current applications)

18/6168M - Certificate of lawful proposed development of single storey side extension, single storey rear extension, construction of an addition to the roof and the construction of a single storey outbuilding - Part approved/part refused

19/2105M - Certificate of lawful proposed development of a single storey side /rear extension and a single storey outbuilding (Current)

STATUTORY CONSULTEES

Are there any Scheduled Ancient Monuments on or adjacent to the site?

No

Is the land currently safeguarded under the Town & Country Planning (Aerodromes & Technical Sites) Direction 1992?

No

Does the Forestry Commission currently have an interest in the land?

No

Grant scheme

Forestry Dedication Covenant

Extant Felling Licence

Are any of the trees situated on Crown Land?

No

Are any of the trees situated on NHS land?

No

Is the land owned by this Local Authority

No

Is the land owned by another Local Authority

No

2. MOTIVATION

Development Control

- Application Ref

19/2105M

- Committee deadline

- Development Control Office comments

Conservation Area Notification

Application ref

19/2105M

Date of registration

Expiry date

Emergency action
(immediate threat to the trees)

Strategic inspection

Change to Local Plan land-use

Change in TPO legislation

Sale of Council owned land

Reviewing existing TPO Hedgerow Regulations 1997

3. SOURCE

Source	Tree officer
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4. LANDSCAPE APPRAISAL

Site visit date	24/04/2019
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Inspecting Officer	E Hood
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Site description

The site comprises of a single storey detached dwellings which benefits from extensive tree cover along the northern and western boundaries of the plot. The property is located to the south side of Styperson Pool and is screened by the wooded area and accessed from a track which is a PROW. A number of tree removals were noted to have taken place to the west side of the existing property at the time of the assessment.

Description of surrounding landscape character	A rural setting located to the east of Adlington and to the east of the Macclesfield Canal Conservation Area. The site is within an area of special county value in the peak district national park fringe within an area of open countryside. Sugar Lane and Adlington FP 30 run directly to the north of the northern boundary of the property with Styperson pool beyond this. An access track (Adlington FP 31) borders the southern, south eastern and south western boundary of the property with Breck Farm to the west. The rear garden boundary is defined by a stone wall and open countryside extends beyond this.
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Statement of where the trees are visible from	Sugar Lane, Adlington FP 30 and FP31
annotate map	

Photograph the trees, the site and surroundings	No picture inserted
annotate map	

Landscape function	<input checked="" type="checkbox"/> Skyline <input checked="" type="checkbox"/> Road frontage (unclassified) <input checked="" type="checkbox"/> Backdrop <input checked="" type="checkbox"/> Glimpses between properties or through gateways <input checked="" type="checkbox"/> Filtered views <input checked="" type="checkbox"/> Screening/buffering
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Visual prominence	<input checked="" type="checkbox"/> Conurbation <input checked="" type="checkbox"/> Neighbourhood, estate, locale <input checked="" type="checkbox"/> Site and immediate surroundings
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Species suitability for the site	Particularly suitable
Condition	Good
Past work consistent with prudent arboricultural management?	Yes
Are past works likely to have compromised long term retention?	No
Will past work necessitate any particular future management requirements?	
Tree size (at maturity)	Large (more than 15m)
Presence of other trees	Medium percentage tree cover
Define visual area/reference points	

BENEFITS

Are the benefits current?	Yes
Assessment of future benefits (future growth potential; continuity/sustainability of tree cover; development)	The trees represent both current and future growth potential and are a landscape feature that complement the setting of an area of special county value.
Assessment of importance as a wildlife habitat	The trees represent possible nesting sites for birds and roosting sites for bats
Additional factors	<input checked="" type="checkbox"/> Screening/buffering (visual/noise) <input checked="" type="checkbox"/> Historical associations

5. EXEMPTIONS (TCPA 1990)

Are any of the trees obviously dead, dying or dangerous	No
Are there any statutory obligations which might apply? (consider: Highways Act 1980, Electricity Act 1989, Civil Aviation Act 1982)	No
Is there any obvious evidence that the trees are currently causing any actionable nuisance?	No
Based on the trees in their current locations, is the likelihood of future actionable nuisance reasonably foreseeable?	No

Is there any Forestry Commission interest in the land?

No

6. EXEMPTIONS (MODEL ORDER):

Are there any extant planning approvals on the site which might compromise retention of the trees?

No

Are there any lapsed planning approvals which might have compromised the trees?

No

Are any of the trees obviously cultivated for commercial fruit production?

No

Are any of the trees situated on or adjacent to a statutory undertaker's operational land?

No

Are any of the trees situated on or adjacent to land in which the Environment Agency has an interest?

No

7. COMPENSATION:

Do any of trees currently show any obvious signs of causing damage?



If Yes provide details

Based on the trees in their current locations, is the risk of future damage reasonably foreseeable?



If yes provide details

Are there any reasonable steps that could be taken to avert the possibility of future damage or to mitigate its extent?

N/A

If yes provide details

8. HEDGEROW TREES:

Individual standard trees within a hedge

No

An old hedge which has become a line of trees of reasonable height

No

Are the "trees" subject to hedgerow management?

No

Assessment of past hedgerow management

Assessment of future management requirements

9. MANAGEMENT:

Are the trees currently under good arboricultural or silvicultural management

Yes

Is an order justified?	<input checked="" type="checkbox"/>
Justification (if required)	To ensure the long term retention and management of trees in accordance with current best practice recommendations
10. DESIGNATIONS:	
a. Individual	
Do the trees merit protection as individual specimens in their own right?	<input checked="" type="checkbox"/>
b. Group	
Does the overall impact and quality of the trees merit a group designation?	<input checked="" type="checkbox"/>
Would the trees reasonably be managed in the future as a group?	<input checked="" type="checkbox"/>
c. Area	
Area	<input checked="" type="checkbox"/> Does the 'area' comprise scattered individual trees? <input checked="" type="checkbox"/> Is the area designation intended as a temporary measure, pending future reclassification? <input checked="" type="checkbox"/> Do all trees/species merit inclusion?
d. Woodland	
Woodland	
11. MAP INFORMATION:	
Identify the parcel of land on which the trees are situated. (Outline in red on the attached location plan)	<input type="checkbox"/>
Identify all parcels of land which have a common boundary with the parcel concerned (Outline in green on the attached plan)	<input type="checkbox"/>
Identify all parcels of land over which the physical presence of the trees is situated, or that they could reasonably be expected to cover during their lifetime (Cross hatch on the plan)	<input type="checkbox"/>
12. LAND OWNERSHIP:	
Land ownership details (if known)	Please see list of persons served
Land Registry search required?	<input checked="" type="checkbox"/>
13. SUPPLEMENTARY INFORMATION:	

Has a detailed on-site inspection been carried out? Yes

Does the risk of felling justify making an order prior to carrying out a detailed on-site inspection? No

Provide details of trees to be excluded

Additional publicity required?

Relevant Local Plan policies Cheshire East Local Plan: SE5 Trees, hedgerows and woodlands

Statement of reasons for promoting this Order

In the interests of maintaining the area in which the trees stand, in that they are considered to be a long term amenity feature

Since amenities are enjoyed by the public at large and without the protection the Order affords there is a risk of the amenity being destroyed

The trees have been assessed in accordance with the Councils Amenity Evaluation Checklist and it is considered expedient in the interests of amenity to make provision for the trees long term retention.

To enable the local planning authority to fulfill its statutory duty under Section 197 of the Town and Country Planning Act

Some of the trees on the site are of historic interest in that they can be identified as occurring on the boundary of the plot on the 1871 Ordnance Survey Map of the area

14. SUMMARY:

Would loss of the trees have a significant impact on the local environment? Yes

Will a reasonable degree of public benefit accrue? Yes

Is an Order in the interests of amenity? Yes

Is an Order expedient in the circumstances? Yes

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