

Planning Reference No:	10/3139M
Application Address:	Land at Tytherington Business Park, Manchester Road, Tytherington, Macclesfield
Proposal:	Extension of time to 07/1041P – Erection of 9 three storey buildings for Class B1 (Business) Use, 1 two/three storey building for Class C1 (Hotel) use, together with associated highways, car parking and landscaping infrastructure.
Applicant:	Hadley Development Solutions Ltd.
Application Type:	Extension of time
Grid Reference:	918 760
Ward:	Prestbury and Tytherington
Earliest Determination Date:	27 th October 2010
Expiry Date:	9 th November 2010
Date of Officer's Site Visit:	6 th October 2010
Date Report prepared:	15 th October 2010
Constraints:	Manchester Airport Safeguarding Woodford Safeguarding Development Brief Existing Employment Area Green Belt Proposed Open Space Tree Preservation Order

SUMMARY RECOMMENDATION: Approve subject to conditions

MAIN ISSUES

- Whether there has been a significant change in circumstances or policy since the original grant of permission for 071041P.
- Whether there is sufficient information submitted to enable an extension of time to the original full permission 07/1041P to be granted.

REASON FOR REPORT

This application is to be determined by the Strategic Planning Board because of the amount of accommodation on the application site - nine three storey office buildings for B1 use (25 628 sqm) and a two/three storey building for hotel use (100 bed).

Members will recall that the application was deferred at the Strategic Planning board on 27th October 2010, in order to allow for further ecological surveys to be carried out.

DESCRIPTION OF SITE AND CONTEXT

The site lies approximately 2km to the north of Macclesfield Town Centre. The site is bounded to the west by the A538 (London Road) and employment land to the east which forming part of the established Tytherington Business Park. To the south lies the residential area known as the "old" Tytherington Estate with properties on both Pool End Close and the A538 being adjacent to the application site. The land is uneven and rough in appearance, with a lot of weeds and scrub having become established. The buildings which were originally part of Pool End Farm have been removed and there are no buildings on the site at present.

SCOPE OF THIS APPLICATION

Extensions to the time limits for implementing existing planning permissions were brought into force on 1 October 2009. The new system was introduced in order to make it easier for developers to keep planning permissions alive for longer during the economic downturn. It includes provisions for a reduced fee and simplified consultation procedures.

As a matter of law the Board decides applications afresh: resolutions which vary from previous decisions may be justified by change of circumstances or of weight. For this type of application, the Government's advice is for Local Planning Authorities to take a positive and constructive approach towards applications that improve the prospects of sustainable development being brought forward quickly. The development proposed will, by definition, have been judged acceptable in principle at an earlier date. It is the Government's advice that Local Planning Authorities should only look at issues that may have changed significantly since that planning permission was previously considered to be acceptable in principle.

In short, it is not intended that Local Planning Authorities should re-open debates about principles of any particular proposal, except where material circumstances may have significantly changed, either in local plan policy terms or in terms of national policy or other material considerations.

DETAILS OF PROPOSAL

This is an application for an extension in time to outline planning permission granted under reference 07/1041P. The outline permission granted consent for nine three storey buildings for Class B1 (Business) use, one three storey building for Class C1 (Hotel) Use together with associated highways, car parking and landscaping infrastructure. The application was determined on 28th August 2007.

The current application (received on 6 April 2010) was received whilst the original application was an extant permission. Whilst the guidance advises Applicants not to leave their applications to the last minute, it remains clear that this application was submitted in time and therefore should be determined as a valid application.

The original committee report which was considered by the former Macclesfield Planning Committee for the approved scheme is attached to this

report as Appendix 1, and an update report is attached as Appendix 2. The Decision Notice 07/1041P is attached as Appendix 3.

RELEVANT PLANNING HISTORY

07/1041P – Erection of 9 three-storey buildings for Class B1 (Business) use, 1 two/three storey building for Class C1 (Hotel) use together with associated highways, car parking and landscaping infrastructure – Approved – 28.08.07

05/0753P – 4 x five storey office buildings and five storey hotel. Refused June 2005 on the grounds of scale, height and design, introduction of an inappropriate use, contrary to RPG13, transport issues, non-accordance with the Tytherington Business Park Development Brief, failure to comply with sustainability objectives, and impact on highway network.

04/0506P - Outline application for development of B1 office accommodation. Refused May 2004 on the grounds of insufficient justification for the proposed office accommodation in relation to its impact on the character and appearance of the site and the adjacent residential areas, and impact upon the highway network, and submission of a Travel Plan which failed to comply with Government advice and best practice.

02/1441P – Renewal of outline planning permission 99/0664 for B1 office development, B2 General Industrial Units and B8 warehousing - Approved.

99/0664P – Outline application for B1 office development, B2 general industrial units and B8 warehousing. Approved July 1997.

97/2379P – New estate road for business park – Approved with conditions following completion of Legal Agreement – March 2000.

97/0237P - Site for B1, B2 and B8 development comprising offices, research and development facilities, light and general industry and warehousing – Application not determined – Appeal withdrawn 18.07.97

83319P - Site for B1, B2 and B8 development comprising offices, research and development facilities, light and general industry and warehousing – Application not determined – Appeal Allowed 18.07.97

POLICIES

Local Plan Policy

BE1, NE4, NE11, RT1, RT6, RT7, RT8, RT14, E1, E2, E3, E4 and Development Control Policies.

Other Material Considerations

National Planning Guidance in the form of: -

PPS1: Delivering Sustainable Development

PPS3: Housing

PPG15: Planning and the Historic Environment

PPS9: Biodiversity and Geological Conservation

PPG13: Transport

PPG25: Development and Flood Risk

The newly published PPS4: Planning for Sustainable Economic Growth is also of relevance to this proposal. The development is for an office development with a hotel on land which is allocated for employment uses within the Macclesfield Local Plan. The site is considered to fall within a relatively sustainable location. As a scheme that provides employment opportunities the principles of achieving sustainable economic development are still relevant.

CONSULTATIONS (External to Planning)

The Highways Engineer raises no objections to this application.

The Community Fire Protection Officer has commented in relation to Access for the Fire Service - the access and facilities for the fire service should be in accordance with the guidance given in Approved Document B supporting the Building Regulations 2000. In relation to Water Supplies – the applicant is advised to submit details of the water main installations in order that the fire hydrant requirements can be assessed. In relation to the Means of Escape – the applicant should be advised that the means of escape should be provided in accordance with the current Building Regulations. The applicant is also advised that they should consider the inclusion of an automatic water suppression subsystem to enhance any proposed design. The above comments should be forwarded to the applicant.

Manchester Airport raise no safeguarding objections to this application.

The Environment Agency have no objections to the proposed extension of time.

Bollington Town Council comment that they have had discussions with the Dumbah Residents Association. It is suggested that the matters raised in the Dumbah Associations letter, (which in addition to other things, raises concerns about parking and the height of buildings) should be properly considered when the application is determined.

OTHER REPRESENTATIONS

A total of 20 letters of objection have been received in relation to this application. The Dumbah Association objected to the original application (07/1041P) on the following grounds: -

The Business Park's Feasibility Study cites a population of 1400 persons for the entire Business Park. Lance's own population figures exceed that value just for its 30% of the Business Park. The Royal Institute of Chartered Surveyors Cutting Edge document suggests a population of up to 23% higher still.

Lance's own figures predict a shortage of 394 car parking places. RICS models predict shortage up to 663 places. These hundreds of car users will target neighbouring residential roads as overspill car parks.

Only 16% of the Orbit's 25-buildings are 3-storey; 100% of Lance's 10-building are 3-storey.

Orbit's hotel was in the Statutory Local Plan. Lance's is not and yet it's more than twice the size. Lance's hotel is sited precisely where the Business Park's Development Brief makes provision to alter the intercept of Tytherington Lane with Manchester Road (i.e. residential properties close-by could have expected a significantly improved environment). Instead, they'll be blighted by an immediately adjacent huge hotel.

Additional reasons are added in relation to this application: -

Incompatibility with The Planning Inspectorate's related decision to an earlier Orbit Application. This decision limits the site to 2-storey and 3-storey areas as shown on the Inspectors plan. MBC translated this as a condition NOT to place 3-storey buildings on the periphery of the site. The Inspector acknowledges the Development Brief as a material consideration in his deliberations and the Development Brief's para 6.4 states: adjacent to existing dwellings, no more than 2-storeys.

The siting of a hotel could have been avoided. The environmental consequences fall upon nearby residential dwellings. These residents were expecting a road realignment and landscaping, not a 3-storey hotel. The RCIS Cutting Edge document was ignored by Cheshire Highways. Councillors were misled as the previous applicants 'Lance' pointedly stated the Cutting Edge document was not commissioned by DoE when giving evidence to Main Planning Committee councilors and this rubbished the pedigree of the Cutting Edge argument.

The Dumbah Association questions whether Planning Committee Councillors were made aware of the Inspectors explicit reference to the height of buildings on the site. Lance's proposed hotel is on the periphery of the site.

The writer suggests that LPAs may refuse applications to extend the time limit for permissions where changes in the development plan or other relevant material considerations indicate the proposal should no longer be treated favourably. Since the original Planning Application (07/1041P) and the introduction of the Extension of Time scheme (Oct 2009) there has been: a change in Government, change in Council and a change in management at the Planning Department. *(Officer comment – none of these factors are material planning considerations)*

The other grounds for objection from residents are summarised as follows: -

- This submission did not comply with the outline planning consent and therefore should be rejected.

- The development is far too high a density, particularly on the southern part of the site, and needs to be reduced by removing a minimum of three blocks from those lettered A-F.
- The designs proposed are completely out of character. The 3 storey hotel is of a very dated design and will not enhance the entrance to the park.
- There was no clear need for the proposed development in 2007 when permission was granted. Three years later, after one of the deepest recessions since the war, there is even less need. So far as we understand, the existing Orbit development is far from fully let. The case for a substantial extension to an underused development is simply not made out.
- There is no need for a hotel. Macclesfield has enough low- to mid-range hotels already.
- The development will result in traffic congestion and car parking on local roads. Highway safety will be affected by the volume of traffic.
- The council should talk to the developers to require the land and give them city centre options instead. Then the land could be easily and cheaply joined into the local pathway system. The wetlands could be made into a nature reserve. This would be used by many bicycle groups, bird watchers, local mothers with children, biology study areas for local schools, dog walkers, the list is endless.
- One objector has included a précis of a speech given to the main planning committee on the 28th August 2007 by the Secretary of the Dumbah Association, which relates to a feasibility Study of the business park and the Royal Institute of Chartered Surveyors Cutting Edge document.
- The proposed plans will affect the character of the area as most properties on Tytherington Lane date back to the Eighteenth Century.
- There is a drain from the septic tank of one of the objectors which goes across the land to the stream. What is going to happen to this?
- The development will have a detrimental impact on wildlife.
- One resident has requested that the ground levels be lowered so that the buildings can blend in with the rest of the landscape and immediate properties.

A further letter was received from the Dumbah Association which is summarised as follows: -

This letter explains how the Dumbah Association has requested details of application 07/1041P in order to ascertain whether the Councillors who considered that application took into account the deliberations of an Inspector from a previous scheme on the Business Park in relation to the height and permitted locations of 2/3 storey buildings. The writer also states that he requested a copy of plan which was tabled at the Public Inquiry, however, this has not been found.

The writer reiterates that that the Dumbah Association does not consider that all the buildings should be 3 storey and submit that Councillors were not properly informed of all the facts in the previous scheme. The writer considers

that the Inspectors conditions on the previous appeal in relation to the heights of buildings were ignored. The plan which was tabled at the Public Inquiry stated that: - "A maximum development of two storeys in height shall be constructed around the periphery of the site with three-storey developments being located within central parts of the site only", and, "the maximum height of buildings shall be 10 meters for 2 storey and 13-metres for 3 storeys". The writer believes that the previous senior management created a precedent in breaking an orange no go zone by allowing all the development to be over 2 storey high.

The writer points out that residents, at the southern end of Tytherington Lane, were genuinely expecting a road re-configuration that would, according to the *Development Brief*, include a landscape area. Instead, they now get a gigantic 3-storey hotel. This hotel is over twice the size of the existing Orbit hotel at the northern entrance to the Business Park. There previous letter, also informed Members that: a) MBC had ownership of this parcel of land; b) sold it for significant profit; c) could have retained this land for the purposes of reconfiguration; c) or, alternatively, could have placed a codicil to ensure the purposes of reconfiguration.

APPLICANT'S SUPPORTING INFORMATION

A supporting letter and an Ecological Report have been submitted to accompany the extension of time application. The updated Ecology Report confirms that the findings and recommendations originally submitted are still valid. There are no new or improved habitats on the site. The letter states that the previous applicant / developer went into administration in mid July 2010 and the company's assets were subsequently then assessed by the bank. It was considered important to extend the time limit for implementation of the development simply to retain the consent and the principle of development on the site. The timing of the administration resulted in submission of the current application close to the expiry of the 2007 consent.

One policy issue relates to the introduction of PPS 4 'Planning for Sustainable Economic Growth' in place of PPS 6 'Planning for Town Centres' which was relevant at the time of the previous consent. This change in national guidance is not considered to have introduced any significant material changes in policy that would prevent the approval of the extension of time application. Both PPS6 and PPS4 consider hotels to be a town centre use and as such the guidance set out in the two documents regarding the principle of such developments remains essentially unchanged. If anything the guidance set out in PPS6 was more onerous in terms of the need to demonstrate need for such development, its impact, the appropriateness of its scale, its accessibility and overall impact. PPS4 is more supportive of hotel development with the use considered to fall within the definition of economic development as they provide employment opportunities (paragraph 4 PPS4). Furthermore Policy EC10 of PPS4 actively encourages Local Planning Authorities to adopt a positive and constructive approach towards planning applications for economic development. Policies EC15 and EC16 regarding sequential and impact assessments respectively are essentially the same as those set out in PPS6.

Whilst the national guidance relating to economic development may have changed in terms of number / title (that is PPS4 replacing PPS6) the guidance and advice set out essentially remains the same, albeit PPS4 is now more positive in encouraging economic development. In terms of any material change in circumstances since the previous consent it is considered there have been no such changes in terms of site conditions or planning policy.

OFFICER APPRAISAL

MATERIAL CHANGES IN POLICY/CIRCUMSTANCES SINCE PREVIOUS APPLICATION

There are not considered to be fundamental changes in policy or other important material considerations since the original application was determined in 2007. The applicant's assessment of policy in relation to PPS4 is accepted in relation to this proposal.

IMPACT UPON PROTECTED SPECIES AND MATERIAL CHANGES IN CIRCUMSTANCES SINCE THE SCHEME WAS ORIGINALLY GRANTED PERMISSION

Ecological surveys and assessment reports were provided in respect of the 2007 application. These were considered to be out of date and as a result further surveys were requested which included an Extended Phase 1 Habitat Survey, mitigation proposals, Great Crested newt Surveys and Breeding/wintering Bird Assessment. Following this request, updated ecological assessments have been submitted. The Nature Conservation Officer is satisfied that an acceptable level of survey has been undertaken in respect of roosting bats. No evidence of roosting bats was recorded; therefore no further action is required. With regards to badgers, no currently active setts were recorded on site during the latest survey. An acceptable badger mitigation method statement has been submitted that indicates the retention of the setts and the supervision of the works by a suitably qualified ecologist together with the provision of badger underpasses.

OTHER CONSIDERATIONS

The comments from the Dumbah Association and residents are noted. These comments were addressed in the committee report under the 2007 application and therefore, it is evident that the comments made by the Dumbah Association and residents were given proper consideration in 2007, where the sites planning history and context was clearly presented to the Committee Members. The scheme which was approved under application 07/1041P was considered to be acceptable on its merits and that full consideration to the heights and location of buildings was given.

It is not considered that it would be appropriate to re-open the debate about the principles of the proposal as material circumstances do not appear to have significantly changed.

One further letter has been received from a resident of Manchester Road concerning a drain from their septic tank. This issue was raised during the 2007 consideration of the scheme and such matters are considered be a private matter to be resolved between the applicants and affected resident should planning permission be granted.

It should be noted that condition 17 of 07/1041P requires details of existing and proposed ground levels to be submitted before any development on site commences.

The comments from consultees are noted. No objections have been raised from the Strategic Highways Engineer, Environment Agency, or Manchester Airport. The comments from the Community Fire Protection Officer can be addressed by an informative.

HEADS OF TERMS FOR A S106 AGREEMENT

Permission was originally granted for the application under consideration subject to a S106 Agreement which will provide the following: -

a) Requirement to link up the proposed spine road with the spine road that runs through the adjacent business park site Springwood Way as soon as can be achieved and for it to be available for use.

b) Requirement for the developer (and any successors) to produce a single Travel Plan for the site, and associated initiatives, in accordance with local and national standards, guidance and best practice and to require its operation at all times while the development is occupied, including the requirement for all occupiers to be required to take part in its operation and the requirement to link with other travel plans that operate in the area. Such a Travel Plan will include procedures for monitoring, review and remedial action.

c) The requirement for developer (and any successors) to develop and operate a package of public / passenger transport measures from first occupation to meet the development's public/ passenger transport requirements and to allow the site's Travel Plan aims and objectives to be met (which will be based on a package of measures that have previously been approved by the Highway Authority).

d) The requirement for a car parking management regime to be developed for the site, which include the provision of Traffic Regulation Orders on the spine road and other roads within the vicinity of the site if required to allow the aims and objectives of the Travel Plan to be met.

e) The roundabout of the A523 / Tytherington Lane to be upgraded in accordance with a scheme of details prior to the occupation of any part of the development and with a funding regime to enable this to occur.

f) The footpath / cycleway link between Manchester Road and the Middlewood Way and the associated recreation area to be handed over to the Borough Council following an appropriate implementation period. The

timescales for the implementation of these works and commuted sums for ongoing maintenance should also be agreed.

g) A landscape management plan to be submitted for approval, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas, for a period of 15 years.

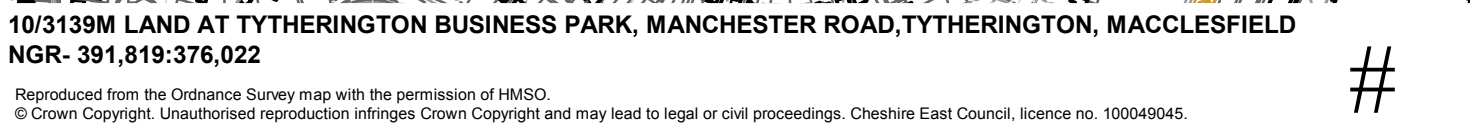
In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010, it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In this instance, requirements (a)-(f) relate to traffic and highway safety, sustainability and requirement (g) relates to landscaping. Given the scale of the scheme and its associated impact, it is considered that the measures prescribed are necessary to deliver the scheme in a safe and sustainable way, which relate to relevant planning policies. It is considered, in respect of points a-c, that the requirements stipulated are necessary, directly related to the development and are fair and reasonable in relation to the scale and kind of development proposed.

CONCLUSIONS

There are no objections to an extension of time for the implementation of this permission for a further three years. The site is to be used for business purposes on a business park, which complies with the allocation in the Macclesfield Borough Local Plan, the Development Brief and previous permissions for the site. The site is sustainably located in relation to public transport, walking and cycling. There have been no material changes in circumstances since the 2007 permission was granted which would warrant a refusal of this application for an extension in time for the implementation of the permission. A recommendation of approval subject to conditions is therefore made.



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Application for **Extension to Time Limit**

RECOMMENDATION : Approve subject to following conditions

1. A03FP - Commencement of development (3 years)
2. A05EX - Details of materials to be submitted
3. A02MC - Air conditioning equipment
4. A03MC - Cooking odour extraction equipment
5. A12MC - No lighting
6. A01TR - Tree retention
7. A02TR - Tree protection
8. A04TR - Tree pruning / felling specification
9. A14TR - Protection of existing hedges
- 10.A01LS - Landscaping - submission of details
- 11.A04RM - Details of ground levels to be submitted
- 12.A14HA - Construction of highways
- 13.A15HA - Construction of highways - submission of details
- 14.A30HA - Protection of highway from mud and debris
- 15.A32HA - Submission of details re: construction
- 16.A05HP - Provision of shower, changing, locker and drying facilities
- 17.A07HP - Drainage and surfacing of hardstanding areas
- 18.A09HP - Pedestrian visibility within car parks etc
- 19.A22GR - Protection from noise during construction (limit on hours of construction works)
- 20.A30HA_1 - Protection of highway from mud and debris
- 21.submission of biodiversity enhancements
- 22.Badger Survey
- 23.detailed survey re: bird nesting
- 24.earthworks and landscaping works
- 25.survey of culvert
- 26.Implementation of surface water regulation system
- 27.Climate change in flood level
- 28.Surface water drainage
- 29.signal controlled junction.
- 30.roundabout on A523

31. Turning Head
32. Visibility Splays
33. Obstructions
34. Lighting of footpath and cycleway
35. Bus stops
36. Turning facilities
37. Parking facilities
38. short stay and long stay parking for cycles, motorcycles, mopeds and scooters
39. Pedestrian crossing facilities at the junction of Marlborough Drive and Brocklehurst way
40. Footways and Cycleways thresholds
41. Signage details
42. Details of surface water storage scheme
43. Revised plan showing outstanding Highway and Transport issues.
44. Protection of Pool End Road and Pool End Close
45. Spine Road
46. non standard

Town and Country Planning Act 1990