

# Northern Planning Committee

## Agenda

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**Date:** Wednesday, 20th April, 2022  
**Time:** 10.00 am  
**Venue:** The Capesthorpe Room - Town Hall, Macclesfield SK10 1EA

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**PLEASE NOTE** - This meeting is open to the public and anyone attending the meeting is advised to wear a face covering when not seated (unless exempt).

**Lateral Flow Testing:** Anyone attending the meeting is asked to undertake a lateral flow test on the day of the meeting before embarking upon the journey to the venue. If your test shows a positive result, then you must not attend the meeting and must follow the latest advice on self-isolation.

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

It should be noted that Part 1 items of Cheshire East Council decision making 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.

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For requests for further information

**Contact:** Sarah Baxter

**Tel:** 01270 686 462

**E-Mail:** [sarah.baxter@cheshireeast.gov.uk](mailto:sarah.baxter@cheshireeast.gov.uk) with any apologies

3. **Minutes of the Previous Meeting** (Pages 3 - 8)

To approve the minutes of the previous meeting held on 23 March 2022 as a correct record.

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. **21/4883M - Planning application for proposed general purpose agricultural sheep housing building, New Mount Pleasant, MARTHALL LANE, MARTHALL for Mr Brighouse, BRIGHOUSE FARMS LTD C/O Harvey Hughes** (Pages 9 - 20)

To consider the above application.

6. **20/0596M - Change of use of land and associated barn/field shelter from horse grazing to dog adventure field/dog exercise area, LAND OFF SPODE GREEN LANE, LITTLE BOLLINGTON for John Pearson & Julie Newland, The Dog Bus** (Pages 21 - 38)

To consider the above application.

7. **Cheshire East Borough Council (High Legh - Land to the north of 2 North Drive) Tree Preservation Order 2021** (Pages 39 - 66)

To consider the above report.

**Membership:** Councillors L Braithwaite (Vice-Chair), T Dean, JP Findlow, A Harewood, S Holland, D Jefferay, J Nicholas (Chair), I Macfarlane, N Mannion, K Parkinson, B Puddicombe, L Smetham and J Smith

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Northern Planning Committee**  
held on Wednesday, 23rd March, 2022 in the The Capesthorpe Room - Town  
Hall, Macclesfield SK10 1EA

### **PRESENT**

Councillor J Nicholas (Chair)  
Councillor L Braithwaite (Vice-Chair)

Councillors JP Findlow, S Gardiner (Substitute), A Harewood, S Holland,  
D Jefferay, I Macfarlane, N Mannion, K Parkinson and L Smetham

### **OFFICERS IN ATTENDANCE**

Mr N Jones (Principal Development Officer), Mr P Wakefield (Planning Team  
Leader) and Mrs M Withington (Principal Lawyer)

### **57 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors T Dean and J  
Smith.

### **58 DECLARATIONS OF INTEREST/PRE DETERMINATION**

In the interest of openness in respect of application 21/2975M, Councillor  
S Gardiner declared he was known to Jon Suckley who was the agent  
speaking on the application.

In the interest of openness in respect of application 21/2975M, Councillor  
S Gardiner declared that one of the objectors was known to him and that  
15 years ago he had been the planning agent in respect of the land  
opposite the application site. These declarations were made during  
consideration of the first application.

In the interest of openness in respect of application 21/2975, Councillor K  
Parkinson declared she used to work at the application premises.

In the interest of openness in respect of application 21/3860M, Councillor  
N Mannion declared that Hans Property Consultants had been engaged by  
the applicant. He declared he had played rugby with the owner of the  
business for about 25 years but had not spoken to him in 3 years and not  
discussed the application.

In the interest of openness in respect of application 21/1496M, Councillor  
D Jefferay declared that he knew Roger Bagguley who was speaking on  
the application. He suspected that Mr Bagguley was speaking on behalf of  
the Residents of Wilmslow who were the political party Councillor D

Jefferay was affiliated to, however he had not discussed the application with him or pre-determined it.

It was noted that all Members had received correspondence in respect of application 21/2975M.

**59 MINUTES OF THE PREVIOUS MEETING**

**RESOLVED**

That the minutes of the meeting held on 23 February 2022 be approved as a correct record and signed by the Chair subject to the insertion of the words '19 January 2022' after the word 'on' in relation to minute no. 52 'Minutes of the Previous Meeting'.

**60 PUBLIC SPEAKING**

**RESOLVED**

That the public speaking procedure be noted.

**61 21/2975M-PART DEMOLITION OF EXISTING BUILDINGS, CONVERSION AND ALTERATION OF RETAINED BUILDINGS FOR RESIDENTIAL USE (USE CLASS C3) AND ERECTION OF RESIDENTIAL DEVELOPMENT (USE CLASS C3) WITH ASSOCIATED OPEN SPACE, LANDSCAPING, ACCESS, CAR PARKING AND INFRASTRUCTURE, THE SWAN HOTEL, CHESTER ROAD, BUCKLOW HILL, CHESHIRE FOR MR ANDREW MCMURTRIE, PH PROPERTY HOLDINGS LIMITED AND PREMIER INN HOTELS LTD**

Consideration was given to the above application.

(Councillor C Leach, the Ward Councillor, Parish Councillor Richard Finch, representing Mere Parish Council, Rob Pattinson, representing objectors and Jon Suckley, 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 consideration of the nutrient impact upon Rostherne Mere (RAMSAR site).

(During consideration of the item the meeting was adjourned in order to seek further legal advice. In the interest of openness and transparency, the Chair declared that during the adjournment he had been approached by one of the speakers who wished to put forward an offer on behalf of the applicant. Officers advised that it would be inappropriate to take into consideration the offer put forward by the applicant).

**62 21/3860M-VARIATION OF CONDITIONS 23 (APPROVED USES) AND 25 (HOURS OF OPERATION) RELATING TO THE ENTERPRISE HUB ON APPROVAL 11/2340M, LANGLEY BUSINESS PARK, LANGLEY ROAD, MACCLESFIELD FOR SEDDON HOMES LIMITED**

Consideration was given to the above application.

(Councillor A Gregory, the Ward Councillor and Amanda Oakden representing the applicant attended the meeting and spoke in respect of the application).

**RESOLVED**

That for the reasons set out in the report the application be approved subject to the wording of Condition 23 (approved uses) is amended to the following: -

23. The rural enterprise hub shall be used for Class E (g) (i) and (iii) and B8 use only, and for no other purpose (including any other purpose listed in the Schedule to the Town and County Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that order, with or without modification).

And the wording of condition 25 (hours of operation) is amended to the following: -

25. The hours of operation of the rural enterprise hub hereby approved shall be limited to 07.00 hours to 23.00 hours on Monday to Sunday including public holidays.

Where a variation of condition application, the effect is to create a new grant of planning permission. Consequently, the relevant conditions from the previous permission are recommended with the inclusion of an additional condition stating that no more than 2 units to be occupied by the same tenant :-

These would be as follows: -

01. The plans and particulars shall be in accordance with Reserved Matters approval;
02. The Reserved Matters shall comply with the approved parameters plan;
03. The Reserved Matters application(s) shall comprise no more than 77 dwellings and 836m<sup>2</sup> gross of Class E (G) (i) and (iii) and B8 use;
04. Not less than 50% of the Rural Enterprise Hub floorspace shall be substantially completed and available for use within 3 years from the commencement of development;
05. The Landscape Design shall be in accordance with the approved details;

06. The Landscape Implementation Programme shall be in accordance with the approved details;
07. The Landscape Phasing shall be in accordance with the approved details;
08. The completion of the landscaping shall be in accordance with the approved details;
09. The Arboricultural Impact Assessment and Method Statement shall be in accordance with the approved details;
10. Vehicular access to the site shall be taken from Langley Road, in accordance with the updated Transport Assessment;
11. The Visibility Splay Details shall be in accordance with the approved details;
12. Parking facilities for at least 6 cycles shall be provided for the Rural Enterprise Hub and made available prior to its first occupation;
13. The Nesting Birds details shall be in accordance with the approved details;
14. The Highways, Footways and Cycleways shall be in accordance with the approved details;
15. The development shall be carried out in accordance with the recommendations and mitigation proposals within the Ecological Supporting Information;
16. The Programme of Archaeological Work shall be in accordance with the approved details;
17. The Construction Environmental Management Plan shall be in accordance with the approved details;
18. The Foundation Zoning shall be in accordance with the approved details;
19. Hours of construction;
20. Approved Uses
21. Information on sustainable travel options shall be submitted and approved;
22. Hours of Operation
23. The Remediation & Enabling Works Strategy shall be in accordance with the approved details;
24. The rating level of the noise emitted from the Rural Enterprise Hub shall not exceed the existing background noise level at any time;
25. The External Lighting Scheme shall be in accordance with the approved details;
26. The Levels shall be in accordance with the approved details;
27. General Permitted Development Rights – Class A1;
28. The Energy Statement shall be in accordance with the approved details;
29. The Energy Reduction Statement shall be in accordance with the approved details;
30. The Riparian Enhancement Report shall be in accordance with the approved details;
31. The Flood Risk Assessment shall be in accordance with the approved details;
32. The Surface Water Drainage shall be in accordance with the approved details;

- 33. The Overland Flood Flow shall be in accordance with the approved details; and
- 34. The Soil Survey shall be in accordance with the approved details.
- 35. No more than 2 units occupied by same tenant

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Planning 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.

(Prior to consideration of the following item, Councillor K Parkinson left the meeting and did not return).

**63 21/1496M-DEMOLITION OF EXISTING BUILDING AND STRUCTURES AND THE ERECTION OF 2NO. DETACHED BUNGALOWS WITH ASSOCIATED ACCESS AND LANDSCAPING, LAND ADJACENT TO YEW TREE FARM, MOOR LANE, WILMSLOW FOR YTF DEVELOPMENTS LIMITED**

Consideration was given to the above planning application.

(Councillor M Goldsmith, the Ward Councillor, Town Councillor Jon Newell, representing Wilmslow Town Council, Roger Bagguley, an objector and Ian Pleasant, the agent for the applicant attended the meeting and spoke in respect of the application).

**RESOLVED**

That the application be refused due to it being an overdevelopment of the site due to the footprint of the proposed dwellings and boundary tree constraints resulting in inadequate space for outdoor accommodation and required parking capacity within the site, which is to the detriment of living conditions of the occupants of the new dwellings due to the size of the dwellinghouses, contrary to policy H2 of the Wilmslow Neighbourhood Plan.

(This decision was contrary to the officers recommendation of approval).

The meeting commenced at 10.00 am and concluded at 2.30 pm

Councillor J Nicholas (Chair)



Application No: 21/4883M

Location: New Mount Pleasant, MARTHALL LANE, MARTHALL, WA16 7SS

Proposal: Planning application for proposed general purpose agricultural sheep housing building

Applicant: Mr Brighouse, BRIGHOUSE FARMS LTD C/O harvey hughes

Expiry Date: 22-Apr-2022

### SUMMARY

The proposal is for a “*general purpose agricultural sheep housing building*”. The application site is located within the Green Belt where the construction of new buildings is considered to be inappropriate. However, as the building is for agriculture it would meet one of the listed exceptions to inappropriate development. The supporting information submitted to the Council has demonstrated the need for the building in allowing for appropriate management techniques in the interests of both the agricultural business and the welfare of the farm’s sheep flocks.

Impacts on character, design, residential amenity, ecology, trees, flood risk and highways are found to be acceptable and no concerns have been raised by the relevant consultees.

### SUMMARY RECOMMENDATION

Approve Subject to Conditions

### REASON FOR REPORT

The application has been called-in to be determined by the Northern Planning Committee by Cllr Asquith for the following reasons:

*“I make this request on behalf of Marthall Parish Council. They comment:*

*The prospect of this application being made was brought to the attention of the Northern Planning Committee earlier this year when application 20/2445M was called before the committee.*

*Specifically the statement “....in anticipation of the barns in this application eventually becoming a house, land has already been drained cleared and levelled to create more barns... barns with an exclusive nameplate and driveway.”*

*The driveway and land in this application was shown in the video created in April 2021, <https://youtu.be/3iSrNfzi9vg?t=209> and links to this video sent to committee members, so*

*confident were the Parish Council that this application (for yet another barn) would be made, and that ultimately it would become yet another house.*

*Our objection to that earlier application revolved around the fact this site has suffered a reduction in available farmland to approximately 40 acres. Over 74 acres has been lost to buildings footpaths roadways and gardens and increasing residential floorspace from around 412 m<sup>2</sup> to approximately 9110 m<sup>2</sup> (an overall increase of over 2200%) and the demolition of around 20 barns and outbuildings on a constant building site for over 10 years to create what has become a collection of very, very large houses.*

*The Parish Council object to the application on the following grounds:*

*CUMULATIVE IMPACT- there has been building on this site for over 10 years, over 64% of the farming land on this site has already been lost to residential development.*

*NO FARMING ACTIVITY - unless the applicant is living in the barns, there is no farmhouse left on the site and no accommodation for the business of farming. It wouldn't be safe or practical to have sheep in a barn so far from any habitation.*

*LACK OF LAND - We are concerned that the recent enormous barns erected (which had nearly 1,800m<sup>2</sup> of floorspace and acres of hardstanding and car parking) were disproportionate to the limited land left on the site. To add yet another barn in another location is unquestionably disproportionate.*

*HOUSING - We question why all these barns being built or proposed need driveways, electric gates, name plates and fancy walls. Since the application for barns in 20/2445M alerted Planning Committee members to the potential of those barns becoming yet more houses, at the very least this barn should have the same restrictions (the Planning Committee placed on the 20/2445M) placed upon it. Namely that in the event they are no longer needed for the purposes of farming, the barn is demolished and the site returned to arable land, with no permission for building yet another residential property, and should the applicant seek to overturn this conditions then the request to overturn them be brought back before Planning Committee."*

## **DESCRIPTION OF SITE AND CONTEXT**

The application relates to a parcel of agricultural land accessed from a private track which is taken from Marthall Lane to the south. Surrounding land use is predominantly open agricultural fields with a cluster of residential properties to the south-west. The application site lies within the designated Green Belt. Ground levels across the site vary with higher banked areas to the south and west, with the remainder of the site (where the building would be located) at a lower level. The site is bound by hedgerows with some further tree cover on the northern boundary.

## **DESCRIPTION OF PROPOSAL**

The application proposes a "*general purpose agricultural sheep housing building*". The building would be positioned along the site's eastern boundary perpendicular to the existing hedgerow and would measure 30m x 18m with a maximum height of 6.3m. External materials would consist of corrugated fibre cement sheets for the roof and box profile sheeting for walls, finished

in juniper green colour. The application also proposes an area of rolled stone hardstanding adjacent to the building.

## **RELEVANT POLICIES:**

### **Cheshire East Local Plan Strategy (CELPS)**

MP 1 Presumption in Favour of Sustainable Development  
SD 1 Sustainable Development in Cheshire East  
SD 2 Sustainable Development Principles  
PG 2 Settlement Hierarchy  
PG 3 Green Belt  
SE 1 Design  
SE 3 Biodiversity and Geodiversity  
SE 4 The Landscape  
SE 5 Trees, Hedgerows and Woodland  
EG 2 Rural Economy

### **Saved Macclesfield Borough Local Plan Policies (MBLP)**

DC3 Design – Amenity  
DC6 Design – Circulation and Access  
DC9 Tree Protection  
GC1 Green Belt – New Buildings

### **Other Material Planning Considerations**

National Planning Policy Framework (2021)

### **Ollerton with Marthall Neighbourhood Plan**

*Note:* Whilst a draft version of the Ollerton with Marthall Neighbourhood Plan has been published on the Parish Council's website, it has not yet formally progressed through the Regulation 14 consultation stage. Accordingly, no weight can be given to the draft plan at this time.

## **RELEVANT PLANNING HISTORY**

There is no planning history that directly relates to the same parcel of land as this current application. However, the below applications are of some relevance as they relate to other parcels of land within the same ownership / agricultural unit.

20/2445M – approved – July 2021

*Retrospective application for agricultural livestock and produce stores*

17/3005M – withdrawn – July 2017

*Agricultural determination for an agricultural storage unit*

## **CONSULTATION**

Environmental Protection (CEC):

- No objection
- Recommended informatives for the applicant / developer's attention

Highways (CEC):

- No objection
- There are no highway implications associated with this proposal, which is located some distance from the adopted highway network; furthermore, use of the existing farm access to Marthall Lane to serve the site is acceptable.

Lead Local Flood Authority (CEC):

- No objections in principle
- Information and recommendations provided for the applicant / developer's attention

Natural England:

- No objection
- Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on Midlands Meres and Mosses Phase 1 Ramsar, Tatton Meres Site of Special Scientific Interest (SSSI) and The Mere SSSI and has no objection
- Therefore do not request a HRA be produced

Public Rights of Way (CEC):

- Application site is adjacent to a public bridleway (Marthall No. 5)
- Unlikely that the proposal would affect the PRow
- Recommended informative for the applicant / developer's attention

## REPRESENTATIONS

Ollerton with Marthall Parish Council:

*"The application is located within the Green Belt where development is subject to stricter control and the policy focus is on preserving the openness of space, setting and rural character. Ollerton and Marthall is washed over by the Green Belt and careful consideration should be afforded to maintain the openness of space and avoid harm caused by inappropriate development. The application is within our ward boundary and we have a good historical knowledge of this site.*

*The prospect of this application being made was brought to the attention of the Northern Planning Committee earlier this year when application 20/2445M was called before the committee.*

*Specifically, the statement "...in anticipation of the barns in this application (20/2445M) eventually becoming a house, land has already been drained cleared and levelled to create more barns... barns with an exclusive nameplate and driveway."*

*The driveway and land in this application was shown in the video created in April 2021, <https://youtu.be/3iSrNfzi9vg?t=209> and links to this video sent to committee members, so confident were the Parish Council that this application (for yet another barn) would be made, and that ultimately it would become yet another house. Indeed, the video shows the elaborate driveway to this site, along with blank stone nameplate within its walls, ready for a future name.*

*Our objection to that earlier application (20/2445M) revolved around the fact this site has suffered a reduction in available farmland to approximately just 40 acres. Over 74 acres has been lost to buildings footpaths roadways and gardens and increasing residential floorspace from around just 412 m<sup>2</sup> to approximately 9110 m<sup>2</sup> (an overall increase of over 2200%) and the demolition of around 20 barns and outbuildings on a constant building site for over 10 years to create what has become a collection of very, very large houses.*

*The Parish Council object to the application on the following grounds*

*MANIPULATION OF THE PLANNING SYSTEM - The applicant's primary business is property development, which is self-evident from both the 10s of houses the applicant is currently constructing both within this site and the parish as a whole, not counting the development this site has suffered over recent years. It has been a constant process of "Knock down barns for houses, build new barns for some 'business' which never trades or submits accounts, convert 'business barns' into houses and repeat" for many, many years. The applicant also intentionally built the barn in application 20/2445M without planning permission, to later seek retrospective permission, given they had just recently converted a barn and wanted to allow time between the applications. They felt comfortable doing this on this occasion due to the barn not being visible from the road.*

*CUMULATIVE IMPACT - there has been building on this site for over 10 years, over 64% of the farming land on this site has already been lost to residential development.*

*NO FARMING ACTIVITY - unless the applicant is living in the barns in application (20/2445M), there is no farmhouse left on the site and no accommodation for the business of farming. It wouldn't be safe or practical to have sheep in a barn so far from any habitation and so far from the main barns in which the applicant isn't living.*

*LACK OF LAND - We are concerned that the recent enormous barns erected (which had nearly 1,800m<sup>2</sup> of floorspace and acres of hardstanding and car parking) were disproportionate to the limited land left on the site. To add yet another barn in another location is unquestionably disproportionate. The applicant has stated that he has 750 head of sheep. whilst the size of the barns may reflect that, that number of sheep have not been seen nor is there enough land to justify the existing barns, never mind the barns in this application. The applicant has recently started renting land adjacent to this site, but renting land isn't justification for barns of this size and can't be included in any calculations.*

*HOUSING - We question why all these barns being built or proposed need driveways, electric gates, name plates and fancy walls. Since the application for barns in 20/2445M alerted Planning Committee members to the potential of those barns becoming yet more houses, at the very least this barn should have the same restrictions (the Planning Committee placed on the 20/2445M) placed upon it. Namely that in the event they are no longer needed for the purposes of farming, the proposed barn is demolished, and the site returned to arable land, with no permission for building yet another residential property, and should the applicant seek to overturn this conditions then the request to overturn them be brought back before Planning Committee.*

*We the Parish Council cannot support this application, and we request that the application is refused"*

Comments were received from 5 members of public supporting the proposed development for the following reasons (summarised):

- Minimal impact in terms of scale and design
- Additional planting increases local biodiversity
- Keeping sheep flocks separate has significant long term health benefits
- Enables biosecurity measures for the flock and store lambs
- Enables the farm business to run in a practical and sustainable way
- Good quality housing and safe living conditions for the animals
- Local farmers should be supported
- Lack of suitable buildings at present

## OFFICER APPRAISAL

### Green Belt

The application property is located within the Green Belt. Paragraph 149 of the NPPF states that the construction of new buildings and development in the Green Belt shall be regarded as inappropriate. Paragraphs 149 and 150 of the Framework list a number of exceptions to this, which are also reflected at a local level in CELPS policy PG 3. Those exceptions under paragraph 149 are:

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

In this case, the application proposes a new building which is designed for the housing of store sheep in association with the applicant's farming business. Therefore, the proposed works would be appropriate in principle under exception a).

The application is supported by a *Justification Report / Design & Access Statement* which demonstrates the need for the proposed building. The business, Brighthouse Farms Ltd farms approximately 28ha of agricultural land in Marthall which is cropped to grassland and used for hay / haylage production. The business also maintains two flocks of sheep, one flock of Poll Dorset and one flock of store sheep.

The applicant's business currently has two agricultural buildings at a separate site in Marthall that are used to house the pedigree Poll Dorset flock, however at present there are no suitable facilities in place to allow the store sheep flock to be housed away from that flock. The supporting information sets out the importance of housing the two flocks away from each other as an appropriate management technique to limit the transmission of potential disease, such as Maedi Visna (MV) and parasites.

A letter has been provided by the applicant's vet which confirms the rearing of the store lambs is an essential part of the business. The vet letter explains that MV can be widespread amongst British flocks and if present it causes significant economic loss through wasting disease, progressive pneumonia and the subsequent increased culling of breeding stock. The farm's pedigree flock of Poll Dorset is enrolled on the *Scottish Agricultural Collage (SRUC) Maedi Visna Caprine Arthritis Encephalitis Accreditation* scheme to prove that the flock is free from disease through strict biosecurity measures (such as the flock separation proposed) and testing.

The vet letter confirms that the proposed separation of the application building relative to existing sheep store buildings is vital to prevent the aerosol spread of the virus. The letter also confirms that the proposed shed is of an appropriate size to finish up to 400 stock lambs per year as well as providing housing for store lambs over winter and any animals requiring veterinary treatment. The building has also been designed to house a sheep race for routine and veterinary procedures for the store flock as this cannot be shared with the accredited pedigree flock.

The supporting information sets out the building size requirement to meet the farming business's needs:

Description	Area Requirement
General Housing	300m <sup>2</sup>
Isolation Area	157m <sup>2</sup>
Handling Area	90m <sup>2</sup>
Emergency/Sick Pen	10m <sup>2</sup>
<b>TOTAL AREA REQUIREMENT = 557m<sup>2</sup></b>	

The building will provide good living conditions for the sheep during winter months to enable growth rates to be maintained and therefore allow the store lambs to be sold earlier in the season to take advantage of higher prices due to low supply. This would be beneficial to the farming business.

In the interests of animal welfare, the proposed building would allow the sheep to be housed in accordance with the DEFRA code of recommendations for sheep welfare, and the higher standards set out in the RSPCA Welfare Standards for Sheep.

The building would also contain an isolation area, handling area and emergency / sick pen, the size and need of which have all been sufficiently justified in the supporting information.

The application also proposes an area of rolled stone hardstanding adjacent to the building. A supplementary letter was provided by the applicant during the course of the application which provided further reasoning for the associated area of hardstanding. The letter explains that the location and size of the hardstanding has been designed to provide safe, convenient and efficient storage of wrapped haylage and to provide the necessary space to manoeuvre large machinery and vehicles used for unloading straw and bedding and the animals themselves. The haylage bales are stacked at a maximum height of three bales to prevent damage which in turn can cause mould growth, so the area of hardstanding has been designed to accommodate such storage arrangements to support the farm's policy of maintaining a haylage stock of 1.5 to mitigate against the potential for a poor season, stock damage or need to permanently house animals.

Comments provided by the Parish Council regarding the proposed and future use of the building are noted. The LPA should consider the merits of the proposed development against the policies of the adopted development plan. How the building may or may not be used in the future is not a consideration for the Council to make in the determination of this application. In this case, the applicant has demonstrated that there is a clear functional need for the proposed building as discussed above. Any subsequent alterations to the building or changes of use would be subject to the relevant planning legislation and / or policy at the time of application.

Accordingly, the proposed sheep housing building and associated hardstanding have been demonstrated to be for the purposes of agriculture and are therefore considered to be an appropriate form of development in the Green Belt in accordance with policy PG 3 of the CELPS and the provisions of the NPPF.

### **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 enhancing quality, distinctiveness and character of settlements.

Amongst other criteria, CELPS policy SD 2 also expects all development to contribute positively to an area's character and identity in terms of height, scale, materials, design features, massing and relationship with the wider environment.

The overall scale of the building is considered to be wholly appropriate and is of a size typically expected with the rural Cheshire landscape. Similarly, the juniper green coloured box profile and fibre cement sheet cladding provides an appropriate finish as expected for an agricultural building of this type.

The building and area of hardstanding would be partially screened by existing earth banks to the south and west which would reduce wider landscape impact. In addition, new planting has

already been placed around the site boundary to form new hedgerow which once established, will offer further landscape mitigation.

Accordingly, no concerns are raised with the design of the proposed building which would result in no significant impacts on the character of the wider landscape.

### **Amenity**

Saved policy DC3 of the MBLP seeks to protect the amenities of adjoining or nearby residential properties due to the potential development impact on loss of privacy, loss of light, noise and traffic generation.

The nearest neighbouring residential properties are located in excess of 200m from the proposed development. By reason of the relatively large separation distance, no concerns are raised in relation to amenity when considering privacy, daylight, overbearing impacts, noise or traffic generation.

Environmental Protection Officers were consulted on the proposal and raise no objections.

As such, no concerns are raised with respect to the protection of residential amenity. The proposed development is considered to accord with saved MBLP policy DC3.

### **Nature Conservation**

#### *SSSI Impact Zone*

The application site falls within Natural England's SSSI impact zone for Tatton Meres SSSI, a Phase 1 Ramsar, Midlands Meres and Mosses site. In these locations, Natural England ask that they are consulted on any development for agriculture that could generate air pollution, including buildings for livestock with a floorspace greater than 500m<sup>2</sup>.

Based on the plans and details submitted, Natural England does not consider the proposed development would have significant adverse impacts on the designated nature conservation interests. A Habitats Regulations Assessment (HRA) is therefore not required in this case.

#### *Ecological Enhancement*

CELPS policy SE 3 requires all developments to aim to positively contribute to the conservation of biodiversity. This planning application provides an opportunity to incorporate features to increase the biodiversity value of the final development in accordance with this policy. The Nature Conservation Officer therefore recommends that if planning permission is granted a condition should be attached which requires the submission of an ecological enhancement strategy.

### **Trees**

A number of trees are located on the site's northern boundary with the adjacent parcel of land. No concerns are raised with the position and design of the agricultural building relative to trees along the boundary. The application proposes no increase in hardstanding over and above the

existing extent seen on site adjacent to the trees and therefore no concerns are raised with this regard.

On balance, given the absence of any formal TPO protection and the relatively low visual amenity value of the trees, no further information is required and the development is not considered to generate any significant arboricultural implications.

## **Highways**

Cheshire East Highways have reviewed the proposal and raise no objections. There are no highway implications associated with this proposal, which is located some distance from the adopted highway network; furthermore, use of the existing farm access to Marthall Lane to serve the site is acceptable.

## **Other Matters**

The application site is adjacent to public bridleway Marthall No. 5 as recorded on the Definitive Map. The PRoW Unit consider it unlikely that the proposal would affect the public right of way. Information has been provided to be added as an informative to the decision notice for the applicant / developer's attention.

Concerns have been raised by the Parish Council regarding the site's vehicular access with particular reference made to the stone walls. The entrance walls / gate pillars do not form part of this application and therefore an assessment of them has not been carried out. The approval of this application would not grant consent for those built features. A separate planning application would be required, if found to be necessary.

Some low surface water risk has been identified on the site. The Council's Flood Risk Officers were consulted on the application who raise no objection in principle. A number of informatives have been recommended by the Flood Risk Officer relating to CEC Byelaws, infiltration testing and alterations to watercourses.

## **CONCLUSIONS AND RECOMMENDATION**

The proposed re-use of the building as a dwellinghouse is appropriate development in the Green Belt and accords with the relevant policies of the development plan. The proposed extension would be a proportionate addition to the building. The application for planning permission is accordingly recommended for approval, subject to the following conditions.

1. 3-Year Commencement
2. Development in Accordance with Approved Plans
3. Materials as per Application
4. Ecological Enhancement

**Recommendation: Approve Subject to 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 / informatives / planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Planning 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.*



Application No: 20/0596M

Location: LAND OFF SPODE GREEN LANE, LITTLE BOLLINGTON, WA14 3QX

Proposal: Change of use of land and associated barn/field shelter from horse grazing to dog adventure field/dog exercise area.

Applicant: John Pearson & Julie Newland, The Dog Bus

Expiry Date: 22-Apr-2022

## **SUMMARY**

The proposed development for a dog exercise area would result in the site being used for the exercise and care of dogs, with up to 45 being proposed on site at any one time. Based on the information provided it is considered that the proposed material change of use of the land and the reuse of the existing building on the site preserve the openness of the Green Belt and do not conflict with purposes of including land within it. The proposal is therefore not considered to be inappropriate development in the Green Belt.

One of the key concerns raised throughout the course of this application relates to potential noise levels from the site. Some local residents and Little Bollington Parish Council have raised this as an issue. Whilst it is acknowledged that noise may arise from the application site at times, it is anticipated that it would be an infrequent and unlikely event for all dogs on site to bark simultaneously. Furthermore, various factors significantly reduce the risk of noise causing significant harm to the amenities of the nearest residential properties. This includes the significant separation distance between the closest residential property and the application field, as well as the presence of a number of busy roads surrounding the application site, which will more frequently give rise to higher noise levels than the application site. Therefore, it is considered that the potential impact upon the living conditions of nearby properties is, on balance, likely to be acceptable. However, given the comments received from neighbouring properties and the unpredictable and intermittent nature of noise from dogs barking, a trial period is considered to be appropriate through a temporary planning permission.

The potential contamination of land and risk of spread of infectious diseases to animals using surrounding fields was an additional key concern raised. However, it has been shown that the likelihood of infection through ground water/water course contamination, in the event that the application field were to be waterlogged, is very low.

The proposals are considered to have an acceptable impact upon the character of the area, and no adverse impacts are identified relating to highways, flood risk and nature conservation. Accordingly, it is recommended that planning permission be granted for a temporary period of two years.

## **SUMMARY RECOMMENDATION**

**Approve subject to conditions for temporary period**

## **REASONS FOR REPORT**

The application covers an area greater than 2ha in size and therefore requires determination by the Northern Planning Committee. The application was also called into committee by the local ward Councillor, Cllr Parkinson, for the following reasons:

- 1. Residents in the Little Bollington area have made many complaints about the environmental health issues surrounding this application. For over a year The Dog Bus has increased their intake of dogs, and the noise is apparently very loud. I appreciate the owner of The Dog*

*Bus has had an acoustics engineer to do a sound report, but I think CE EH should monitor this to give an unbiased opinion as we do not know when this report was done.*

- 2. The field where the dogs are is constantly water logged. I have monitored the situation for a number of months, and the field where the dogs are held is full of stagnant water and very boggy. Animal welfare requires fields to be clear of water and free drain, which this is not. The field is always wet.*
- 3. While there is planning for a building to keep the animals warm, the building they intend to convert is not big enough to hold up to the 45 dogs they will be intending to house. In bad weather this would be too small to safely shelter dogs and the required number of people looking after the animals.*
- 4. This also has huge implications on the agricultural use for the surrounding fields in the future. Dog faeces can cause an infectious disease in cattle, sheep and horses. The disease is called Neosporosis. It is the most commonly diagnosed cause of miscarriage in these animals. Dogs and other canids are the definitive host. It is a parasite carried in dogs, where it becomes sexually mature and reproduces. There is a horse breeder in the adjoining field who has not been able to breed or train horses due to noise and faeces issues. To be able to maintain hygiene however much they could try, in the waterlogged conditions in this field there is no way that all the faeces from 45 dogs can be cleaned up properly without it entering the watercourse and infecting surrounding fields.*

## **DESCRIPTION OF SITE AND CONTEXT**

The site comprises an agricultural field to the south of Lymm Road and north of the M56 in the Millington/Little Bollington Area. The field area extends to an area of approximately 2.7 hectares. The site has previously been used as paddocks for horses with an existing timber barn/field shelter building on the eastern boundary of the site. An access track and area of hard standing exist to the north-east of the site. The track is accessed from Spode Green Lane. Boundary treatments include stock fencing and hedgerows. The site is located within the Green Belt.

## **DESCRIPTION OF PROPOSAL**

This application seeks full planning permission for the change of use of the site, including the associated former barn/field shelter, to a supervised dog exercise area (a sui generis use), in association with the applicant's dog-walking/exercising business 'The Dog Bus' for a maximum of 45 dogs.

No new built form is proposed on the land, however, the existing barn/field shelter is proposed to be refurbished. The refurbishment will involve the replacement of the existing timber walls with insulated timber panels. Single doors will be provided to both ends of the building (north and south elevations) and the existing metal roof covering will be retained. No extensions are proposed to the building.

The following key points taken from the accompanying Planning Statement highlight how the business would operate:

- The dogs would be picked up directly from their owner's properties by staff members, with a group of dogs being brought to the site at the same time. This will keep traffic movements to a minimum. At the end of the session the dogs would be returned directly to their owner's properties.
- The dogs would be cared for on a 1 (staff) to 10 (dog) ratio.
- The site would typically accommodate 30 dogs at any time (with a maximum of 45).
- The site is not intended to function as a standard kennels as there would be no overnight accommodation provided for the dogs.
- The proposed hours of operation are 09:00 to 16:00 Monday to Friday only.

## **PLANNING HISTORY**

20/4020M - Change of use from agriculture to mixed-use agriculture and equestrian. Construction of stables and associated storage buildings (retrospective) – Approved 06-Jan-2022

20/4660M - Certificate of lawful existing use for rolled stone hard standing - Approved 26-Jan-2022

## **POLICIES**

### Cheshire East Local Plan Strategy (2010-2030)

MP1 Presumption in Favor of Sustainable Development  
SD1 Sustainable development in Cheshire East  
SD2 Sustainable development principles  
SE1 Design  
SE12 Pollution, Land Contamination and Land Instability  
PG3 Green Belts

### Macclesfield Borough Local Plan (MBLP) (2004)

DC2 Extensions and alterations  
DC3 Amenity  
DC6 Access and Parking  
DC13 Noise  
DC38 Space, light and privacy  
GC1 Green Belt

### Little Bollington Neighborhood Plan

The Little Bollington Neighborhood Plan is currently at Regulation 14 stage (Pre-submission Consultation). The following draft policies are relevant, but limited weight is attached to them at this stage.

HLD1 Landscape Character  
HLD3 Design  
LE2 The Local Economy

Other Relevant Documents

National Planning Policy Framework (2021)  
National Planning Practice Guidance

**CONSULTATIONS (EXTERNAL TO PLANNING)**

**Environmental Health – Initial response (18/03/20):** No objections subject to conditions relating to controls which should be imposed on the proposed operations in the event of an approval.

**Second response (18/05/20):** Note methodological concerns with the accompanying noise impact assessment and highlight how variations in noise levels may occur as well as drawing attention to the particular unpleasant nature of the type of noise which would arise as a result of the proposal.

**Strategic Transport Manager –** No objections subject to conditions

**Lead Local Flood Authority -** No objections

**Environment Agency –** No comments received

**Animal and Plant Health Agency (APHA) –** Provided a response in relation to concerns raised regarding the potential risk of Neosporosis to breeding horses in neighboring fields. APHA's Duty Vet noted that the overall risk for horses, or other stock in the circumstances described would be negligible or minimal.

**Little Bollington Parish Meeting –** Object to the application on the following grounds:

- Unacceptable noise levels – risk of distress to horses; likelihood of disturbing the peaceful nature of this rural area; likelihood of disturbance and annoyance to residents; Noise assessment undertaken does not provide a realistic assessment of the noise levels likely from the scale of operation proposed on the site.
- Animal welfare - risks of dog behaviour causing distress to horses on adjoining land; risks to animal health due to the waterlogged nature of a large area of the site and absence of adequate drainage; building on the site inadequate for providing shelter for many dogs.
- Risks to Animal and Human Health - contamination due to the amount of faeces deposited from a large number of dogs creating high risk of parasites which are injurious to animal and human health; proposals to collect all dog faeces are considered to be impracticable and unworkable; lack of adequate provision for toilet and sewerage facilities for staff working on the site.
- Traffic and parking - Spode Green Lane is a very narrow and winding road, which is reduced to a single-track road in parts; excessive vehicle journeys / unacceptable increase in the traffic flow on this narrow rural lane; Spode Green Lane is unsuitable for parking of vehicles; inadequate parking provision on site for the number of vans involved; land is rural in nature and are unsuitable and inappropriate for parking of a large number of vehicles.

- Adverse impact on green belt / rural area - nature of the proposed operation will transform the site from pastoral land to a commercial operation with many vehicle movements and considerable noise. This will have a serious adverse impact on the green belt; risk of excessive noise.
- Planning consent for the building - building used for a shelter appears to not have planning permission; original building has been on the site for a long time, which may provide deemed planning consent; extension was added in recent years.
- Other legal requirements - site has been operated as a dog exercise area since about May 2019; this use does not currently have planning permission and hence is in breach of planning regulations; applicant does not have a Dog Day Care Licence. This is required under the Animal Activities Licensing Regulations 2018.

## REPRESENTATIONS

Representations have been received from 26 addresses. 20 of these representations are in objection to the proposal, and 6 in support.

### Objections

A summary of the main points of objections raised are as follows:

- Proposals will result in unacceptable noise levels to nearby residential properties.
- Noise levels have been noted from Reddy Lane in the approx. 12 months that the site has already been in operation as a dog exercise area.
- Unpredictable stop start nature of barking dogs and shouting staff is of particular nuisance.
- Risks of noise causing distress to horses on adjoining land.
- Concerns that the noise assessment undertaken for the planning application is inadequate as it does not provide a realistic assessment of the noise levels likely from the scale of operation proposed on the site.

The agent has responded to concerns raised about noise noting that the dogs will only be on site during the day and the site will not support overnight boarding, unlike the existing kennels on Reddy Lane which are likely to give rise to more noise than the proposed use of the application site. The agent suggests that where noise has been raised as an issue it is difficult to distinguish the source due to the presence of existing kennels. The agent also points out that on the day of the noise impact assessment, as many as 75 dogs were present within the application field. Finally, the agent highlights that The Dog Bus have been operating at the site since May 2019. During this time no complaints were made to the Councils Environmental Health Service.

- Risks to animal health due to the waterlogged nature of a large area of the site.
- The building on site is inadequate for providing shelter for a large number of dogs
- No dry undercover areas for separation for nervous animals.
- Concerns over a risk of contamination due to the amount of faeces deposited on the land from a large number of dogs left to run free and proposals to collect all dog faeces are considered to be impracticable and unworkable. In response to this point the agent has drawn attention to The Dog Bus 'Dog Waste' advisory document which is made available to all members of staff.

- Concerns regarding increase in traffic to a single-track lane.
- In the event of an approval decision objectors request a total restriction against parking along Spode Green Lane.
- Concerns that the nature of the proposed operations will transform the site from pastoral land to a commercial operation with increased vehicle movements and noise.

In response to concerns raised regarding traffic and parking the agent has noted that the business has 4 vans. During the day, each van makes two visits to the site and two departures, a total of 16 traffic movements over a 7 hour period (09:00 – 16:00), Monday to Friday only. The agent has argued that this does not represent significant traffic movements.

- Concerns that we don't have a full understanding of the ongoing pandemic and whether the Covid-19 virus can be transmitted between animals and humans.
- A number of buildings on the site and in the wider area do not have planning consent.

### Support

6 responses in support of the application have been received. These come from a combination of neighbors, employees, the landowner, adjacent landowners/occupiers and neighbors of previous sites operated by The Dog Bus. A summary of the main points of support received are as follows:

- Noise levels of the dogs not overwhelming in the slightest.
- Noise comes from Kennels on Reddy Lane and not The Dog Bus.
- Working hours are during the daytime Monday to Friday, not on weekend.
- There has been minimal increase in traffic on Spode Green Lane.
- The Dog Bus drivers are courteous, friendly willing to go out of their way to let you pass and they drive slowly down the lane.
- The Dog Bus customers don't park on the lane.
- They cause no more increase in traffic than people who have horses on neighbouring fields.
- Initially found the dogs took an interest in horses but after they'd seen them, they don't bother them anymore.
- Horses seem as relaxed and happy as before The Dog Bus came and have seen no change in behaviour.
- The Dog Bus has invested in a horse shower to wash the dogs off in warm water.
- The Dog Bus owner has obtained qualifications to become a dog trainer and behaviourist, holds a level 3 OCN qualification in dog day care along with numerous other dog related certificates.
- One supporter notes they do not have any concerns regarding the dog faeces as they've witnessed for themselves staff picking it up.
- The landowner notes that they would not accept or allow the field to become contaminated by dog faeces. They understand that The Dog Bus have procedures in place to pick up and dispose of dog waste and add that the field is checked frequently for its condition.
- The drains have improved the situation as the ground in neighbouring field is much drier since the landowner arranged for someone to rod the drains. Any standing water that was present has pretty much gone.

- A blockage in one of the drainage pipes in the field has now been repaired and the drains flow freely again.

## **OFFICER APPRAISAL**

### **Green Belt**

The application site lies within the Green Belt, where both national and local policies restrict the types of development which may be carried out. The most applicable Green Belt policies for consideration in this case are PG3 of the CELPS, saved policy GC1 of the MBLP and Chapter 13 of the NPPF (2021).

Paragraph 147 (NPPF) states that in the Green Belt inappropriate development is, by definition, harmful and should not be approved except in very special circumstances. Paragraph 148 notes that 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.

Paragraph 150 identifies certain forms of development (other than new buildings) that are not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The exceptions that are of relevance to this assessment are:

- *The re-use of buildings provided that the buildings are of permanent and substantial construction*
- *Material changes in the use of land (such as changes for outdoor sport or recreation, or for cemeteries and burial grounds)*

Whilst the re-use of buildings exception is listed under policy PG 3 of the CELPS, the change of use of land exception is not. This means policy PG 3 of the CELPS is not entirely consistent with the more recent NPPF. Therefore, the weight to be afforded to policy PG 3 is reduced. Having regard to the requirements of paragraph 150 of the NPPF, the key considerations for the Green Belt are whether the proposal preserves openness and does not conflict with the purposes of including land in the Green Belt.

### Openness

The Planning Practice Guidance (“PPG”) states that:

*“Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:*

- openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;*
- the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and*
- the degree of activity likely to be generated, such as traffic generation.”*

No additional structures are proposed by the proposed development. The existing building has been refurbished to provide some shelter for dogs and staff, but these works do not increase the size of the existing building and therefore do preserve openness. In terms of the use of the

field by dogs, this would not be significantly different to the presence of animals arising from the lawful agricultural / equestrian use, and the parking of vans associated with the dog exercise field would take place on an area of existing hardstanding associated with a longstanding equestrian use on adjacent land. This hardstanding area would be shared with users of the adjacent land. It is considered that proposed parking levels would be similar to if the application site remained in agricultural / equestrian use, and would not have any greater impact on openness in visual or spatial terms.

In terms of the duration of development and its remediability, the application seeks full planning permission for a use that would take place between 09:00 to 16:00 Monday to Friday. The permission sought is a permanent one, but the use would only take place during traditional working hours, which would minimise the duration of any impact, and given the absence of any significant additional operational development being proposed, the land itself would not change from its original state.

Finally, with regard to the degree of activity associated with the proposed development, as noted above, in terms of car parking, vehicle movements, and activity on the site, this is considered to be similar to the existing lawful agricultural / equestrian use of the land. Overall, having regard to the scale and form of the development proposed, it is considered that openness will be preserved.

### Purposes of Green Belt

Paragraph 138 of the Framework advises that Green Belt serves 5 purposes:

- (a) to check the unrestricted sprawl of large built-up areas;
- (b) to prevent neighbouring towns merging into one another;
- (c) to assist in safeguarding the countryside from encroachment;
- (d) to preserve the setting and special character of historic towns; and
- (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Given the absence of any significant operational development associated with the proposed development, there is not considered to be any conflict with the purposes of including land in the Green Belt.

### Green Belt Conclusion

The proposed development involves the material change of use of land and the re-use of a building of permanent and substantial construction, which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The proposal is therefore not inappropriate development in the Green Belt, and it complies with paragraph 150 of the NPPF.

### **Character and Design**

Between them, Policies SE 1 and SD 2 of the CELPS seek to ensure that all development makes a positive contribution to the character and identity of the area it would be located in.

The proposed external refurbishment of the existing barn/shelter is relatively minor. The existing timber walls will be replaced with insulated timber panels and new doors will be provided to

both ends of the building. The new walls would be constructed with timber birch plywood sheets and the building would feature a corrugated metal roof. The general design of the refurbishment is considered to relate to the rural character of the area and there are no concerns raised in connection with the design of the proposals and impact on the surrounding landscape. The proposal is therefore considered to comply with CELPS policies SE 1 and SD 2.

### **Residential Amenity**

It is important that proposed developments do not have a detrimental impact on the amenity of neighbouring residents. Paragraph 174(e) of the NPPF notes that planning decisions should prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.

Paragraph 185 seeks to ensure that new development is appropriate to its location, and para 185(a) of the NPPF adds to this, stating that planning decisions should mitigate, and reduce to a minimum, potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and quality of life.

Policy SE12 of the CELPS outlines that the council will seek to ensure 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. This is also highlighted through saved policy DC3 of the Macclesfield Borough Local Plan (MBLP) 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.

The existing equine/agricultural use of the site is likely to produce very little noise. When considering an agricultural use in the broader sense, there could be some potential for noise generative activity at this site, for example from machinery or from large numbers of livestock. However, the field is surrounded by other fields which are used for the grazing of animals i.e. quiet activities. The rural nature of the area currently benefits from a low background noise level. Therefore, when assessing the proposed use of the field, in relation to its existing use, it is apparent that the exercising of dogs could give rise to increased noise levels from the barking of dogs. As a result of the existing rural and open nature of the site, any noise created could be noticeable.

By nature of being an open agricultural field, there is no existing containment of noise, such as might occur within a building or where high walls create boundaries. The topography of the land is very flat with no intervening buildings or barriers to block noise transmission routes between the application site and the nearest residential dwellings.

In support of the application, the applicant has submitted a Noise Impact Assessment. The key points in this report include:

- The Noise impact assessment involved two sets of measurements. Firstly, baseline measurements were initially taken of between 8 and 10 dogs barking in an external area of an existing kennel. The measurements were taken from approximately 3m away from the

dogs and the dogs were actively encouraged to bark to generate barking levels considered to constitute a worst-case scenario. This noise level has then been corrected to account for 30 dogs barking and an attenuation of the results has then been applied to account for a distance of 120m, (the distance between the site and the nearest noise sensitive receptor).

- Site specific measurements were also taken of the existing acoustic environment at the nearest noise sensitive receptors to the application site, to the west of the site on Reddy Lane. The report notes that during the measurement period the distant road traffic on the M56 and A56, as well as local road traffic, was the dominant noise source. It is stated that during the measurement period there were dogs using the application site but no noise from barking dogs was noted as being audible at the measurement position during the survey. The existing background noise levels were identified to be 55dB(A)
- The noise assessment states that the potential worst case noise levels at the Noise Sensitive Receptors as a result of dogs barking on the site is 54dB(A), and notes that this is 1dB lower than the existing ambient noise levels measured on site (due to nearby road traffic).
- The report concludes that with all factors considered, it would be highly unlikely that noise levels from the proposed dog exercise site would result in a significant adverse impact upon the nearest noise sensitive locations.

Initial comments received from Environmental Protection (26/03/20) highlighted that the application site lies approximately 120 metres from the nearest residential dwellings on Reddy Lane. This distance is considered significant in terms of noise drop off. These comments also highlight that the type of operations proposed, the exercising of dogs in an open field, does not give rise to a significant amount of barking as would, for example, operations that involve dogs contained in a kennel environment. It is also understood that the proposed activity has been in operation since May 2019 and has not caused any complaint of noise nuisance to the Council's Environmental Health Service. This initial consultation response received from Environmental Protection accepted the methodology, conclusions and recommendations of the noise impact assessment and raised no objections to the proposal.

The Environmental Protection Officer provided further comments in May 2020. The Officer makes reference to their previous comments and notes that these still remain valid. The additional comments simply serve to expand on the points made to assist in the determination of the planning application:

Environmental Protection advise that any resultant noise impact to nearby residential dwellings will be dependent on a number of factors including:

1. Noise levels will reduce with distance. The nearest residential property on Reddy Lane is approximately 120 meters from the application site (a distance considered significant in terms of noise drop off).
2. The noise that could be produced is extremely variable and would be affected by things such as weather conditions (including wind direction and speed), the number of dogs on the field at any one time, the type and size of dogs and the nature and temperament of individual dogs. It is therefore impossible to predict the amount of noise which will be produced on any given day.

3. The acoustic assessment report which was submitted with the application measured the noise from the simultaneous barking of eight dogs and calculated the noise level back to the distance involved at the nearest residential homes and corrected the noise levels to account for 30 dogs. However, where 45 dogs may be brought onto the site at any one time, noise could be caused simultaneously by a greater number or a lesser number of dogs. Hence variations to the results of the acoustic report have to be considered.

This point has been responded to by the applicant's noise consultant who has noted that the most likely number of dogs on site at any one time would be 30, and that it would be a rare occurrence for 45 dogs to be on site and all barking simultaneously. However, if 45 dogs were to bark on site simultaneously, as opposed to 30 dogs barking simultaneously, this would result in an increase in noise level of <2 dB over that calculated previously. This is not a significant increase, having regard to existing background noise levels.

4. In terms of the assessment of noise (from any source), the duration of the noise is a significant factor and also whether the noise is continuous or occurs on an intermittent basis. Noise tolerances by individuals is also variable and what may be disturbing to one person is not disturbing to another. In general, it is a recognised fact that most people's reaction to noise is that a continuous steady noise source is less disturbing than an intermittent, variable noise. The barking of dogs will obviously be intermittent and variable. In addition, the character of the noise is taken into consideration - and in terms of dogs barking – most residents would describe it as an unpleasant noise due to its character, intermittency and stop/start nature. Such noise will in general cause annoyance and irritation – particularly if heard when residents are trying to enjoy their garden areas and/or have house windows open during warm weather conditions.
5. The sound level measurements taken for the report were undertaken using the LAeq parameter which, whilst being a recognised methodology, 'averages' noise levels over a period of time. Due to the averaging nature of the noise measurements – this will smooth over the peaks of noise (i.e. loud short bark) by averaging the noise with the quieter periods.

In response to this point the applicant's consultant notes that during the survey, no dog barking was audible, the noise climate was entirely dominated by road traffic noise. The consultant therefore contends that, in this instance, the noise level metric used is irrelevant as the measured levels were dominated by road traffic such that any noise from dogs was not audible and did not affect the measurements. The noise consultant also adds that noise levels taken of eight dogs barking, used to calculate the potential impact at the nearest houses, is based on a measurement period of 12 seconds. A 12 second measurement is considered to be a short enough period to adequately quantify dog barking noise without being overly reduced by the quieter periods between barks.

6. Due to the nature of dogs, and the open land environment of this application, there is no effective physical noise mitigation measure which can be employed. The only control is management techniques and due to the unpredictable nature of the noise, there will be some noise from barking which is beyond the control of handlers.

Given that it is the impact of any noise upon the living conditions of neighbours that is the main concern and given that the development has been operating in some form for some years now, it is helpful to consider the detailed responses to the planning application received from the

nearest residential properties, relating to noise. Starting at the north of the site on the A56, and moving west and south along Reddy, the following properties have the closest relationship to the application site:

**Model Farm** (Lymm Road) – No comments received

**Pear Tree House (Four Winds)** (Reddy Lane) – *“My main concern is the noise generated by this business. Some days the noise is virtually constant from both dogs barking & people shouting & this has a detrimental effect on my health & well being. I feel that my residential amenity is being compromised”*

**The Gables** (Reddy Lane) – *“The noise level, particularly from the dogs barking (although the staff can also be heard shouting/calling the dogs) isn't acceptable for it's rural surroundings. There is a major concern that more dogs will be brought to this field in future, with the possibility of further dog companies using these facilities and the already unacceptable noise level becoming louder.”*

**Orchard House** (Reddy Lane) – *“the dog noise level in the area has increased dramatically from dogs constantly barking & people yelling instructions. This has negatively impacted on the peace of this rural green belt area.”*

**Montgomery** (Reddy Lane) – *“The noise is also of concern. 45 dogs running around a field causes a high volume of dog barking which can cause local cattle and horses to be spooked.”*

**Oaklyn** (Reddy Lane) – No comments received

**Cedarhurst** (Reddy Lane) – *“Noise level- we live opposite the field and feel that the noise level will intrude on our peaceful location. As we have kennels behind us, we will be surrounded by dogs barking.”*

**Bloomfield** (Arthill Lane) – Comments received – no comment on noise.

**Reddy Lodge** (Reddy Lane) – No comments received

**Reddy Lane Cottage** (Reddy Lane) – No comments received

Of these closest 10 properties to the application site 5 did not raise any noise issues. Of the 5 properties that did raise noise from dogs and staff shouting as an issue, only 1 made specific reference to the impact upon their living conditions, 3 make reference to the noise impact upon the peaceful rural area, and 1 refers to noise impact in terms of the impact on cattle and horses.

#### Residential Amenity Conclusion

In conclusion, noise from the barking of dogs will inevitably occur from the field at times. However, the significant separation distance between the application site and the nearest residential properties is a factor that will considerably minimise the levels of noise audible at the nearest residential properties.

The submitted Noise Impact Assessment indicates that if 30 dogs were to bark simultaneously on site the noise level would equate to 54 dB, this being 1 dB lower than the existing background noise levels as a result of nearby road traffic noise. If 45 dogs barked simultaneously, the noise level would increase by less than 2 dB over that previously calculated in the Noise Impact Assessment. Therefore, if a scenario were to occur where more than 30 dogs were to bark simultaneously on site, this could take the noise levels on site very slightly above the existing ambient noise levels. However, such an event, where up to 45 dogs were to bark simultaneously at any one time, is likely to be exceptional and not a frequent occurrence. It is also accepted that the application site is surrounded by a number of busy roads, including the M56 and A56. These roads are more frequently likely to give rise to higher noise levels than the activities proposed by this proposal.

Although the noise of barking dogs can be a somewhat unpleasant sound, the factors discussed above suggest that the overall risk of causing significant harm to the living conditions of the occupiers of the nearest residential properties at this location is low. It is therefore considered that the potential impact upon the living conditions of nearby properties is, on balance, likely to be acceptable, and in accordance with the noise-related policies listed above. However, given the comments received from neighbouring properties and the unpredictable and intermittent nature of noise from dogs barking, a trial period might be appropriate in this case, through a temporary planning permission.

Planning Practice Guidance advises that *“Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.”* In this case, whilst the business has been operating for a couple of years, the scale of its operation is not known. Therefore, a trial period with appropriate conditions controlling the hours of use and scale of the operation would allow a period of time to be able to assess the effects of the development as proposed, and to ensure that a permanent use complies with policy SE12 of the CELPS, policies DC3 & DC13 of the MBLP and the National Planning Policy Framework. The use is currently being carried out on the site, and the works to the building have been carried out. The applicant has therefore already made the decision to invest into the site, and in these circumstances a temporary permission would not be unreasonable.

## **Contaminated Land**

One of the concerns raised by Cllr Parkinson, which has been echoed by a number of objecting local residents, relates to possible contamination of land in surrounding fields which are currently occupied by horses. Specifically, the concern arises from the noted waterlogged conditions of the application site and whether the faeces from up to 45 dogs would be properly managed to prevent it from entering the watercourse. Cllr Parkinson has stated that dog faeces can cause an infectious disease, Neosporosis, in cattle sheep and horses.

As part of the application process the Animal and Plant Health Agency (APHA) were consulted.

The APHA Disease Consultant for Neospora notes that Neospora caninum infection, which is recognised chiefly in cattle, can occur in horses. Dogs are the definitive hosts and can pass oocysts (the infective stage of the parasite's life cycle) in faeces. And so, in theory, faeces contamination could be a risk for any grazing animals.

The Disease Consultant has however also raised the following points:

- The number of oocysts passed by dogs is usually few and excretion occurs for only a limited period (this compares with cats passing many millions of oocysts, far more than the numbers of Neospora oocysts passed by dogs).
- It is naïve dogs that undergo development of the parasite infection and oocyst excretion in faeces; these dogs are infected by eating a contaminated source of infection which on farms is most likely to be fallen stock/dead calves etc. The likelihood of domestic dogs therefore coming across a source of infection is extremely small.
- Most cases of Neosporosis in cattle are due to the animals being infected congenitally from their dams; a few outbreaks of abortion have occurred where there is circumstantial/other

evidence of a dog source of infection where animals were grazing fields or possibly where there was faeces contamination of feed brought into housed cattle.

- In each case the infection has occurred directly, there has not been any evidence of ground water/water course contamination occurring.
- There is no evidence of a risk to humans.

APHA's Disease Consultant concludes that all faeces contamination by domestic dogs should preferably be managed in such a way that the faeces is removed, and notes that the overall risk for horses, or other stock in this case would be negligible or minimal.

The application is supported by a Waste Management Document, a document issued to staff members providing guidance on the appropriate management of dog waste while on site. However, a condition is recommended to require the submission of waste management plan that is specific to the application proposal in terms of frequency of collection, removal from the site, etc.

### **Highways**

Due to the nature of the proposed operations, whereby dogs are collected from their owners and brought to the site in groups, actual traffic movements to and from the site as a result of the proposed operations would be limited. The site provides a parking/turning area for up to 3 vehicles. The Strategic Transport Manager has raised no objection to the application however in the event of approval, a condition is recommended to state that the site is not open for access to the general public to ensure adequate parking is available.

### **Nature Conservation**

The most applicable policies to consider are SE3 of the CELPS and NE11 of the MBLP, which seek to ensure that all development aims to positively contribute to the conservation and enhancement of biodiversity and geodiversity and should not negatively affect these interests. Where appropriate, conditions will be put in place to make sure appropriate monitoring is undertaken and make sure mitigation, compensation and offsetting is effective. Net gains for new development to encourage the further development and protection of biodiversity and geodiversity.

No significant ecological issues are anticipated. The nature conservation officer raises no objections, and the proposal is considered to comply with policies SE3 of the CELPS and NE11 of the MBLP.

### **Trees**

The most applicable policies and guidance to consider are SE5 of the CELPS and DC9 of the MBLP. Between them these policies seek to protect the continued health and life expectancy of trees, hedgerows or woodlands and where loss of or threat to them is proposed development will not normally be permitted unless there are clear overriding reasons for allowing development and that there are no suitable alternatives. Where such impacts are unavoidable, development proposals must satisfactorily demonstrate a new environmental gain by appropriate mitigation, compensation or offsetting.

No significant arboricultural concerns are raised by the proposal. The arboricultural officer has been consulted on the application raises no objections. The proposal is therefore considered to comply with policies SE5 of the CELPS and DC9 of the MBLP.

### **Flood Risk**

Policy SE13 of the CELPS seeks to ensure that new developments integrate measures for sustainable water management to reduce flood risk, avoid an impact on water quality and quantity within the borough and provide opportunities to enhance biodiversity, health and recreation. Given the limited extent of the changes to the site, the proposal raises no additional flood risk concerns compared to the existing situation. No objections have been received from the LLFA. No significant flood risk issues are therefore raised.

### **Other Issues**

The matter of animal welfare has been raised, in terms of the size of the shelter building and whether this would be sufficient should the site be at full capacity and all 45 dogs require shelter at the same time. Further details will be provided on this issue as an update, as whilst it is something that is covered by other legislation it is important to ensure that the proposed development includes facilities required for the scale of development (number of dogs) proposed. If it is not, then there may be further pressure for new buildings which may significantly affect the Green Belt assessment above.

### **CONCLUSIONS**

The proposed development for a dog exercise area would result in the site being used for the exercise and care of dogs, with up to 45 being proposed on site at any one time. Based on the information provided it is considered that the proposed material change of use of the land and the reuse of the existing building on the site preserve the openness of the Green Belt and do not conflict with purposes of including land within it. The proposal is therefore not considered to be inappropriate development in the Green Belt.

One of the key concerns raised throughout the course of this application relates to potential noise levels from the site. Some local residents and Little Bollington Parish Council have raised this as an issue. Whilst it is acknowledged that noise may arise from the application site at times, it is anticipated that it would be an infrequent and unlikely event for all dogs on site to bark simultaneously. Furthermore, various factors significantly reduce the risk of noise causing significant harm to the amenities of the nearest residential properties. This includes the significant separation distance between the closest residential property and the application field, as well as the presence of a number of busy roads surrounding the application site, which will more frequently give rise to higher noise levels than the application site. Therefore, it is considered that the potential impact upon the living conditions of nearby properties is, on balance, likely to be acceptable. However, given the comments received from neighbouring properties and the unpredictable and intermittent nature of noise from dogs barking, a trial period is considered to be appropriate through a temporary planning permission.

The potential contamination of land and risk of spread of infectious diseases to animals using surrounding fields was an additional key concern raised. However, it has been shown that the likelihood of infection through ground water/water course contamination, in the event that the application field were to be waterlogged, is very low.

The proposals are considered to have an acceptable impact upon the character of the area, and no adverse impacts are identified relating to highways, flood risk and nature conservation. Accordingly, it is recommended that planning permission be granted for a temporary period of two years.

#### Application for Full Planning

RECOMMENDATION: Approve subject to following conditions

1. Development in accord with approved plans
2. Materials as application
3. Temporary use - 2 years
4. No public access to / use of site
5. Parking to be provided and retained
6. No dogs shall be left within the building on the site overnight or at weekends
7. Waste management plan to be submitted
8. No more than 45 dogs at anytime
9. Dogs to be supervised at all times in the ratio of 1 supervisor to 10 dogs
10. Hours of operation - Monday to Friday 09.00 hours to 16.00 hours.





*Working for a brighter future together*

## Northern Planning Committee

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**Date of Meeting:** 20<sup>th</sup> April 2022

**Report Title:** Cheshire East Borough Council (High Legh – Land to the north of 2 North Drive) Tree Preservation Order 2021

**Senior Officer:** David Malcolm- Head of Planning

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### 1.0 Report Summary

- 1.1 To inform the committee about the background and issues surrounding the making of a Tree Preservation Order on 3<sup>rd</sup> December 2021 on land adjacent to 2 North Drive; 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.

### 2.0 Recommendation

- 2.1 The Head of Planning (Regeneration) recommend that the Northern Area Planning Committee confirm the Tree Preservation Order on land at 2 North Drive with no modifications

### 3.0 Reason for Recommendation

- 3.1 The loss of the tree 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 a tree of amenity value.

### 4.0 Background

#### 4.1 Introduction

- 4.2 The Willow is located within a grass verge maintained by Cheshire East Highways at the junction of Pheasant Walk with North Drive. The tree is a prominent and valued feature in the locality and makes an important contribution to the landscape character of the area.

- 4.3 The circumstances are that a report was received from several members of the public that a plot of land (394 square metres) to the north of 2 North Drive was advertised for sale at public auction on 7th/8th December 2021. The area of amenity space contains a large early mature Willow and while no planning consent has been applied for; the sale package included a development viability survey which indicated the footprint of a property central to the small area of land.
- 4.3 Highways presently maintain the land, however the land is known to be registered to a third party. Section 263 (1) of the Highways Act 1980 provides that, subject to certain exceptions referred to in Subsection (2), every highway maintainable at public expense, together with the materials and scrapings of it, is vested in the authority who are for the time being the highway authority for the highway. Case Law has established trees planted pre and post adoption are vested in the authority, and that includes all parts of the tree, above ground and the soil the roots occupy. The subsoil beneath the area in question including services, highway apparatus, and tree roots are therefore believed to be vested with the Highway Authority (Hurst and Another v Hampshire CC [1997] EWCA Cid J0619-4).
- 4.4 The advertised sale of the land on which the tree stands constituted a perceived threat to the trees long term retention and prompted a number of local residents to contact the Council regarding their concerns that the tree was at risk, the value they placed on the tree, and the amenity it affords the area.
- 4.5 An amenity evaluation has determined that the tree contributes to the visual amenity and landscape character of the area and there was a risk of the tree being removed and therefore it was considered expedient to make an Order to protect the tree.
- 4.6 Under powers delegated to the Head of Planning (Regeneration), a Tree Preservation Order was made on 3<sup>rd</sup> December 2021.

#### Report Format

- 4.7 The information contained in this report is divided into three sections:
- 4.8 Section 5 provides a summary of the TPO service and consultation process
- 4.9 Section 6 provides a summary of the objections/representation made (see Appendix 3 & 4).
- 4.10 Section 7 provides the Councils appraisal and consideration of the objection.

#### **5.0 Consultation**

- 5.1 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.
- 5.2 The Order was served on the owner/occupiers of the land and their Agents on 3<sup>rd</sup> December 2021. Copies of the Order were also sent to residents that had requested the Order and Ward Members.

## **6.0 Objections/representations**

- 6.1 The Council has received two objections to the Tree Preservation Order one from Joseph Search Ltd and one from ACS Consulting Ltd on behalf of their client.
- 6.2 Objection 1
- 6.3 Joseph Search Ltd objects to the Order and its implementation for the reasons detailed below;
1. *A discrepancy has been noted with the date of visit stated 29th November 2022 on the Landscape appraisal by E Hood. This TPO should not have been granted with such date, and a removal of the TPO with another inspection is necessary.*
  2. *This typographical error could not be held up in court, where a key clause contains an error such as this 2022 date, the consequences could be significant. As found in question in Wei Guang Real Estates Development Ltd. v. Netzwerk Productions Ltd., 2021 BCSC 215 ("Wei Guang"), where the summary trial judge, through contractual interpretation, found that an environmental indemnity clause was missing the key word "not".*
- 6.4 Objection 2
- 6.5 ACS Consulting Ltd objects to the Order and its implementation for the reasons detailed below;
- The objection is made on 4 grounds which are summarised below.*
1. *That it is not expedient in the interest of amenity nor is there any amenity value; we do not believe it is expedient in the interest of amenity to protect the tree, nor is there any amenity value that justifies the placing of the tree in a Tree Preservation Order.*

2. *Visibility; current guidance on TPOs notes that public visibility alone will not be sufficient to warrant an Order.*
3. *Individual, collective, and wider impact; We contend the tree does not contribute significantly to the local environment and its enjoyment by the public, is not special or rare and is no more noteworthy than any other tree within the estate. The tree has no cultural or historic value, its size and form are not remarkable, and it has poor canopy form making no special contribution to warrant protection.*
4. *Other factors; Central Government advises that trees already under management need not be the subject of an Order. In accordance with Government advice the tree does not require to be protected. The Council suggests there are no reasonably foreseeable actionable nuisances that may be associated or caused by the tree. We suggest this is wrong and that its likely to overgrow the boundary of the adjacent property becoming an actionable nuisance and that its location by a footpath will cause a nuisance that will require addressing.*

6.6 Objection 2 a)

6.7 ACS Consulting Ltd upholds its objection and submits further comments for consideration.

- *As advised in Government Guidance (Paragraph:037) Authorities should be mindful that they are responsible for making and confirming Orders and are in effect proposer and judge. They should therefore demonstrate that decisions have been made in an even handed and open manner and we contend this has not occurred.*
- *There is no risk; site owner could have removed the tree prior to the land being placed on open market. There has been no attempt to remove the tree, thus a TPO is not required and the wrong approach*
- *Tree is not right tree in right place and the use of TPO legislation in this instance is totally wrong and an abuse of the powers given to the Council*
- *Any alternative use of the land would need both a stopping up order from the Highways Authority and a planning application, both of which consider the merits of any application. A TPO is not the correct instrument in this instance*
- *The TPO is being used as a bar to any meaningful future use of a parcel land. A parcel of land that makes up part of the councils housing supply quota.*

## 7.0 Appraisal and consideration of the objection

### 7.1 Objection 1 by Joseph Search Ltd

7.2 It is accepted that the year date on the landscape appraisal which is a supporting document is a typographical error and should read 2021 to reflect the date the site visit was carried out.

7.3 Legal advice was sought on the implications of the error within the supporting document. The Legal Department expressed the view that as the TPO document, plan and service documents all state the correct year and date of 2021, that a typographical error on a supporting document would not invalidate the Provisional TPO as served.

### 7.4 Objection 2 by ACS Consulting Ltd

7.5 Guidance – Tree Preservation Orders and trees in conservation areas states that *‘Amenity’ is not defined in law...but Orders can be used to protect selected trees if their removal would have a significant negative impact on the local environment and its enjoyment by the public’* (Paragraph 007)

*‘It may be expedient to make an order If the Authority believes there is a risk of trees being felled, pruned, or damaged in ways which would have a significant impact on the amenity of the area’* (Paragraph 010)

The Councils view is that the tree stands in a grass verge within the public domain and is clearly visible. The tree may not be fully mature but stands at a junction and is established and clearly visible landscape feature of significant amenity value. The advertised sale of the land on which the tree stands constituted a threat to the trees long term retention and prompted a number of local residents to contact the Council regarding their concerns that the tree was at risk, the value they placed on the tree, and the amenity it affords the area.

7.6 The tree is widely visible from several footpaths and roads as illustrated in the Councils Landscape Appraisal and as described within Section 4 of the Amenity Evaluation Checklist. The height and spread of the canopy of the tree presently occupies much of the verge and it is considered that its loss would have a detrimental impact on the existing landscape character and appearance of the area.

7.7 The tree is a large, early mature Weeping Willow expresses good vigour and vitality and has become an established and attractive feature of the residential area. The tree is sited a reasonable distance from the closest

property and its growth habit is considered characteristic of the species and not of a 'poor form' as suggested. Weeping willow is a species which would tolerate pruning operations to maintain it as a street tree to achieve appropriate clearances from roads and footpaths and is subsequently considered to be a long-term amenity feature.

- 7.8 The factors that have been considered are visual amenity and risk to the tree as a consequence of the advertised sale of a piece of land that the Local Authority currently maintain as a Highway verge.
- 7.9 The view that the tree can be managed and maintained in this setting is valid as options to maintain the tree in accordance with *BS3998:2010 Tree work - Recommendations* clearly exist to maintain its relationship with the adjacent property, roads, and footpaths. The requirement to provide recommendations for future management as suggested is not considered necessary or relevant in determining whether the tree is worthy of formal protection, nor is this a recommendation of Government Guidance. Damage to adjacent footpaths was not evident at the time of the assessment and while this could be a factor that may require consideration in the future, anticipating root severance as and when this occurs, does not provide adequate justification on its own to dismiss protection of the tree at the present time.
- 7.10 Objection 2 a) by ACS Consulting Ltd
- 7.11 The referenced paragraph 037 relates to the process of Confirming an Order. The Provisional Order has been signed by the Council's Principal Arboricultural & Forestry Officer who has delegated powers under the Council's current Local Scheme of Delegation. The submitted objections have been considered and responded to in writing by the Arboricultural Officer. The circumstances relating to the making of the Order and submitted objections are now being presented to and decided upon by the Northern Planning Committee in accordance with the requirements of Government Guidance and the Council's Local Scheme of Delegation.
- 7.12 The land/highway-maintained verge was advertised for sale on the open market as a development plot. While the tree was not removed prior to the auction, the expressed intention to sell an area of open space for development clearly suggests a threat to the long-term future of the tree.
- 7.13 The matter of suitability in terms of right tree in right place is subjective. The tree has amenity value and has been demonstrated to be enjoyed by the public at large. Protection of the tree was proven to be expedient given the advertised auction and the service of the TPO is therefore considered justified and in accordance with Government Guidance.
- 7.14 Alternative use of the land would require the submission of a planning application and a stopping up Order which would consider the merits of

any application although neither of these instruments would prevent the removal of the tree in advance of any submission.

- 7.15 Confirmation has been received from Strategic Planning that the land is currently allocated as amenity open space and that policies RT1 and RT2 of the adopted Macclesfield Local Plan are applicable. The land does not form part of Cheshire East Councils 5-year housing supply

## **8.0. Implications of Recommendation**

### **8.1 Legal Implications**

- 8.1.1 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, willfully damage or willfully destroy any tree to which the Order relates except with the written consent of the authority.

### **8.2 Finance Implications**

- 8.2.1 No direct implication

### **8.3 Policy Implications**

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

### **8.4 Equality Implications**

- 8.4.1 No direct implication

### **8.5 Human Resource Implications**

- 8.5.1 No direct implication

### **8.6 Risk Management Implications**

- 8.6.1 No direct implication

### **8.7 Rural Communities Implications**

- 8.7.1 No direct implication

### **8.8 Implication for Children & Young People/Care for Children**

- 8.8.1 No direct implication

**8.9 Climate Change -**

8.91 The retention of mature trees where possible is in accordance with the Councils Climate Change Agenda

**8.10 Public Health Implications**

8.10.1 No direct implication

**8.11 Ward Members Affected**

8.11.1 High Legh

**9.0 Access to Information**

9.1 The following document is appended to this report

Appendix 1 – Provisional TPO document  
Appendix 2 – Amenity Evaluation Checklist  
Appendix 3 – Objection 1  
Appendix 4 – Objection 2

**10.0 Contact Information**

**10.1** Any questions relating to this report should be directed to the following officer.

Name: Emma Hood

Job Title: Arboricultural Officer (Environmental Planning)

Email: [emma.hood@cheshireeast.gov.uk](mailto:emma.hood@cheshireeast.gov.uk)

**Town and Country Planning Act 1990**  
**CHESHIRE EAST BOROUGH COUNCIL**  
**(HIGH LEGH – LAND TO THE NORTH OF 2 NORTH DRIVE)**  
**TREE PRESERVATION ORDER 2021**

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 (HIGH LEGH – LAND TO THE NORTH OF 2 NORTH DRIVE) TREE PRESERVATION ORDER 2021**

**1. Interpretation**

**2.—** (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**

**3.—** (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**

**4.** 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 3rd day of December 2021

The Common Seal of **Cheshire East Borough Council**

was affixed to this Order in the presence of—

Deborah C. Nickson



1. The first part of the document is a letter from the President of the United States to the Congress, dated September 17, 1787. It is a very important document, as it is the first official communication from the President to the Congress. It is a letter of introduction, in which the President explains to the Congress the purpose of his mission and the importance of the new Constitution.

2. The second part of the document is a letter from the President to the Congress, dated September 17, 1787. It is a letter of introduction, in which the President explains to the Congress the purpose of his mission and the importance of the new Constitution.

3. The third part of the document is a letter from the President to the Congress, dated September 17, 1787. It is a letter of introduction, in which the President explains to the Congress the purpose of his mission and the importance of the new Constitution.

4. The fourth part of the document is a letter from the President to the Congress, dated September 17, 1787. It is a letter of introduction, in which the President explains to the Congress the purpose of his mission and the importance of the new Constitution.

5. The fifth part of the document is a letter from the President to the Congress, dated September 17, 1787. It is a letter of introduction, in which the President explains to the Congress the purpose of his mission and the importance of the new Constitution.

6. The sixth part of the document is a letter from the President to the Congress, dated September 17, 1787. It is a letter of introduction, in which the President explains to the Congress the purpose of his mission and the importance of the new Constitution.

7. The seventh part of the document is a letter from the President to the Congress, dated September 17, 1787. It is a letter of introduction, in which the President explains to the Congress the purpose of his mission and the importance of the new Constitution.

8. The eighth part of the document is a letter from the President to the Congress, dated September 17, 1787. It is a letter of introduction, in which the President explains to the Congress the purpose of his mission and the importance of the new Constitution.

9. The ninth part of the document is a letter from the President to the Congress, dated September 17, 1787. It is a letter of introduction, in which the President explains to the Congress the purpose of his mission and the importance of the new Constitution.

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	Willow	Standing on land to the north of No 2 North Drive Grid Ref: 370,213 – 383,941

**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>
	None	

**Groups of trees**

(within a broken black line on the map)

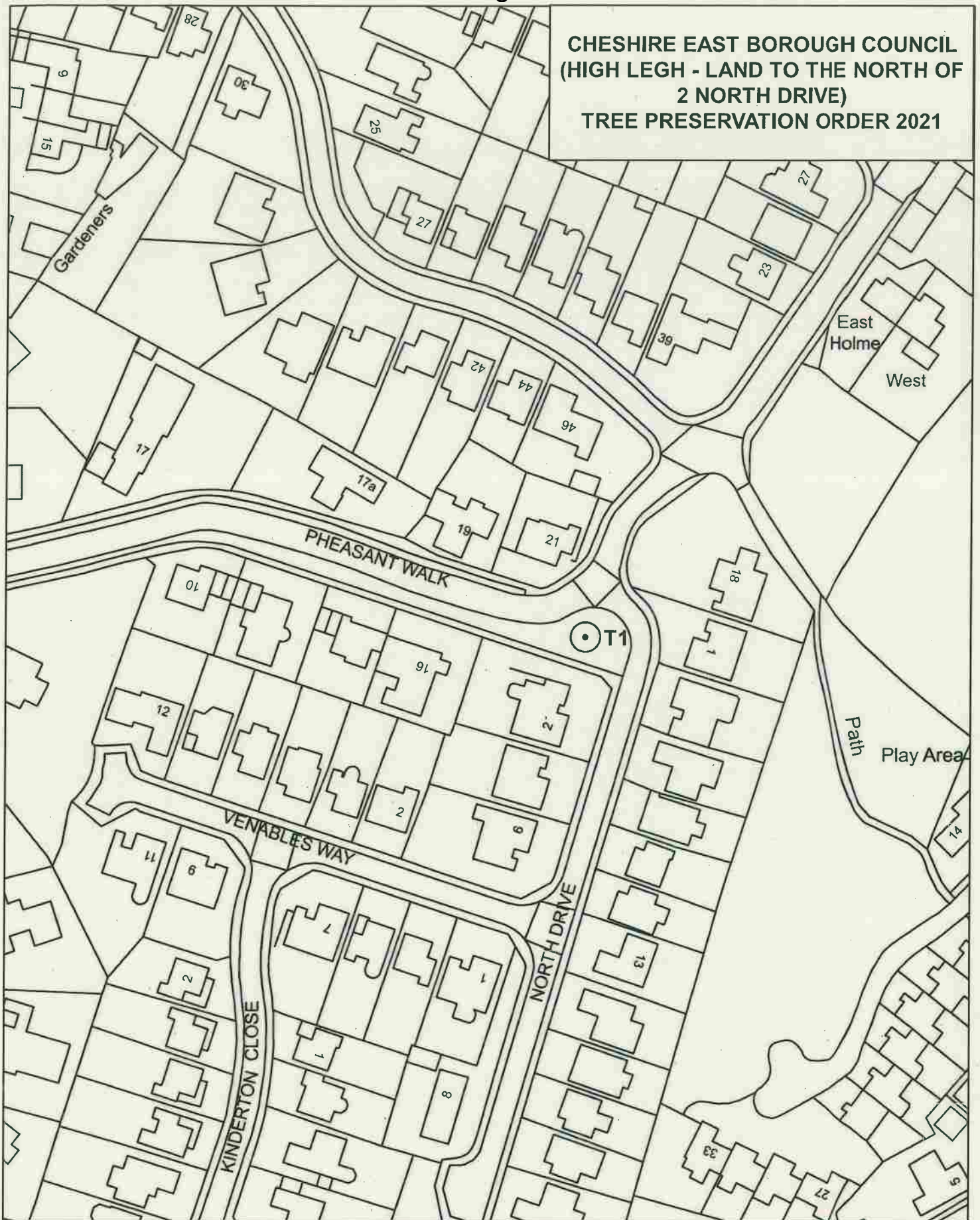
<i>Reference on Map</i>	<i>Description</i>	<i>Situation</i>
	None	

**Woodlands**

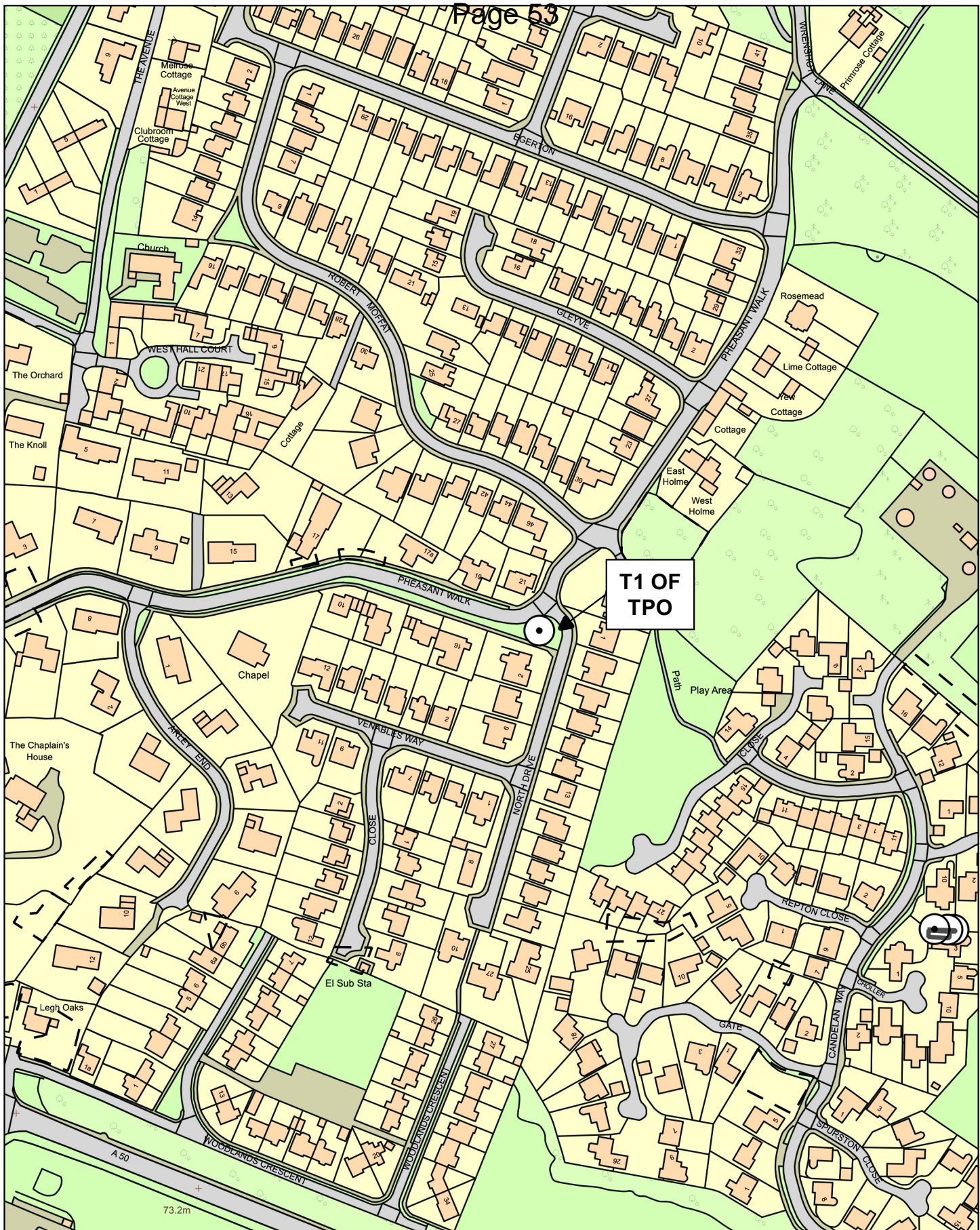
(within a continuous black line on the map)

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

CHESHIRE EAST BOROUGH COUNCIL  
(HIGH LEGH - LAND TO THE NORTH OF  
2 NORTH DRIVE)  
TREE PRESERVATION ORDER 2021







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# Amenity Evaluation Checklist

Completed by:

Date form completed:

Form status:

Reference

Attachments [Click here to attach a file](#)

Address

Town

Postcode

Ward:  ▾

## 1. BACKGROUND FILE CHECK:

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

Is the site within a conservation area?  ▾

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

Is the site adjacent to a Conservation Area?  ▾

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

Local Plan land-use designation

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

Relevant site planning history (incl. current applications)

## STATUTORY CONSULTEES

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

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

Does the Forestry Commission currently have  ▾

an interest in the land?

Grant scheme ☐

Forestry Dedication Covenant ☐

Extant Felling Licence ☐

Are any of the trees situated on Crown Land?  

Are any of the trees situated on NHS land?  

Is the land owned by this Local Authority  

Is the land owned by another Local Authority  

## 2. MOTIVATION

Development Control ☐

- Application Ref

- Committee deadline  

- Development Control Office comments

Conservation Area Notification ☐

Application ref

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  

## 4. LANDSCAPE APPRAISAL

Site visit date  

Inspecting Officer

Site description

## Page 57

Description of surrounding landscape character	The land is located within the main residential housing estate at High Legh which already benefits from a number of Tree Preservation Orders.
Statement of where the trees are visible from	The tree is clearly visible from North Drive, Pheasant Walk, and Robert Moffat <div> <div> <div></div> <div>annotate map</div> </div> </div>
Photograph the trees, the site and surroundings	<div> <div> <div></div> <div>Click here to insert a picture</div> </div> </div> <div> <div> <div></div> <div>annotate map</div> </div> </div>
Landscape function	<div> <input type="checkbox"/> Landmark trees  <input type="checkbox"/> Skyline  <input type="checkbox"/> Road frontage (trunk)  <input type="checkbox"/> Road frontage (principal)  <input checked="" type="checkbox"/> Road frontage (classified)  <input type="checkbox"/> Road frontage (unclassified)  <input type="checkbox"/> Backdrop  <input checked="" type="checkbox"/> Glimpses between properties or through gateways  <input type="checkbox"/> Filtered views  <input type="checkbox"/> Screening/buffering         </div>
Visual prominence	<div> <input type="checkbox"/> Conurbation  <input checked="" type="checkbox"/> Neighbourhood, estate, locale  <input checked="" type="checkbox"/> Site and immediate surroundings  <input type="checkbox"/> Value restricted site         </div>
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?	The tree expresses good vigour and vitality and presents and notwithstanding species characteristics of Willow it is considered it can be managed appropriately in this location
Tree size (at maturity)	Large (more than 15m) ▼
Presence of other trees	Medium percentage tree cover ▼
Define visual area/reference points	
<b>BENEFITS</b>	
Are the benefits current?	Yes ▼
Assessment of future benefits (future growth potential; continuity/sustainability of tree cover; development)	The tree presents both current and future growth potential and can be managed appropriately in its present condition

Assessment of importance as a wildlife habitat	May present features suitable for nesting and roosting birds
Additional factors	<input type="checkbox"/> Exceptional landscape value <input type="checkbox"/> Conservation area (within or adjacent) <input type="checkbox"/> Contribution to the setting of a Listed Building <input checked="" type="checkbox"/> Part of deliberate composition (avenue/focal point) <input type="checkbox"/> Screening/buffering (visual/noise) <input type="checkbox"/> Botanical interest/rarity <input type="checkbox"/> Historical associations
<b>5. EXEMPTIONS (TCPA 1990)</b>	
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)	Yes
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
<b>6. EXEMPTIONS (MODEL ORDER):</b>	
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
<b>7. COMPENSATION:</b>	
Do any of trees currently show any obvious signs of causing damage?	<input type="checkbox"/>
If Yes provide details	
Based on the trees in their current locations,	<input type="checkbox"/>

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?

Yes



Justification (if required)

The land on which the tree stands has been advertised for sale by public auction on the 7th/8th December as land which may be suitable for a range of future purposes subject to necessary consents with a development viability study produced within the legal pack.

## 10. DESIGNATIONS:

### a. Individual

Do the trees merit protection as individual specimens in their own right?

Yes



### b. Group

Does the overall impact and quality of the trees merit a group designation?

No



Would the trees reasonably be managed in the future as a group?

No



### c. Area

Area

<div> <input type="checkbox"/> Does the 'area' comprise scattered individual trees? <input type="checkbox"/> Is the area classification warranted as an emergency meas <input type="checkbox"/> Is the area designation intended as a temporary measure, <input type="checkbox"/> Do all trees/species merit inclusion? </div> <div></div>	
<b>d. Woodland</b>	
Woodland	<div> <input type="checkbox"/> Does the 'woodland' form an area greater than 0.1 hectare <input type="checkbox"/> Would normal silvicultural management principles reasona <input type="checkbox"/> Does the 'woodland' currently contain regeneration and a <input type="checkbox"/> Does the 'woodland' form part of a garden? </div> <div></div>
<b>11. MAP INFORMATION:</b>	
Identify the parcel of land on which the trees are situated. (Outline in <b>red</b> on the attached location plan)	<input type="checkbox"/>
Identify all parcels of land which have a common boundary with the parcel concerned (Outline in <b>green</b> 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"/>
<b>12. LAND OWNERSHIP:</b>	
Land ownership details (if known)	<div>Se list of persons served</div> <div></div>
Land Registry search required?	<input checked="" type="checkbox"/>
<b>13. SUPPLEMENTARY INFORMATION:</b>	
Has a detailed on-site inspection been carried out?	<div>Yes</div> <div>▼</div>
Does the risk of felling justify making an order prior to carrying out a detailed on-site inspection	<div>No</div> <div>▼</div>
Provide details of trees to be excluded	<div></div>
Additional publicity required?	<input type="checkbox"/>
Relevant Local Plan policies	<div>CHESHIRE EAST LOCAL PLAN</div> <div>POLICY SE5 TREES, HEDGEROWS &amp; WOODLANDS</div> <div>POLICY SE3 BIODIVERSITY &amp; GEODIVERSITY</div>
Statement of reasons for promoting this Order	<div></div>

In the interests of maintaining the area in which the tree stands, in that it is considered to be a long term amenity feature

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

The tree has 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 protection

In the interests of securing the retention and enhancement of established tree cover in accordance with the strategic goals and priorities of the Cheshire East Council Environmental Strategy and Green Infrastructure Plan

**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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Re: Tree Preservation - 16 019



To: PLANNING TREES

Emma Hood

Follow up. Completed on 14 January 2022.  
You forwarded this message on 14/01/2022 08:55.

Reply Reply All Forward

Thu 13/01/2022 14:48

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Emma,

Thank you for your email.

I wish this email to be logged as a formal objection to the service of the TPO as this typographical error could not be held up in court, where a key clause contains an error such as this 2022 date, the consequences could be significant. As found in question in Wei Guang Real Estates Development Ltd. v. Netzwerk Productions Ltd., 2021 BCSC 215 ("Wei Guang"), where the summary trial judge, through contractual interpretation, found that an environmental indemnity clause was missing the key word "not".

I hope the above clarifies the justification to object against this "typographical error"

Kind Regards,

**From:** PLANNING TREES <[PlanningTrees@cheshireeast.gov.uk](mailto:PlanningTrees@cheshireeast.gov.uk)>

**Date:** Thursday, 13 January 2022 at 14:13

**To:**

**Subject:** RE: Tree Preservation - 16 019

Dear , thank you for your email.

The year date on the landscape appraisal which is a supporting document is a typographical error and should read 2021 to reflect the date the site visit was carried out. The TPO document, plan and service documents all state the correct year and date of 2021 and the error you have identified does not invalidate the Provisional TPO as served. If you wish your email to be logged as a formal objection to the service of the TPO then please advise. If you wish to provide any more reasons in support of your objection please send them to me at this email address before the 24<sup>th</sup> January. Your objection would be considered in advance of any decision to confirm the Order and may be decided at Planning Committee. I have attached a guidance booklet which explains how you can submit an objection in writing to the Local Authority.

Kind regards

Emma

Emma Hood  
Arboricultural Officer  
Cheshire East Council  
Tel: 01625 383329

[www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk)



**From:** [REDACTED]  
**Sent:** 12 January 2022 11:21  
**To:** PLANNING TREES <[PlanningTrees@cheshireeast.gov.uk](mailto:PlanningTrees@cheshireeast.gov.uk)>  
**Subject:** Tree Preservation - 16 019

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sirs,

We are looking to purchase this vacant private land situated on Pheasant Walk/North Drive, High Leigh and we have notice a discrepancy with the date of visit stated 29<sup>th</sup> November 2022 on the Landscape appraisal by E Hood. This TPO should not of been granted with such date, and a removal of the TPO with another inspection is necesarry.

Please advise on how you would like to proceed.

Kind Regards,

[REDACTED]  
Group Managing Director



[REDACTED]

JOSEPH SEARCH



Environmental Planning  
Cheshire East Council  
PO Box 606  
Municipal Buildings  
Earle Street  
Crewe  
CW1 9HP

7<sup>th</sup> March 2022

Dear Sirs,

**Our Ref: 4538/TPO.21**

**Town and Country Planning Act 1990  
Town and Country Planning (TREE PRESERVATION)(ENGLAND) Regulations 2012.  
Cheshire East Borough Council (High Legh – Land to the North of 2 North Drive) Tree  
Preservation Order 2021  
Tree Preservation Order SC/0475/21**

Thank you for your letter dated 4<sup>th</sup> February 2022.

We have noted its contents and are of the firm opinion that our objection still stands on the grounds that we made in our first letter 17<sup>th</sup> January 2022.

We will not be withdrawing the objection.

As advised in Guidance Tree Preservation Orders and trees in conservation areas (Paragraph: 037) Authorities should bear in mind that, since they are responsible for making and confirming Orders, they are in effect both proposer and judge. They should therefore consider how best to demonstrate that they have made their decisions at this stage in an even-handed and open manner.

We contend this has not occurred on this occasion.

We note it is stated that the sale of the land prompted a number of local residents to contact the council and express the tree was at risk, the value they placed on the tree and, the amenity it affords the area.

We would respectfully request to be advised of the number of residents who made contact.

There is no risk; the site owner could have removed the tree prior to the land being placed on the open market. There has been no attempt to remove the tree, thus a TPO is not required and is entirely the wrong approach.



Registered Consultant: Ian Murat MSc, F.Arbor.A, CEnv, MCIEEM, RC. Arbor.A  
Consultant: Susan Thomason B. Ed. (Hon)

A Professional Consulting Service for Trees in the Built and Rural Environment

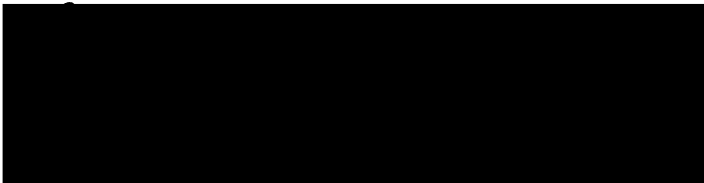
We also contend the tree is not the right tree in the right place. Were the tree adjacent to a watercourse or body of water in a rural location then it would be the right tree in the right place. However, it is located in a housing estate with associated infrastructure and urban pressures where it is possible to be associated with causing direct and indirect damage particularly to leaking services.

The use of the TPO legislation in this instance is totally wrong and an abuse of the powers given to the council.

Any alternative use or development of the land would need both a stopping-up order from the Highways Authority and a planning application, both of which will consider the merits of any application. A TPO is simply not the correct instrument in this instance.

It is clear the TPO is being used as a bar to any meaningful future use of a parcel of land. A parcel of land that makes up part of the council's housing supply quota.

Yours faithfully,

A large black rectangular box redacting the signature of the sender.