

Application No: 16/1353M

Location: Former Mere Farm Quarry, Chelford Road/Alderley Road, Nether Alderley, Cheshire

Proposal: Delivery of watersports and outdoor activity centre on the North and South Lakes of the former Mere Farm Quarry, including new vehicular access, car parking and multi use building.

Applicant: Cheshire Lakes CIC

Expiry Date: 20-Jun-2016

### **UPDATE REPORT OF 16 NOVEMBER 2016**

Please refer to appendix A attached for Officer's report and updates of meetings of 27.07.2016 and 24.08.2016 relating to application 16/1353M.

Members will be aware that this application was first considered by the Strategic Planning Board on 27 July 2016, the application was refused in line with officer recommendation for two reasons which were as follows:

*1. The proposed development will have a detrimental impact on biodiversity at the site by proposing activities on both the north and south lakes, which is likely to have a significant adverse impact upon the nature conservation value of the lakes as a result of the increase in disturbance and the potential risk posed to birds posed by the network of wires associated with the wakeboarding infrastructure. These impacts will be for the duration of the operational life of the centre. Therefore the proposals are not environmentally sustainable contrary to policy NE11 of the Macclesfield Borough Local Plan and the NPPF.*

*2. The potential bird attractant features of this proposed development are greater than the site as existing and greater than the approved restoration scheme, and without a significant amount of appropriate mitigation would be likely to lead to an increase in goose populations at the site and thus increase the hazard within Manchester Airport's safeguarded area. This would result in an increased risk to the safe operation of aircraft at and in the vicinity of Manchester Airport that is unacceptable to the UK aviation industry's regulators: The Civil Aviation Authority and the European Aviation Safety Agency and does not comply with the standards of the International Civil Aviation Organisation.*

The application was discussed and determined on that day, however there was an administrative error which denied the applicant the opportunity to speak at the committee meeting. Therefore in order to ensure a fair

democratic process, the application was deferred by officers and heard afresh on 24th August 2016.

At the 24th August meeting the application was returned to committee, in the time between the two meetings reason 2 (as set out in italics above), was removed following the receipt of mitigation proposals which removed the objection to the proposals from Manchester Airport. The application was debated by the Committee and Members **resolved to approve the application subject to conditions and a section 106 agreement.**

Since that resolution the Council (as the Local Planning Authority) have been formally asked to consider as to whether full regard was given to the duties under The Conservation of Habitats and Species Regulations in respect of Wild Birds when resolving to approve the application.

At the meeting of 24th August and the previous meeting of 27th July the matter of the loss of biodiversity at the site - which would result should the application be approved - was discussed and debated at length by members of the Strategic Planning Board. The debate covered the loss of wild birds and wild bird habitat, along with the proposed mitigation measures. The Committee concluded that on balance the harm to biodiversity was outweighed by the benefits of the scheme.

Notwithstanding the previous debates which have taken place when considering the proposals, for the avoidance of doubt, below, the key duties set out in ***Regulation 9A of The Conservation of Habitats and Species (Amendment) Regulations 2012*** are made clear and Councillors are requested to resolve to determine the application in light of the duties to ensure that the Local Planning Authority is certain that it has had due regard to those duties when reaching a decision, and whether it would reach the same conclusion in light of those duties.

The duties as set out in regulation 9A are as follows and must be considered in their entirety:

#### **Duties in relation to wild bird habitat**

*9A.—(1) Without prejudice to regulation 9(1), the appropriate authority, the nature conservation bodies and, in relation to the marine area, a competent authority must take such steps in the exercise of their functions as they consider appropriate to secure the objective in paragraph (3), so far as lies within their powers.*

*(2) Except in relation to the marine area, the Environment Agency, the Forestry Commissioners (14), local authorities, the Broads Authority (15) and National Park authorities must take such steps in the exercise of their functions as they consider appropriate to contribute to the achievement of the objective in paragraph (3).*

*(3) The objective is the preservation, maintenance and re-establishment of a sufficient diversity and area of habitat for wild birds in the United Kingdom, including by means of the upkeep, management and creation of such habitat,*

as appropriate, having regard to the requirements of Article 2 of the new Wild Birds Directive.

(4) Paragraph (1) applies, in particular, to—

(a) functions under the following enactments—

- sections 17, 18, 20 and 21(6)(16) of the 1949 Act (which relate to nature reserves),
- section 7 (management agreements) of the Natural Environment and Rural Communities Act 2006(17),
- Parts 3, 4, 5 and 6 (marine planning, marine licensing, nature conservation and management of inshore fisheries, respectively) of the Marine Act, and
- these Regulations; and

(b) any function exercisable in relation to town and country planning.

(5) Paragraph (2) applies, in particular, to—

(a) functions under the following enactments—

- sections 21(18) and 90(19) of the 1949 Act (which relate to nature reserves and local authority byelaws, respectively),
- sections 3 (management of forestry land) and 10 (application for felling licence and decision of Commissioners thereon) of the Forestry Act 1967(20),
- sections 3 and 6 of the Norfolk and Suffolk Broads Act 1988(21) (the Broads Plan and byelaws, respectively);
- section 66 of the Environment Act 1995(22) (National Park Management Plans);
- sections 38 and 39 of the Flood and Water Management Act 2010(23) (which relate to incidental flooding or coastal erosion), and
- these Regulations; and

(b) any function exercisable in relation to town and country planning.

(6) In subsection (3)(a) of section 123 of the Marine Act (creation of network of conservation sites), as it applies in relation to the marine area(24), the reference to “the conservation or improvement of the marine environment” includes the objective in paragraph (3), and accordingly the duty in section 124 of the Marine Act (report) applies in relation to that objective.

(7) In considering which measures may be appropriate for the purpose of securing or contributing to the objective in paragraph (3), appropriate account must be taken of economic and recreational requirements.

(8) So far as lies within their powers, a competent authority in exercising any function in or in relation to the United Kingdom must use all reasonable endeavours to avoid any pollution or deterioration of habitats of wild birds (except habitats beyond the outer limits of the area to which the new Wild Birds Directive applies).

(9) The appropriate authority must take any steps they consider necessary to facilitate or co-ordinate arrangements to secure the taking of steps under paragraphs (1) and (2) by the bodies mentioned in those paragraphs.

(10) After consultation with the appropriate nature conservation body, the appropriate authority must give guidance to the Environment Agency, the Forestry Commissioners, local authorities, the Broads Authority, National Park authorities and any other competent authority they consider appropriate—

*(a) to facilitate the determination by those bodies of the extent to which the diversity and area of habitat for wild birds is sufficient; and*

*(b) on the steps that it may be appropriate to take under paragraph (1) or (2).*

*(11) In exercising a function to which paragraph (1) or (2) applies, a body to which guidance has been given under paragraph (10) must have regard to that guidance.*

*(12) In this regulation—*

*(a) references in paragraphs (1), (9) and (10) to the appropriate authority—*

*(i) to the extent that this regulation applies in relation to Scotland, include the Secretary of State exercising functions in relation to Scotland, and*

*(ii) to the extent that this regulation applies in relation to Northern Ireland, include the Secretary of State exercising functions in relation to Northern Ireland;*

*(b) in paragraphs (1) and (2), “marine area” includes—*

*(i) the Northern Ireland inshore region, and*

*(ii) the Scottish inshore region; and*

*(c) “local authority” has the same meaning as in regulation 7*

As part of the application process, the Council's ecologist was a consultee and provided detailed comments and advice, and worked with the applicant to secure the best scenario for the site and for the protection of wild birds in the event that the application be approved contrary to the advice given.

However, it was made clear through comments made in light of the mitigation proposed, that notwithstanding this, the Local Planning Authority could not comply with the duties set out above and that biodiversity and in particular wild birds would be adversely affected as a result of the proposals.

The comments and advice from the Council's ecologist relating to birds are set out below, for clarity, the legislation quoted below should read Regulations 9A of The Conservation of Habitats and Species (Amendment) Regulations 2012.

*A significant number of birds, included those considered to be a priority for nature conservation, have been recorded as being associated with Mere Farm Quarry and the two lakes associated with this application in particular.*

*Based on the survey data provided by the Cheshire and Wirral Ornithological Society the application site would readily meet the site selection criteria for selection as a Local Wildlife Site. The application site must therefore be considered to be of nature conservation value at the scale of the Cheshire Region.*

*The usage of the site by birds would have been likely to change as quarrying and restoration has progressed. Species for which the quarry meets the Local Wildlife Site Selection criteria have however been present throughout the extraction and restoration stages of the quarry to date. I visited the site this month (June 2016), when restoration of the lakes was part complete, and it is evident that a number of bird species remain including those considered to be a priority for nature conservation.*

*It is difficult to fully predict precisely which of the existing species of bird would remain once restoration of the lakes is complete and which new species would arrive to take advantage of the maturing habitats. The completely restored quarry however is in my opinion likely to continue to be of significant value for birds. This conclusion is in part based on the species recorded at other similar quarries in the region by local ornithologists.*

*The submitted ecological assessment was based on a single visit in January. I advise that this is insufficient survey effort to inform an accurate assessment of the value of the site for wintering and breeding birds. The submitted assessment concludes that the site may be of local value for birds. I advise that this is an under evaluation of value of the site for birds.*

*In the absence of mitigation, this application for activities on both the north and south lake is likely to have a significant adverse impact upon the nature conservation value of the lakes as a result of the increase in disturbance and the potential risk posed to birds posed by the network of wires associated with the wakeboarding infrastructure. These impacts will be for the duration of the operational life of the centre.*

*The disturbance of birds associated with the proposed development is being promoted by the applicant as a benefit from the scheme as a contribution towards the safeguarding of Manchester Airport. I advise that an airport safeguarding condition is attached to the mineral extraction permission for the quarry and so appropriate bird control measures would be implemented under this condition. I understand the airport are providing further comment on this application.*

*A number of outline mitigation proposals seeking to minimise the impacts of the scheme on birds have now been submitted. I advise that the impacts of the proposed development on birds are difficult to fully mitigate or compensate for. Some of the proposed mitigation methods may be successful and some are unlikely to make a significant contribution to reducing the impacts of the proposed scheme on birds.*

*In the event that planning consent is granted I recommend that a condition be attached requiring the submission of a detailed ecological mitigation strategy and landscape plan informed by the submitted outline management plan. Overall, I advise that the proposed mitigation measures would only result in a slight reduction in the severity of the impacts of the proposed scheme.*

*LPAs have a duty to consider impacts on wild birds under paragraph 3 of the Habitat Regulations 2012 [for clarity this should read **Regulations 9 A of The Conservation of Habitats and Species (amendment) Regulations 2012**]. This regulation requires local authorities to take such steps they consider appropriate to secure the preservation, maintenance and re-establishment of sufficient diversity and area of habitat for wild birds.*

*There is some guidance on the implementation of this legislation on the [www.gov.uk](http://www.gov.uk) website which states competent authorities under the legislation should: 'consider bird populations when consulting on or granting consents, such as planning permissions, environmental permits, development or environmental consents, and other consents'.*

***In conclusion, I advise that the proposed development is likely to result in a significant loss of biodiversity.***

The Strategic Planning Board are requested to take this opportunity to review the proposals in respect of regulation 9A of The Conservation of Habitats and Species (Amendment) Regulations 2012, and to confirm that due regard has been given to this duty when arriving at a decision.

## **APPENDIX A**

### **SUMMARY**

The site is a greenfield Green Belt site, and has a previous use as a quarry. A detailed comprehensive restoration plan is in progress at the site for an area of nature conservation, and the lakes are slowly filling. The proposed development is considered to be acceptable in terms of the Green Belt, the use of the lakes maintains openness, and the proposed buildings and structures are not considered to be inappropriate development within the Green Belt as they are appropriate for the proposed use.

The proposal is considered to be socially sustainable, the development would provide an opportunity for local residents to participate in sport particularly kayaking and swimming at the site along with utilising the enhanced public footpath network.

It is considered that the proposed development would be very positive in terms of contributing to the local rural economy and supporting local businesses. The proposed development will attract visitors from the local area and from further afield to use the facility. Therefore makes a positive economic contribution.

In terms of environmental sustainability, the proposal would have a landscape impact, however this must be weighed in the balance, as it inevitably would introduce built development where there is none at the current time.

With regard to flood risk, noise, air quality, highways and design these matters are considered to be acceptable. However, the site has a rich biodiversity, which is proposed to be enhanced further through the continued development of the restoration scheme. The biodiversity would suffer as a result of the proposals and in particular the birdlife at the site. It is considered that even

with mitigation, the levels of disturbance would be detrimental to the biodiversity at the site.

When weighed in the planning balance, it is clear that there are a number of positives to the scheme, however the harm to biodiversity, in particular bird populations cannot be overcome in order to achieve a scheme that would see the proposed use and the biodiversity exist together. Objections from Manchester Airport to the scheme have been received relating to potential bird hazard.

Therefore, it is considered that on balance, the proposal is unacceptable and contrary to policy NE11 of the Macclesfield Borough Local Plan and the National Planning Policy Framework which aims to achieve sustainable development.

The development would not be sustainable as environmentally, but the proposal is considered to be sustainable in terms of social and economic sustainability.

The benefits in this case are:

- The proposal will provide a unique sporting and recreational facility for the local community and wider community to enjoy.
- It will encourage sport participation to contribute to the health and wellbeing of the local and wider community
- The development would provide significant economic benefits through the provision of employment during the construction phase, job creation during the operation of the facility and benefits for local businesses.
- The proposal is not considered to have a detrimental impact on the highway network.

The development would have a neutral impact upon the following subject to mitigation:

- There is not considered to be any significant drainage or flood risk implications raised by this development.
- The impact upon trees is considered to be neutral as this can be addressed through mitigation.
- The impact upon the residential amenity/noise/air quality/landscape and contaminated land can be mitigated through the imposition of planning conditions.

The adverse impacts of the development would be:

- Significant detrimental impact on biodiversity, which could not be mitigated effectively.
- Potential for increased bird hazard
- Landscape impact through the introduction of new buildings and structures.

On balance, it is considered that the proposal does not represent sustainable development when assessing the three strands of sustainability therefore does not fully accord with the development plan and national planning policy and guidance. Therefore for the reasons mentioned above the application is recommended for refusal.

## SUMMARY RECOMMENDATION

Refusal

### UPDATE REPORT

Members will be aware that this application was first considered by the Strategic Planning Board on 27 July 2016. The application was discussed and determined on the day, however there was an administrative error which denied the applicant the opportunity to speak at the committee meeting. Therefore in order to ensure a fair democratic process, the application has been deferred by officers to be heard afresh - allowing the applicant to attend and speak at the meeting should they so wish.

Following the publication of the July committee agenda, additional information was received which is now reported in full here, in addition to this further information from the applicant regarding the Statement of Community Involvement which accompanies the application has been provided.

### **Manchester Airport Consultation Comments (received 25/07/2016)**

*The proposed development has been examined from an aerodrome safeguarding aspect by the Aerodrome Safeguarding Authority for Manchester Airport. As currently presented the proposals would conflict with Manchester Airport's safeguarding criteria relating to potential bird hazard and we therefore **object** to this application.*

*We disagree with the statements made within the Planning Statement that the operation of a watersports and outdoor activity centre at this site would have a positive benefit to air safety at Manchester Airport by reducing bird numbers at the site. The bird species likely to be adversely affected by increased disturbance at this site (e.g. lapwing and little ringed plover) are of no concern with respect to the bird strike hazard due to their small size, small numbers and the site's distance from the Airport.*

*At this location the main species of concern from a bird hazard perspective are feral geese (at the time of writing primarily Canada geese). Due to the introduction of waterside mown grass areas (that are favoured as grazing by geese) and the inevitability that visitors will feed birds at the waterside, it is highly likely that the capacity for this site to hold feral geese would be increased as a result of the development. We have seen this occur at other watersports centres where feral geese have shown themselves to be insensitive to human disturbance. [The aviation industry is extremely sensitive to any increases in feral goose populations in their vicinity because these non-native birds substantially exceed current commercial aircraft certification (bird weight) standards, in particular for engine bird ingestion events. The potential outcome of such events was demonstrated by the Airbus A320 incident near New York La Guardia Airport (4.5 miles from the airport) on January 15th 2009 when both engines were disabled by Canada goose ingestions].*

*We also anticipate that the jetties and floating structures would be heavily used as perches by gulls and cormorants, although these species are of less concern at this distance from the Airport.*

*The potential bird attractant features of this proposed development are greater than the site as existing and greater than the approved restoration scheme (which we have previously advised on and accepted), and without a significant amount of appropriate mitigation would be likely to lead to an increase in goose populations at the site and thus increase the hazard within Manchester Airport's safeguarded area. This would result in an increased risk to the safe operation of aircraft at and in the vicinity of Manchester Airport that is unacceptable to the UK aviation industry's regulators (The Civil Aviation Authority and the European Aviation Safety Agency) and does not comply with the standards of the International Civil Aviation Organisation. The Aerodrome Safeguarding Authority for Manchester Airport are responsible for protecting Manchester Airport against any new or increased birdstrike hazards caused by development and object to these proposals accordingly.*

*We would also like to make it clear that the views of the Statutory Aerodrome Safeguarding Authority were not sought by the applicant prior to submission nor by the Local Planning Authority under the terms of the Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002 (DfT/ODPM Circular 1/2003). Consequently the reported views within the supporting documents are unfounded.*

#### *Other Matters*

*The proposed change of use from that consented, in this case before the agreed restoration scheme has been fully delivered would set a poor precedent. It is very important to Manchester Airport that we continue to have faith that landscaping and end use proposals that are consulted on during the planning process are actually delivered and not subject to substantial (and in this case very early) changes.*

#### **Manchester Airport Update**

Following the comments from Manchester Airport, discussions have taken place between the applicant and the airport to resolve the issues raised in the consultation response. Following the discussions, it is understood that an Outline Habitat Management Plan and Landscape Mitigation Plan have been submitted to the airport for comment.

To date the following comments have been made by the airport in response to the additional information provided to them by the applicant these comments were received 12/08/2016:

*There are some amendments and additional details that would be required before we consider removing our objection. Please find attached an annotated version of the plan with our comments and suggestions. The following matters must also be included:*

*The document must include details of what happens if the plan fails in any respect - there are currently no "costs" to the applicant for failure to hit targets.*

*What is described in the plan as "escalation" is really what we would consider to be baseline management. Escalation should be what happens if "plan A" is found to be insufficient. The management plan should also incorporate at least a basic level of monitoring and reporting of bird numbers on the site and sharing that information. Unannounced spot checks from Manchester Airport to verify that standards are being maintained should also be incorporated. The management plan should be subject to an agreement between the applicant, the local planning authority and the aerodrome safeguarding authority to ensure the ability for continued policing of the bird control measures therein.*

*Although a step in the right direction from our perspective, we still seek further detail and assurances within the management plan and are therefore not in a position to withdraw our objection.*

*Further detail and from a bird hazard safeguarding perspective the plans still need more work before we consider whether to withdraw our objection.*

In light of the latest situation and the issues outstanding with the airport, the airport maintains their objection to the scheme.

### **Applicants Updated Supporting Information**

Following the last meeting on 27 July 2016, the agent has requested that additional information relating to the Statement of Community Involvement be included in the report which is as follows:

*Prior to submission, the Applicant received 489 consultation feedback forms, of these, 468 (96%) were supportive of the proposals, 1 was negative, whilst 20 were unsure. After submission, a further 145 responses were received, all of which were positive.*

*In total, therefore, of the 634 returned comment forms, 613 (97%) were supportive of the application.*

*The initial 489 responses were sent to you as part of the application submission, and the further 145 comments were sent to you as part of my updates to you.*

### **Update - Conclusion**

The conclusions and recommendation have remained unchanged following the deferral, but with the additional reason in relation to Manchester Airport as detailed at the end of the report.

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## **PROPOSAL**

The application is a full planning application for the redevelopment of the former Chelford Quarry. The quarry was mined for sand and gravel for many

years by Hanson, the activity has ceased at the site and a full restoration and remediation plan is in place, which will provide opportunities for nature conservation with extensive swathes of planting and regrading of the lakes which are now starting to fill with water.

The redevelopment proposes the reuse of the two southern lakes for recreational purposes. The northern lake will be used as a wakeboarding park and aerial ropes course, where pylons and ropes will be erected to create the infrastructure for the wakeboarding. The southern lake will be used for kayaking and swimming. The southern lake will have no motorised vehicles using it. The northern lake will only have the power to operate the ropes.

The proposal also includes a building to provide changing facilities, servery, reception, small retail area, WC facilities and equipment storage, there will also be an outdoor seating area for spectators. There are a series of boardwalks leading from the building to the lake.

The site will have a car parking area to accommodate cars and coaches, as the proposal is likely to attract groups including school groups.

The proposed use of the site would generally operate during the following times. The submitted application form confirms proposed opening hours of 0600 to 2200 daily. However, it should be clarified that the overall scale of activity of the site is likely to be less, depending heavily on the season.

In the summer, the South Lake may be made available from 0600 for use by Open Water Swimmers only, who seek to access such facilities before work. Wakeboarding and other activities would not start until 0900 and would cease at a time when natural light begins to fade (dusk). As no floodlighting is sought all activities on the lakes would cease at dusk. Thereafter the applicant states that the building may remain open for a short time longer to enable users to change etc.

The applicant has stated that the site would be clear of customers by 2200. During the summer months, the activity is likely to occur 7 days per week, in winter however, when temperatures are colder and days are shorter, activity will be much less and will be heavily influenced by day-light and usage. Generally, 3-5 days of trading would be expected per week in the winter, but this will vary depending on demand.

The site area is tightly drawn around the lakes and the proposed area for car parking and the proposed building. The proposed development would include the planned restoration of the remainder of the site to be carried out, including the large area of tree planting to the east of the site. The planning statement states that the proposed development will create around 30 jobs.

## **SITE DESCRIPTION**

The application site extends to approximately 21.6ha and comprises two lakes and land to the west. The site is accessed off Alderley Road which runs north

south along western boundary of the site with Chelford Road along the southern boundary of the site. To the east is the main largest lake of the site, which is well established and appears to be restored. Quarrying ceased on this prior to the activity ceasing on the north and south lakes. The large lake to the east does not form part of this application, and will remain unaffected by the development, the tree buffer between the lake to the east and the north and south lakes will be planted as planned as part of the restoration scheme. The site is bounded by hedgerows with some trees around the site. The lakes are partially filled with water and currently have steep banks, as they are not restored.

Public Right of Way 'Chelford FP2' and 'Nether Alderley FP50' cross the central part of the site and connects with Stubby Lane (a byway) and Alderley Road. This links to the wider public rights of way network surrounding the site.

### **RELEVANT HISTORY**

5/99/0235P – extension to area of sand extraction and continuation of existing sand quarrying operations – granted April 2000 subject to s106 legal agreement concerning hydrological matters. Required cessation of mineral working by April 2014;

5/06/2940 – revision to restoration scheme of planning permission 5/99/0235P. Granted June 2008 subject to deed of variation to s106 legal agreement. Requires cessation of mineral working by April 2014.

Planning permission was granted in December 2011 (ref: 09/2806W) for a 6ha extension to the north west of the site. A small section of the main quarry site was included in this permission boundary to allow for revisions to the lake profile shown on the restoration plan which would be necessary following the continued extraction to the north west. The permission is subject to a s106 legal agreement concerning hydrological matters and long term management of the two western waterbodies, part of which overlaps with the boundary of permission 5/06/2940 (and thus the boundary of this application). The permission required cessation of mineral working by April 2014.

### **NATIONAL & LOCAL POLICY**

By virtue of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the application should be determined in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan for Cheshire East currently comprises the saved policies from the Congleton Borough (January 2005), Crewe and Nantwich (February 2005) and Macclesfield Local Plan (January 2004).

#### **Macclesfield Borough Local Plan Policy:**

The site is located within the Green Belt.

Therefore the relevant Local Plan policies are considered to be: -

Built Environment Policies:

Policy BE1: Design Guidance  
Development Control Policies:  
Policy DC1: New Build  
Policy DC3: Amenity  
Policy DC5: Natural Surveillance  
Policy DC6: Circulation and Access  
Policy DC8: Landscaping  
Policy DC9: Tree Protection  
Policy DC13: Noise  
Policy DC33: Outdoor Commercial Recreation  
Policy DC36: Road Layouts and Circulation  
Policy DC63: Contaminated Land  
Policy DC64: Floodlighting  
Policy GC1: Green Belt  
Policy E1: Employment Land Policies  
Policy T1: Integrated transport policy  
Policy T2: Provision of public transport  
Policy T3: Improving conditions for pedestrians  
Policy T4: Provision for people with restricted mobility  
Policy T5: Development proposals making provision for cyclists  
Policy T6: Highway improvements and traffic management  
Policy NE2: Landscape protection and enhancement  
Policy NE11: Nature conservation  
Policy NE14: Natural habitats  
Policy NE17: Nature Conservation in Major Developments  
Policy H13: Protecting Residential Areas

**Cheshire East Local Plan Strategy** – Proposed changes version public consultation ended 19<sup>th</sup> April 2016.

The following are considered relevant material considerations as indications of the emerging strategy:

MP1 Presumption in favour of sustainable development  
PG1 Overall Development Strategy  
PG3 Green Belt  
SD1 Sustainable Development in Cheshire East  
SD2 Sustainable Development Principles  
SE1 Design  
SE2 Efficient use of land  
SE3 Biodiversity and geodiversity  
SE4 The Landscape  
SE5 Trees, Hedgerows and Woodland  
SE6 Green Infrastructure  
SE9 Energy Efficient Development  
SE10 Minerals  
SE12 Pollution, Land Contamination and Land Instability  
SE13 Flood Risk and Water Management  
EG2 Rural Economy  
EG4 Tourism  
SC1 Leisure and Recreation

SC2 Indoor and Outdoor Sports Facilities  
SC3 Health and Well-being  
CO4 Travel Plans and Transport Assessments

### **The National Planning Policy Framework**

The National Planning Policy Framework came into effect on 27 March 2012, and replaces the advice provided in Planning Policy Guidance Notes and Statements. The aim of this document is to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. Local planning authorities are expected to “plan positively” and that there should be a presumption in favour of sustainable development.

Since the NPPF was published, the saved policies within the Macclesfield Borough Council Local Plan are still applicable but should be weighted according to their degree of consistency with the NPPF. The Local Plan policies outlined above are consistent with the NPPF and therefore should be given full weight.

Of particular relevance are paragraphs:

- 14. Presumption in favour of sustainable development.
- 56-68. Requiring good design
- 73, 74, 75 Promoting healthy communities
- 79, 80, 81, 89, 90 Green Belts
- 109. Conserving and enhancing the natural environment
- 186-187. Decision taking
- 196-197 Determining applications
- 203-206 Planning conditions and obligations

### **Other Material Considerations**

- Conservation of Habitats & Species Regulations 2010
- Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations

and Their Impact within the Planning System

- Ministerial Statement – Planning for Growth (March 2011)

### **CONSULTATIONS** (External to planning)

**United Utilities** (received 19-April-2016)

No objections subject to conditions

**Natural England** (received 08-April-2016)

No comment

**PROW** (received 25-April-2016)

No objections subject to conditions

**Environmental Health** (comments received 28/04/2016)

Noise Impact Assessment

The proposed development seeks to secure planning permission for a Watersports and Outdoor Activity Centre on the North and South Lakes at the site. Planning Statement, March 2016, section 3 details the Proposed Development.

#### North Lake:

- a system of wires and pulleys on the North Lake to provide a Cable Wakeboarding course
- an Aerial Rope Course

Wakeboarding and other activities would not start until 0900 and would cease at a time when natural light began to fade (dusk).

The sound output from the motors and the location of the proposal is sufficiently distanced from noise sensitive residential receptors, so that noise should not give rise to a materially negative impact.

#### South Lake:

- activities to include Open Water Swimming, Kayaking and Paddle Boarding

Hours of Operation: available from 0600 for use by Open Water Swimmers

Neither lake will accommodate uses requiring motor boats, other than Boats required for safety purposes.

Multi-use Building (located to the west of the Lakes):

- changing rooms,
- café,
- reception,
- toilets and
- equipment hire

#### Floodlighting/ Artificial Light Impact Assessment

No floodlighting is proposed, section 3.13 states that all activities on the lakes would cease at dusk.

#### Hours of Operation

The applicant proposes operations 06:00 – 22:00: 7 days a week.

Planning Statement, March 2016:

- s. 3.13 *The site would then be clear of customers by 2200.*
- s. 3.14 *In the summer months .... operation is expected to occur as above 7 days a week.*

No objections on noise grounds subject to conditions.

#### Air Quality

An application of this nature would usually consider its air quality impacts to determine whether the development itself, or increased road traffic as a result of the development will have a negative impact upon local air quality.

Whilst not close to any existing Air Quality Management Areas, there is a need to ensure that the cumulative impact of a number of developments in an area do not cause a negative impact on air quality.

Notwithstanding the lack of information on which to base an assessment, it is noted within the Transport Statement there is an ambition for the development to be as sustainable as possible. As such, it is felt that a pragmatic approach can be taken, and we would adopt a “mitigation first” approach based on guidance and best practice.

Modern Ultra Low Emission Vehicle technology (such as all electric vehicles) are expected to increase in use over the coming years (the Government expects most new vehicles in the UK will be ultra low emission). As such it is considered appropriate to create infrastructure to allow charging of electric vehicles in new, modern, sustainable developments.

No objections on air quality subject to conditions.

#### Contaminated Land

The Contaminated Land team has no objection to the above application subject to the following comments with regard to contaminated land:

- The application is for new outdoor leisure facility which is a sensitive end use and could be affected by any contamination present or brought onto the site.

Therefore conditions in relation to contaminated land are recommended.

#### **Cheshire Wildlife Trust** (received 29-June-2016)

Register holding objection for the following reasons:

1. The application is not supported either by a breeding bird survey or a wintering bird survey. Due to the nature of the site and its proposed end use these surveys will need to be submitted in order to assess the likely impacts of the development. **The surveys need to be completed prior to determination.** The earliest the surveys could be completed is summer 2017 if they have not already been instigated.

2. The habitat survey was undertaken outside the recommended survey window and consequently the site may have been undervalued. The survey will need to be repeated during the period June-September in order to fully assess the habitats present. Botanical species lists and an approximation of NVC will be required.

3. All notable biological records obtained via the data-search, or consultation with groups such as CAWOS should be submitted with the application. The current ecological assessment (Cheshire Lakes community interest company) does not detail this information. Determination of this planning application without due consideration of the ecological impacts would contravene local and national planning guidance, specifically:

- Policy SE3 of the forthcoming Local Core Strategy which states that ‘all development must aim to positively contribute to the conservation and enhancement of biodiversity and geodiversity and should not negatively impact biodiversity or geodiversity’.
- The NPPF paragraph 9 states that the achievement of sustainable development includes ‘moving from a net loss of biodiversity to achieving net gains for nature’.
- The NPPF paragraph 109, which states that the planning system should contribute to and enhance the natural and local environment by ‘protecting and enhancing valued landscapes’ and ‘minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.’
- The NPPF paragraph 118 which states ‘When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused’.
- EU Biodiversity Strategy 2020 which states:
  - “Target 2: Maintain and restore ecosystems and their services...ensuring no net loss of biodiversity. This will be achieved ...by ensuring that any unavoidable residual impacts are compensated for or offset”.
  - Section 40 of the *Natural Environment and Rural Communities Act (2006)* which states that ‘Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity’. Section 40(3) also states that ‘conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat’.

**RSPB** (comments received 17/06/2016)

The RSPB will object to any applications which we believe will result in an unacceptable environmental impact. We would like to register an **OBJECTION** for the following reason: **Inadequate ecological survey.**

The Ecological Assessment states that “*the impacts are considered to be minor and negative, affecting a resource of local value. These minor negative impacts are outweighed by the requirements of the airport, and the need to comply with the Section 106 agreement for the area*” 1. Based on the survey data provided by the CAWOS, and the current WeBS2 survey data for the site, the RSPB does not agree with the findings of the Ecological Assessment that the impacts of the proposed development will be minor. The available information shows that the former Mere Farm Quarry would meet the current site selection criteria for selection as a Local Wildlife Site; we therefore assert that the application site must be considered to be of nature conservation value at the scale of the Cheshire Region.

Furthermore we consider that the timing of the survey visit, January 2016 provided insufficient information to allow the LPA (and ourselves) to accurately assess the value of the site for both wintering and breeding birds, as such we consider that the application cannot be determined at this time.

We would like to also make the following comments -

The RSPB agrees with the response from Cheshire and Wirral Ornithological Society (CAWOS), and does not consider that the proposal will “*enhance and complete the site’s rejuvenation*” of the site, as suggested in the Planning Statement<sup>3</sup>. The proposed development will have a detrimental impact on the biodiversity of the area and will discourage the wildlife that the approved restoration plan<sup>4</sup> is proposing to encourage.

The disturbance of birds associated with the proposed development, is being promoted by the applicant as a benefit and a contribution towards the safeguarding of Manchester Airport.

Bird-strike risk is rightly considered a serious matter and must be properly considered. The existing restoration proposals would constitute a *Bird Attractant Habitat* as identified with the Civil Aviation Publication (CAP) 772.7. Manchester Airport has confirmed that it is satisfied with the current Restoration Masterplan M103/222 rev C. Its response is included within the Non-Technical Summary<sup>8</sup> of planning application 14/1944W - Variation of conditions 4 and 59 of permission 5/06/2940 to allow to extend the date in condition 4 from 28th April 2014 to 30th September 2016, and amend the approved restoration scheme to that shown on plan M103/222 rev C. the Airport confirmed that it had no safeguarding concerns with regard to an extension of time, but that detailed aerodrome safeguarding assessments would need to be completed should any modifications to the approved restoration scheme, or any other works likely to impact upon bird activity on the site, be proposed. So far as we are aware no such modifications are proposed which would increase the attractiveness of the area for birds, therefore we contend that there is no requirement to enhance the existing Section 106 requirements.

The current application for a Watersports & Outdoor Activity Centre would cause unacceptable disturbance all the year round to the species already using the site. The construction and operation of this facility with the presence of substantial numbers of people, the associated vehicle use and activities on the water would all significantly lessen the value of the site for wildlife.

### **Highways** (received 28/06/2016)

The proposed Watersports and Outdoor activity centre is a leisure use that will typically be off peak traffic based. The likely traffic generation from the use has the potential to vary wildly and in assessing the application it is necessary to consider a range of factors such as location, proposed uses within the site and also the level of car parking provision. In regards, to the traffic generation figures submitted even if these figures are doubled this level of generation can be accommodated on the local road network during the off peak periods. Therefore, I would conclude that the application would not result in a severe impact to warrant refusal on traffic grounds.

In regards to accessibility, the site has poor connectivity to sustainable modes although the location of the site is not conducive to providing good accessibility. Sustainability incorporates a range of factors and accessibility is only one of these factors, these issues will be considered in planning assessment of the application.

Therefore, in regard to highways no objections are raised.

**CPRE** (comments received 16/05/2016) Objection on Green Belt grounds no special circumstances.

**Mid Cheshire Footpath Society** (no comments received consultation expired)  
**Local Plans** (no comments received consultation expired)  
**ANSA** (no comments received consultation expired)  
**Environment Agency** (no comments received consultation expired)

## **VIEWS OF THE PARISH COUNCIL**

**Chelford Parish Council** – (comments 27/04/2016) - Conclusion

The Parish Council fully understands the importance of tourism and visitors in Cheshire East. Cheshire East has some of the best scenery, landscape and facilities in the country and it is these aspects which bring visitors in to the area, to enjoy and be active. The argument that this development will somehow allow more people to experience the local countryside of Cheshire East is a spurious one. Similarly, the argument that this is some sort of brownfield site is simply not true.

On balance, councillors believe that the Lakes proposal is not appropriate for our local environment and will do much to detract from our rural setting. It is felt that the development will do little to enhance the amenity of our area and in fact may have a negative effect on the desire of people to move into the area. The Council has previously demonstrated its support for bringing new families into the parish by welcoming two housing developments. These will be significant for the village and will reshape the local environment. However, the Parish Council believes that Chelford does not need another development of the type proposed, to satisfy, in the main, the interests of non-residents.

**Nether Alderley Parish Council** (comments received 18/05/2016)

The Parish Council considers that:

1. The application is an inappropriate development on Green Belt land and within the Green Belt.
2. It can identify no special circumstances to substantiate this type of commercial development within the Green Belt.
3. There are no areas of brown field or previously developed land on the site.
4. The large building and open surfaced car park will have a detrimental impact upon the openness of the Green Belt.
5. The Parish Council understands that the proposal is contrary to the conditions imposed upon the original quarrying permission regarding

restoration of the area further to quarrying, whereby it understands that the requirement is for conversion of the area to a nature reserve.

6. Whilst the Parish Council appreciates the applicant's comments that there is little wildlife to be disturbed at the present time, the Parish Council is minded that the quarry restoration is in its early stages and wildlife inhabitation is likely to evolve, now, over time.

7. Local concerns have been raised with the Parish Council regarding the potential detrimental impact of noise and light pollution on Nether Alderley in the day to day operation of the business.

## **REPRESENTATIONS**

Total of 66 letters from the public received

29 letters of objection raising the following issues:

- Green Belt
- Disturbance, light and noise
- Harm to the local ecosystem and wildlife
- Increased traffic
- Sewerage issues
- Security issues
- Would not allow the approved restoration scheme to take place
- Already adequate facilities locally
- Out of character
- No demonstrated need
- Loss of business to similar facilities
- Dangerous precedent
- Cost of using the facilities would be high

37 letters of support raising the following issues:

- Suitable leisure facilities for teenagers are vital to support the village
- Facility for younger generations
- Fantastic inland resource for kayaking
- Advantage for local groups
- No harmful landscape impact
- Will bring jobs
- Attract visitors to the area
- Good end use for a former quarry
- Bring additional business to an area that feels isolated and gets overlooked by investment
- Positive change – not a sterile landscape with limited community use
- Exciting opportunity
- Drive sport participation
- Good for health and wellbeing of young people

## **APPLICANT'S SUPPORTING INFORMATION**

- Planning Statement
- Design and Access Statement
- Arboricultural Assessment

- Flood Risk Assessment
- Framework Travel Plan
- LVIA
- Ecology Assessment
- Statement of Community Involvement
- Transport Statement

### Planning Statement Conclusions

The application proposals will complete the restoration of this former mining site by delivering a viable, beneficial and much needed leisure use into the area.

This use, being for sport and recreation, is permissible in this Green Belt location, as national and local planning policies confirm. The Green Belt compatibility with the site is further enhanced with reference to the use only requiring a small area of built development to enable its operation.

The proposals will deliver around 30 new jobs into the local rural economy and will deliver various spin-off benefits in terms of boosting the local economy in a variety of ways.

The proposals will have minimal highway impacts and the site is accessible by a variety of means.

By virtue of the lakes and surrounding area being recently created, via the Quarry Restoration Plan, the site has very limited ecology or landscape value. The application proposals enhance the site's ecology and landscape value by delivering a managed use, which will assist in preventing bird accumulation, as is a stipulation of the approved Restoration Plan.

In overall terms, this privately funded leisure proposal delivers varied and far-reaching benefits which will be an asset to the area for many years to come. The proposals accord directly with all strands of planning policy, both national and local, and should, accordingly, be expediently granted planning permission.

## **APPRAISAL**

### **Key Issues**

- Principle of development
- Sustainability
- Design
- Landscape Impact
- Trees
- Access
- Highways
- Ecology
- Amenity
- Flood Risk
- Employment
- Economy of wider area

- Section 106
- Representations
- Conclusions
- Planning Balance
- Recommendation

## **Principle of development**

### **Green Belt**

The site is located within the Green Belt and was used as a former quarry. The site has a full comprehensive restoration and remediation plan in place, and therefore under the definitions contained within the National Planning Policy Framework is not Previously Developed Land. Therefore in policy terms the site is greenfield Green Belt land.

Within the Green Belt, development is restricted in order to maintain its openness and permanence and prevent urban sprawl. Certain types of development are acceptable within the Green Belt and the NPPF states that the construction of new buildings is inappropriate development and exceptions to this include – ‘provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt’. This proposal however requires consent for the use of the land for outdoor sport and recreation, and therefore is not an exception under paragraph 89. Therefore in order to justify this, Very Special Circumstances must exist to justify the departure from Green Belt policy.

The use of existing lakes for recreation purposes would itself maintain openness and is encouraged under paragraph 81 which states that

*‘local planning authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscape, visual amenity and biodiversity; or to improve damaged and derelict land.’*

It is therefore considered that the use of the lakes for swimming, kayaking and wakeboarding would be an acceptable use as this largely maintains openness and makes use of the existing lakes. The wakeboarding facility however will introduce pylons and wires within the lake, which are structures, however these are appropriate facilities to support this use and are not considered to be inappropriate development in their own right in accordance with paragraph 89 of the NPPF.

In terms of Green Belt policy only, it is considered that the proposed use is an acceptable form of development it maintains openness and allows access to the countryside to provide facilities for outdoor sport and recreation, therefore the Very Special Circumstances for the use exist. The clubhouse building provides space to store equipment, seating area and changing facilities which are associated with the proposed use and the proposed use could not function effectively without these facilities, and therefore are not inappropriate development and are in accordance with paragraph 89 of the NPPF.

## Land use

The site is a former quarry and as such has a comprehensive restoration and remediation scheme in place, which is active and is being carried out by Hanson the former quarry operator. The final use for the site is currently predominantly for nature conservation purposes. Which includes various habitat creation and woodland planting, the site will also improve access across the site. However access around the main lake (which does not form part of this application site) has been restricted in order to allow for wildlife, particularly birds to live largely undisturbed.

The restoration however, is a gradual process over the medium to long term, which gives time to allow the lakes to fill, grading to take place, habitat creation to take place and for the large areas of tree planting to be carried out. This gradual process will allow certain species who currently reside at the site to gradually move off as the site becomes less suitable, and for new species to arrive over time.

The restoration scheme although established, does not mean that other uses could not utilise the site. The NPPF at paragraph 143 states that Local Plans should put in place policies to ensure worked land is reclaimed at the earliest opportunity, taking account of aviation safety, and that high quality restoration and aftercare of mineral sites takes place, including for agriculture (safeguarding the long term potential of best and most versatile agricultural land and conserving soil resources), geodiversity, biodiversity, native woodland, the historic environment and recreation.

Policy SE10 of the emerging Cheshire East Local Plan states that for mineral sites the Council will:

*‘Secure at the earliest opportunity the high standard restoration and aftercare of sites following mineral working, recognising the diversity of appropriate restoration schemes to deliver the potential for beneficial afteruses.’*

This therefore does not preclude a recreational use coming forward at a site such as this, providing all other material considerations are acceptable.

Policy DC33 of the Macclesfield Borough Local Plan sets out criteria for outdoor recreation sites. It is considered that the proposed development broadly accords with this criteria based policy however points 3 and 4 are set out below:

*3 – The site should not lie within an area designated as a site of nature conservation importance.*

Whilst this is not designated as such at the current time, it does meet the selection criteria to be designated as a Local Wildlife Site so it is considered to be of conservation importance.

*4 – The design, siting, scale and materials of any necessary buildings or structures should harmonise with the existing landscape setting of the site and should not*

*significantly harm or detract from the visual character of the site and its surroundings. Wherever possible new buildings should be sited in close proximity to existing non-residential buildings to minimise visual impact.*

It is not considered that the structures particularly the pylons will harmonise with the existing landscape setting, however over time the impact will be less, in terms of landscape character detailed comments are out in the report.

## **Sustainability**

Sustainability is the golden thread running through the National Planning Policy Framework, and proposals for sustainable development should be approved without delay. There are three strands to sustainability, social, economic and environmental.

## **SOCIAL SUSTAINABILITY**

### **Sport and Recreation**

The application proposes a wakeboarding park and kayaking and swimming lake. The application proposes an end use of outdoor sport and recreation, which will be available as a leisure facility for the local and wider population, it will offer facilities for groups and individuals which will encourage participation in sport and outdoor activities.

One of the core planning principles in the NPPF is to promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production).

Policy SC1 of the emerging Local Plan, encourages leisure and recreation facilities and states that the Council will:

*Support proposals for facilities that would not be appropriate to be located in or adjacent to centres, provided they are highly accessible by a choice of transport, do not harm the character, amenity, or biodiversity value of the area, and satisfy the following criteria:*

*i. The proposal is a facility that:*

- a. supports a business use;*
- b. is appropriate in an employment area; or*
- c. supports an outdoor sports facility, education or related community / visitor facility; or*
- d. supports the visitor economy and is based on local cultural or existing visitor attractions.*

Therefore under criterion c and d there is support through the emerging local plan for this type of development, it is considered that facilities such as this provide a social function in providing recreation opportunities for the local and wider population.

Policy SC 2 of the emerging CELPS states that new facilities for sport will be supported, however this does state that the need must be identified within an accompanying Playing Pitch or Open Space Strategy. This site is a unique

opportunity, therefore is not specifically listed, however nonetheless is an opportunity for a sporting facility.

The proposed development will allow greater participation in outdoor swimming and kayaking, along with wakeboarding, which brings social benefits to the area.

Policy SC 3 (Health and Wellbeing) of the emerging CELPS states that the Council will ensure new developments provide opportunities for healthy living and improve health and well-being through the encouragement of walking and cycling, good housing design (including the minimisation of social isolation and creation of inclusive communities), access to services, sufficient open space and other green infrastructure, and sports facilities and opportunity for recreation and sound safety standards.

Whilst this proposal does not relate to housing development, it is clear that it will give access to sports facilities and the associated green infrastructure including the public footpath network, although this network is likely to be accessed in the first instance by the private car.

### **Public Rights of Way**

Comments have been received from the PROW team, which state that the proposals affect Public Footpath No. 2 in the Parish of Chelford, as recorded on the Definitive Map and Statement, the legal record of Public Rights of Way.

This would be upgraded in line with the restoration proposals which will improve the route through the site, providing better opportunities for walkers in particular in line with the following guidance set out in the NPPF.

The National Planning Policy Framework states that *“planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails”* (para 75). NPPF continues to state (para. 35) that *“Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to.....*

- *give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;*
- *create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians”.*

### Pedestrian and cyclist access to the site

The Transport Assessment states:

*“4.4.1 The main pedestrian/cycle access to the facility will utilise the existing Public Right of Way (PRoW) footpath. This existing PRoW is due to be resurfaced as part of Hanson Aggregates reinstatement works and the pedestrian access will follow this route towards the southwestern corner of the north lake”*

The Public Footpath runs from the Alderley Road through an agricultural field before reaching the proposed site boundary. The PROW team are aware of proposals to fence/hedge the Public Right of Way, with specific details, including any surfacing specifications, and timeframes to be agreed. Certainly, the Public Footpath offers a right of way for the public *on foot*, not by bicycle, and as such the route cannot be promoted as such without the landowner's permission.

#### Improvement opportunities

Proposed developments should present an opportunity to deliver and improve walking, cycling and equestrian facilities for transport and leisure purposes, both within the proposed development site and in providing access to local facilities for education, employment, health etc. These aims are stated within the policies and initiatives of the Council's statutory Local Transport Plan and Rights of Way Improvement Plan and also within the Local Plan Strategic Priority 2:

*"Creating sustainable communities, where all members are able to contribute and where all the infrastructure required to support the community is provided. This will be delivered by:*

*2. Ensuring that development provides the opportunity for healthier lifestyles through provision of high quality green infrastructure and cultural, recreational, leisure and sports opportunities*

*4. Improving links between existing and new neighbourhoods by giving priority to walking, cycling and public transport and providing a genuine choice of transport modes and supporting community integration".*

#### **Social Sustainability Conclusion**

The proposals for the facility will make a contribution to outdoor sport and recreation locally, the proposals will provide an additional and unique facility locally to encourage and facilitate participation in outdoor sport through swimming, kayaking and wakeboarding. This will allow for local groups to use the facilities. The benefits outdoor sport bring, has direct links with health and wellbeing which is set out in the emerging Cheshire East Local Plan Strategy.

The proposal will continue to provide the public footpath links to allow for walking around the site, which were agreed as part of the original restoration plan for the site.

Therefore it is considered that the proposed development will make a social contribution to the local area and is therefore socially sustainable.

#### **ENVIRONMENTAL SUSTAINABILITY**

##### **Landscape Impact**

The site covers an area of approximately 53.5 acres and forms part of a former sand quarry that is currently undergoing environmental restoration. It predominantly consists of two new lakes, the North Lake and the South Lake, which are slowly filling to their natural level of 73.5m AOD. They are set in soft-landscaping comprising grass, trees and new, wet woodland planting.

The site is bounded to the west by the B5359 (Alderley Road), to the north and south by fields and to the east by a third, larger lake.

As part of the application a Landscape and Visual Appraisal has been submitted, this indicates that it has been undertaken using the Guidelines for Landscape and Visual Impact Assessment, Third Edition (GLVIA 3). As part of the Landscape and Visual Impact Appraisal the baseline landscape character is identified at both the national and regional level. The application site lies within the National NCA 61 Shropshire, Cheshire and Staffordshire Plain. At the regional level the application site is located within two areas identified in the Cheshire Landscape Character Assessment (2009). The majority of the site is located within the Landscape Character Type 1: Sandy Woods, Woodland, Heath, Meres and Mosses, and within the Landscape Character Area SW3: Withington. The western boundary of the site is located within the Landscape Character Type 10: Lower Farms and Woods, and within Landscape Character Area LFW1: Marthall Character Area. The assessment also includes comments on the local landscape character.

The appraisal indicates that the site is in poor condition, of poor quality, but of moderate quality on the perimeter, that in terms of the landscape character, that the landscape sensitivity is low medium, that the magnitude of effects caused by the development would be low and that the effect would be slight. For Landscape Features and vegetation the appraisal identifies that sensitivity is low, that the magnitude of effect would be low and that the resulting effects would be slight. For landscape and heritage designations the appraisal indicates high sensitivity, a low magnitude of effect and a moderate effect. The overall conclusion is that there will be a slight landscape effect for landscape character, landscape features and landscape and heritage.

In terms of visual effects the appraisal identifies that for residential receptors sensitivity varies from high to medium, that the magnitude of effect would be minor and the overall effect would be moderate in close proximity, reducing to slight to minimal at greater distances. In terms of heritage the appraisal identifies that sensitivity is high, the magnitude of effect would be negligible and that the significance of effect would be moderate. For public rights of way the appraisal identifies that sensitivity is high, with a medium magnitude of effect and that the overall significance of effect on the nearest footpath FP2 Chelford, would be major /moderate. The appraisal identifies that the overall the proposals would result in Major/moderate and moderate visual effects.

The landscape officer broadly agrees with the visual appraisal. However, the landscape appraisal indicates in Para 4.1.17 that 'the assessment is based on the current state of the site, rather than on the basis of the proposed restoration proposals'. This is a misinterpretation of the NPPF. Annex 2 of the NPPF defines previously developed (i.e. 'brownfield') land and specifically excludes 'land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures. Any landscape appraisal should therefore be based on the permitted restoration proposals as the baseline,

rather than the quarry in its current condition. As a consequence it is considered that the landscape effects will therefore be greater than the submitted appraisal identifies.

There will clearly be a visual impact from the proposed development which is acknowledged in the LVIA submitted, no specific mitigation has been proposed, the visual impact of the proposed development will be weighed in the overall planning balance.

## **Trees**

There are a number of trees around the site. The development proposals require the removal of a single mature Sycamore identified as T13 within the Arboricultural submission to facilitate the access off Chelford Road. The tree clearly presents advanced signs of reduced vigour and vitality, and has been categorised as a low value category C specimen. I would concur with this categorisation and raise no objection to its removal. A limited amount of additional tree pruning is detailed within the report; this accords with current best practice BS3998:2010, and good Arboricultural practice.

The Arboricultural Report contains tree protection details which accord with the requirements of BS5837:2012, allowing the retained tree aspect of the project to be protected for the duration of the construction phase.

In order to facilitate access into the site as well as removing the low value Sycamore T13 a short section of field boundary hedgerow also requires removal. In order to comply with the 1997 Hedgerow Regulations a detailed assessment of the hedge will be required in order to determine if it's considered to be 'important'; both an historic and horticultural assessment will be required.

Subject to the findings of the hedgerow assessment, the impact of the development from an Arboricultural perspective is extremely limited, the loss of the single tree (T13) which is in decline can be easily mitigated as part of a specimen landscape scheme.

It is therefore considered that the proposals are acceptable in relation to trees subject to an appropriately worded condition.

## **Ecology**

As part of any development proposals it is important that proposals do not endanger European protected species or species of conservation importance. The Council's ecologist has commented on the proposals with regard to bats, badgers, breeding birds the retention of woodland and hedgerows, which are set out below.

The restoration scheme for the site is primarily for nature conservation. As a result of the existing restoration scheme being for this purpose, whilst some access to the site is proposed, this will be restricted in places to allow wildlife to flourish.

### Ornithological interest of the north and south lakes

A significant number of birds, included those considered to be a priority for nature conservation, have been recorded as being associated with Mere Farm Quarry and the two lakes associated with this application in particular.

Based on the survey data provided by the Cheshire and Wirral Ornithological Society the application site would readily meet the site selection criteria for selection as a Local Wildlife Site. The application site must therefore be considered to be of nature conservation value at the scale of the Cheshire Region.

The usage of the site by birds would have been likely to change as quarrying and restoration has progressed. Species for which the quarry meets the Local Wildlife Site Selection criteria have however been present throughout the extraction and restoration stages of the quarry to date. The ecologist visited the site this month (June 2016), when restoration of the lakes was part complete, and it is evident that a number of bird species remain including those considered to be a priority for nature conservation.

It is difficult to fully predict precisely which of the existing species of bird would remain once restoration of the lakes is complete and which new species would arrive to take advantage of the maturing habitats. The completely restored quarry however is in the ecologist's opinion likely to continue to be of significant value for birds.

The submitted ecological assessment was based on a single visit in January. This is considered to be an insufficient survey effort to inform an accurate assessment of the value of the site for wintering and breeding birds.

The submitted assessment concludes that the site may be of local value for birds. It is advised that this is an under evaluation of value of the site for birds.

This application for activities on both the north and south lake is likely to have a significant adverse impact upon the nature conservation value of the lakes as a result of the increase in disturbance and the potential risk posed to birds posed by the network of wires associated with the wakeboarding infrastructure. These impacts will be for the duration of the operational life of the centre.

Following discussions the applicant is proposing to restrict the activities in the south lake. Notwithstanding this it is advised that the impacts of the proposed development on birds are difficult to mitigate or compensate for and the proposed restriction on activity in the south lake would only result in a slight reduction in the severity of the impacts.

LPAs have a duty to consider impacts on wild birds under paragraph 3 of the Habitat Regulations 2012. This regulation requires local authorities to take such steps they consider appropriate to secure the preservation, maintenance and re-establishment of sufficient diversity and area of habitat for wild birds.

The disturbance of birds associated with the proposed development is being promoted by the applicant as a benefit from the scheme as a contribution towards the safeguarding of Manchester Airport. It is advised that an airport safeguarding condition is attached to the mineral extraction permission for the quarry and so appropriate bird control measures would be implemented under this condition.

### Hedgerows

Hedgerows are a priority habitat and a material consideration. The proposed development is likely to result in the loss of a section of species poor hedgerow to facilitate the site access.

### Great Crested Newts

Only limited survey effort has been undertaken to assess the potential impacts of the proposed development on great crested newts. The submitted assessment concludes that the implementation of Reasonable Avoidance Measures during the construction phase of the proposed development would be appropriate to address the potential impacts of the development upon great crested newts.

Great Crested Newt surveys were however undertaken to inform the quarry application and the restoration of the site and several hundred great crested newts were recently translocated to allow restoration works to proceed lawfully. I therefore advise that the ecological assessment submitted in respect of this application should make use of the available great crested newt data to enable a confident and informed assessment of the potential impacts of the development to be made.

### Bats

Three trees with bat roost potential have been identified during the submitted ecological assessment. The submitted ecological assessment states that these trees would not be affected by the proposed development. The submitted phase one plan and the submitted masterplan are however not detailed enough to clearly show the retention of these trees, therefore additional information is required on this matter. The submitted assessment states that the site is of County level value for foraging bats. The ecologist has recommended that the applicant's consultant be requested to provide further information as to why the site is considered to be of this level of importance.

### Badgers

Two minor badger setts have been recorded on site. The setts are located sufficiently faraway that it is unlikely that they would be directly affected by the proposed development. The setts could however be affected if materials were stored in close vicinity to them or if the movement of construction vehicles was not managed appropriately. The impacts on badgers could be mitigated by condition.

The proposed development will have a clear and detrimental impact on biodiversity, and in particular birds, the site has a great amount of ornithological interest, and CAWOS and the RSPB have objected to the

application on this basis. With regard to bats and Great Crested Newts, further information is required in order for the ecologist to be in a position to fully assess the impact.

It is not considered that the proposed use and the existing level of biodiversity at the site could exist in harmony, even with the suggested mitigation proposed for a set-aside area. The level of disturbance would be significant and the bird population would suffer at the site as a result. Therefore it is considered that the proposed development is likely to result in a significant loss of biodiversity, therefore the proposals are contrary to policy NE11 of the MBLP and guidance set out in the NPPF.

### **Impact on Manchester Airport.**

As noted in the update report, Manchester Airport object to the application due to the potential for bird hazard which it has not been demonstrated can be overcome.

### **Amenity**

In order for the proposals to be acceptable, it is important that they do not have a detrimental impact on the amenities of existing residents and that the proposals would not cause harm by overlooking, loss of light or loss of privacy, noise, nuisance or disturbance to future or existing residents.

### **Noise**

Due to the nature of the proposals, large visitor numbers are anticipated, therefore some noise will occur as a result of the proposals. The area does not have a large amount of residential development nearby. The nearest property is around 100m from the main area of activity of the site, and other properties are around 290-300 and 500m respectively from the site. This is considered to be a sufficient distance for the proposals not to have a harmful impact on neighbouring properties.

The Council's Environmental Health officer has assessed the application in terms of noise, and has raised no objections. The proposal does not include traditional diesel powered motors, and any planning permission would be conditioned to ensure this, the Environmental Health, are satisfied with the hours of opening and that this would not have a detrimental impact on the amenity of surrounding residents.

### **Air Quality and Contaminated Land**

Environmental Health has commented on the application in terms of air quality and contaminated land and have raised no objections on the basis of either air quality or contaminated land, subject to suitably worded conditions and mitigation measures. The area is not in an air quality management area, and no traditional diesel motors are proposed, instead the site will be operated by electricity. An air quality appraisal was not submitted with the application, however the travel plan does promote measures which reduce the impact of traffic on the air quality of the area.

It is considered that the proposed development will not have a detrimental or unacceptable impact on neighbour amenity therefore the proposal are in accordance with saved policy DC3 of the Macclesfield Borough Local Plan.

### **Flood Risk**

It is important that new developments are not at risk from flooding, or that the development itself would not exacerbate flooding in an area. The application is accompanied by a Flood Risk Assessment which concludes that the site is in flood zone 1, and that the site is a low risk of flooding from fluvial, surface water, overland, artificial drainage systems and infrastructure failure. A preliminary drainage strategy demonstrates that run-off from the site can be managed sustainably to not exceed greenfield run-off rates. The assessment concludes that the use would not exacerbate flooding and would be a compatible use for the site.

United Utilities have commented on the application and have raised no objections subject to conditions. In the representations received sewerage has been mentioned, however this matter has since been confirmed to be dealt with by foul water package treatment plant on site. United Utilities have raised no objections in respect of foul water disposal.

It is concluded therefore that the proposals accord with policy DC17 of the MBLP and the NPPF.

### **Design**

The building development on the site comprises the boardwalks, the main club building and the pylons and the aerial ropes. The pylons and aerial ropes are functional for their proposed use therefore the design is standard. With regards to the main building, this has been designed to reflect the rural character of the area, the design is of a low agricultural building, and will be clad in timber. It is considered that the simplicity of the design will not have a detrimentally impact on the character of the area. The layout of the site with the parking arrangement to the west makes the most efficient use of the site. The proposed materials would be conditioned to ensure that they are suitable for this sensitive location.

It is considered that the proposals accord with policy DC1 of the MBLP.

### **Highways**

A number of objections have been received in relation to the proposals and many of these relate to traffic. The site is a main road which has high levels of traffic. A tourist attraction such as this is likely to increase traffic levels, however activity would take place across the whole day so would not be restricted to peak hours.

CEC Highways have commented on the application, the comments are incorporated below.

The methodology used by the applicant to estimate the likely number of trips generated by the proposal is the Trics database. The traffic generation figures presented indicate that the busiest day is a Sunday and the site would generate some 51 AM trips and 49 PM trips. Clearly, this data is based upon only one survey of another site and it is expected that the actual traffic generation from this type of use could vary considerably above or below the numbers presented by the applicant.

In regards to the proposed development, it is accepted that it is likely that the peak traffic generation will occur at weekends/bank holidays and also during summer school breaks. In addition, the proposed use is an off peak use, when the majority of movements would not be on the road network during the AM and PM weekday peaks.

Given the location of the site on the road network and currently levels of flows outside the peak hours, even if the traffic generation was to double this would not result in severe congestion.

#### Access

The design of the proposed access is acceptable and it does provide adequate visibility in both directions from the proposed access point. Refuse and delivery vehicles are able to enter the site and turning space is available internally.

#### Sustainability

The location of the site a rural location will not provide the connectivity to non car modes that an urban location will have. The accessibility of this site is poor, there is a very minimal footway on the development side of Alderley Road and there are no dedicated cycleways. There are bus services that run on Chelford Road between Macclesfield and Knutsford although the stops are a considerable walking distance from the site. Overall, in regards to accessibility to non car modes the site poor and it has to be accepted that the predominate mode of travel to this venue would be by car.

#### Highways Summary and Conclusions

The proposed Watersports and Outdoor activity centre is a leisure use that will typically be off peak traffic based. The likely traffic generation from the use has the potential to vary wildly and in assessing the application it is necessary to consider a range of factors such as location, proposed uses within the site and also the level of car parking provision. In regards, to the traffic generation figures submitted even if these figures are doubled this level of generation can be accommodated on the local road network during the off peak periods. Therefore, it is concluded that the application would not result in a severe impact to warrant refusal on traffic grounds.

In regards to accessibility, the site has poor connectivity to sustainable modes although the location of the site is not conducive to providing good accessibility, however sustainability incorporates a range of factors and accessibility is only one element of sustainability.

CEC Highways have not objected to the application on highways grounds, therefore the proposal is considered to be acceptable on highways grounds.

### **Environmental Impact Assessment**

An EIA Screening Opinion was submitted prior to the submission of the application, due to the scale of the proposed development and the fact that it would not have a greater than local impact on the environment it is not considered that a full Environmental Statement was required to be submitted with the application. Therefore this is not considered to be an EIA development when assessed against the 2011 EIA regulations.

### **Environmental sustainability conclusions**

It is considered that the proposed development is not environmentally sustainable. The accessibility to the site is poor, however this is not the only factor when assessing sustainability. The proposed use of the site will have a significant and detrimental impact on biodiversity. It is not accepted at this stage that the proposed development would assist Manchester Airport in reducing bird numbers, as this relates only to certain types of birds, and no consultation comments have confirmed the airport's position on the matter to date.

With regard to biodiversity, it is not considered that even with mitigation, the issues relating to birds in particular can be overcome. It is considered that the two uses as a habitat and sanctuary for biodiversity and the proposed recreational development could not co-exist in harmony, and inevitably the level of disturbance would impact on the bird populations at the site while also increasing bird hazard for Manchester Airport.

The proposed design of the site is acceptable, however there would be a landscape impact of the proposals, the proposals would not have a detrimental impact on trees.

Therefore it is considered that the site is not environmentally sustainable. The impact on biodiversity would be great, therefore the proposals are contrary to policy NE11 of the Macclesfield Borough Local Plan and guidance set out in the NPPF.

## **ECONOMIC SUSTAINABILITY**

### **Employment**

Although there are no specific details, the proposed development will provide employment of up to 30 jobs.

### **Economy of the wider area**

The addition of a tourist and recreation attraction within Cheshire East such as this will bring benefits locally, as the facility is unique and the closest facility of this nature is in Liverpool. Therefore it is considered that it will attract

visitors from not only Cheshire East but further afield. This is likely to create a boost in day trips to the area and linked trips to other facilities locally such as shops and restaurants increasing their sustainability particularly in the summer months. In addition to this, the site can accommodate groups and events, therefore many people may visit and stay overnight, which could provide a boost to accommodation providers locally.

It is considered therefore that it would enhance the local rural economy, which key Council, local and national objectives as set out in the emerging CELPS and the NPPF.

### **Economic sustainability conclusions**

The proposals will result in additional employment which is a social and an economic benefit, in the short term employment will be greater through the construction of the site along with an economic boost locally through the increase in visitor numbers to the area. It is considered that the proposals will make a meaningful contribution to the local area by providing a unique sporting and recreation facility.

### **Section 106 agreement**

Should the application be recommended for approval, the current section 106 agreement for the restoration of the site will need to be varied to allow for this development to take place.

### **Representations**

A moderate number of representations have been received in relation to the application, some in support of the application and others objecting to the application. There have been objections from statutory consultees and non-statutory consultees in relation to ecology and particularly the contribution this site makes to the area's biodiversity, particularly for birds. Having taken into account all of the representations received including internal and external consultation responses, the material considerations raised have been addressed within the main body of the report.

Paragraph 14 of the NPPF states that should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

### **PLANNING BALANCE**

The site is a greenfield Green Belt site, and has a previous use as a quarry. A detailed comprehensive restoration plan is in progress at the site for an area of nature conservation, and the lakes are slowly filling. The proposed development is considered to be acceptable in terms of the Green Belt, the use of the lakes maintains openness, and the proposed buildings and structures are not considered to be inappropriate development within the Green Belt as they are appropriate for the proposed use.

The proposal is considered to be socially sustainable. The development would provide an opportunity for local residents to participate in sport particularly kayaking and swimming at the site along with utilising the enhanced public footpath network.

It is considered that the proposed development would be very positive in terms of contributing to the local rural economy and supporting local businesses. The proposed development will attract visitors from the local area and from further afield to use the facility. This therefore makes a positive economic contribution.

In terms of environmental sustainability, the proposal would have a landscape impact, however this must be weighed in the balance, as it inevitably would introduce built development where there is none at the current time. Matters of flood risk, noise, air quality, highways and design are considered to be acceptable.

However, the site has a rich biodiversity, which is proposed to be enhanced further through the continued development with the restoration scheme. The biodiversity would suffer as a result of the proposals and in particular the birdlife at the site. It is considered that even with mitigation, the levels of disturbance would be detrimental to the biodiversity at the site. While the objection from Manchester Airport is also significant.

When weighed in the planning balance, it is clear that there are a number of positives to the scheme, however the harm to biodiversity in particular bird populations cannot be overcome in order to achieve a scheme that would see the proposed use and the biodiversity exist together.

Therefore, it is considered that on balance, the proposal is unacceptable and contrary to policy NE11 of the Macclesfield Borough Local Plan and the National Planning Policy Framework which aims to achieve sustainable development. The development would not be sustainable as environmentally it would not ensure the following:

*an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*

The proposal is however considered to be sustainable in terms of social and economic sustainability.

The benefits in this case are:

- The proposal will provide a unique sporting and recreational facility for the local community and wider community to enjoy.
- It will encourage sport participation to contribute to the health and wellbeing of the local and wider community

- The development would provide significant economic benefits through the provision of employment during the construction phase, job creation during the operation of the facility and benefits for local businesses.
- The proposal is not considered to have a detrimental impact on the highway network.

The development would have a neutral impact upon the following subject to mitigation:

- There is not considered to be any significant drainage or flood risk implications raised by this development.
- The impact upon trees is considered to be neutral as this can be addressed through mitigation.
- The impact upon the residential amenity/noise/air quality/landscape and contaminated land can be mitigated through the imposition of planning conditions.

The adverse impacts of the development would be:

- Significant detrimental impact on biodiversity, which could not be mitigated effectively.
- Increased potential for bird hazard.
- Landscape impact through the introduction of new buildings and structures.

On balance, it is considered that the proposal does not represent sustainable development when assessing the three strands of sustainability therefore does not fully accord with the development plan and national planning policy and guidance. Therefore for the reasons mentioned above the application is recommended for refusal.

## **RECOMMENDATION**

### **Refuse**

- 1. The proposed development will have a detrimental impact on biodiversity at the site by proposing activities on both the north and south lakes, which is likely to have a significant adverse impact upon the nature conservation value of the lakes as a result of the increase in disturbance and the potential risk posed to birds posed by the network of wires associated with the wakeboarding infrastructure. These impacts will be for the duration of the operational life of the centre. Therefore the proposals are not environmentally sustainable contrary to policy NE11 of the Macclesfield Borough Local Plan and the NPPF.**
- 2. The potential bird attractant features of this proposed development are greater than the site as existing and greater than the approved restoration scheme, and without a significant amount of appropriate mitigation would be likely to lead to an increase in goose populations at the site and thus increase the hazard within Manchester Airport's safeguarded area. This would result in an increased risk to the safe operation of aircraft at and in the vicinity of Manchester Airport that is unacceptable to the**

**UK aviation industry's regulators: The Civil Aviation Authority and the European Aviation Safety Agency and does not comply with the standards of the International Civil Aviation Organisation.**

