

Application No: 18/0294M

Location: Land North Of, CHELFORD ROAD, MACCLESFIELD

Proposal: Outline planning application (with all matters reserved except for access) for the erection of up to 31 dwellings.

Applicant: Mr Tom Loomes, Jones Homes (North West) Ltd

Expiry Date: 13-Mar-2018

## **SUMMARY**

Macclesfield is one of the principal towns and growth areas of the Borough. The proposal provides up to 31 dwellings on part of a site allocated for around 150 dwellings under Policy LPS 18 within the Cheshire East Local Plan Strategy (CELPS). Part of the remaining allocation is being considered under planning ref; 17/4277M which proposes the erection of up to 135 dwellings. Through the adoption of the CELPS, the site has been removed from the Green Belt and the principle of developing the site for housing is therefore acceptable. This proposal would bring economic and social benefits through the delivery of 31 no. residential units in a sustainable location.

Cheshire East is able to demonstrate a 5 year supply of housing, however, this proposal will make a valuable contribution in maintaining this position.

The proposal would provide the requisite level of affordable housing for a development of this size and the impact on education would be mitigated by financial contributions. The impact on biodiversity and ecology would be acceptable subject to some biodiversity offsetting and compensatory measures. The development will not have a detrimental impact on the local highway network owing to the modest scale of the proposals. The impact on local air quality (including cumulative impacts) is also acceptable.

It is acknowledged that the site is currently susceptible to surface water flooding, however, a comprehensive scheme of surface water attenuation is proposed, ensuring that there will be no increase in surface water runoff. This has been agreed with the Council's Flood Risk Manager, and as such, the proposed development will adequately mitigate the residual risk of flooding from surface water and will not increase the risk of flooding to neighbouring properties.

Subject to the submission of reserved matters, and based on the principles shown on the indicative layout, the proposal would not materially harm neighbouring residential amenity and would provide sufficient amenity for the new occupants. The application would offset the impact on outdoor and indoor sports and recreation provision through financial contributions. The applicants have demonstrated general compliance with national and local guidance in a range of other areas including trees, landscape impact and noise.

On this basis, the proposal is for sustainable development which is considered to be acceptable in the context of the relevant policies of the adopted Cheshire East Local Plan Strategy, the saved policies of the Macclesfield Borough Local Plan and advice contained within the NPPF. In accordance with Sec.38 (6) of the Planning and Compulsory Purchase Act 2004 and paragraph 11 of the Framework, the proposals should therefore be approved without delay.

## **SUMMARY RECOMMENDATION**

**Approve subject to conditions and a s106 agreement.**

## **PROPOSAL**

This application seeks outline planning permission with details of access and all other matters reserved for the erection of up to 31 dwellings with vehicular access from Chelford Road.

## **DESCRIPTION OF SITE AND CONTEXT**

This application relates to a greenfield site lying to the west of Macclesfield, to the north of Chelford Road and to the South-West of Whirley Road. Surrounding uses include mainly residential and agricultural land. Whirley Primary School lies to the north-west. The site measures approximately 0.94 hectares in size and sits within a gap in the built up frontage of Chelford Road. The site forms part of an allocated site for housing development under Policy LPS 18 of the Cheshire East Local Plan Strategy (CELPS).

## **RELEVANT HISTORY**

23206P - 4 DETACHED BUNGALOWS (OUTLINE) – Refused 18-Jul-1980

56498P - NURSING HOME – Refused 16-Jan-1989

## **POLICIES**

### **Development Plan**

#### Cheshire East Local Plan Strategy

MP1 Presumption in favour of sustainable development

PG1 Overall Development Strategy

PG2 Settlement hierarchy

PG7 Spatial Distribution of Development

SD1 Sustainable Development in Cheshire East

SD2 Sustainable Development Principles

IN1 Infrastructure

IN2 Developer Contributions

SC1 Leisure and Recreation

SC2 Indoor and Outdoor Sports Facilities

SC3 Health and wellbeing

SC4 Residential Mix

SC5 Affordable Homes

SE1 Design  
SE2 Efficient use of land  
SE3 Biodiversity and geodiversity  
SE4 The Landscape  
SE5 Trees, Hedgerows and Woodland  
SE6 Green Infrastructure  
SE7 The Historic Environment  
SE9 Energy Efficient development  
SE12 Pollution, land contamination and land stability  
SE13 Flood risk and water management  
CO1 Sustainable travel and transport  
CO3 Digital connections  
CO4 Travel plans and transport assessments  
LPS 18 Land between Chelford Road and Whirley Road, Macclesfield

Macclesfield Borough Local Plan (saved policies)

NE3 Protection of Local Landscapes  
NE11 Nature conservation  
NE17 Nature conservation in major developments  
NE18 Accessibility to nature conservation  
RT5 Open space standards  
H9 Occupation of affordable housing  
DC3 Residential Amenity  
DC6 Circulation and Access  
DC8 Landscaping  
DC9 Tree Protection  
DC14 Noise  
DC15 Provision of Facilities  
DC17 Water resources  
DC35 Materials and finishes  
DC36 Road layouts and circulation  
DC37 Landscaping  
DC38 Space, light and privacy  
DC40 Children's Play Provision and Amenity Space  
DC41 Infill Housing Development  
DC63 Contaminated land

**Other Material Considerations**

National Planning Policy Framework (The Framework) 2018  
National Planning Practice Guidance  
Cheshire East Design Guide

**CONSULTATIONS**

**ANSA (Greenspaces and CEC Leisure)** – No objection subject to onsite provision of Public Open Space (POS) and a Local Area of Play (LEAP) standard play area. There is a requirement to provide a financial contribution of £1,000 per open market family dwelling or £500 per 1 / 2 bed apartment towards Recreation and Outdoor Sport (ROS) and Indoor Sport,

but this will depend on the final housing numbers. Based on 31 dwellings, the financial contributions towards Indoor Sport would be £5460.

**Cheshire Wildlife Trust** – Objected on the basis that the proposal will result in a loss of habitat and therefore impact negatively on biodiversity.

**Education** – No objection subject to a financial contribution of £146,791 towards primary and secondary school places.

**Environmental Protection** – No objection subject to conditions / informatives relating to noise mitigation, electric vehicle infrastructure, low emission boilers, dust control, contaminated land and construction hours.

**Flood Risk Manager** – No objection subject to compliance with the recommendations made within the submitted Flood Risk Assessment & Drainage Strategy and conditions relating to finished floor levels to be 300mm above surrounding ground levels, discharge of surface water runoff to the drainage ditch along the northern boundary of the site at a maximum rate of 3 l/s, storage will be required to accommodate for the event of power or plant failure and storage will be provided for the 1 in 100-year plus 30% climate change event.

**Head of Strategic Infrastructure (Highways)** – No objection.

**Housing Strategy & Needs Manager** – No objection subject to 30% of the units being provided as affordable with a tenure split of 65% / 35% between intermediate tenure and social rent.

**NHS Eastern Cheshire Clinical Commissioning Group** – No objection. No financial contributions sought.

**Public Rights of Way** – No objection. The proposal does not directly affect a public right of way.

**United Utilities (UU)** – No objection subject to conditions. UU have also stated that there is a water main / trunk crossing the site which they will not permit building over unless the applicant diverts it at their own expense.

## **VIEWS OF THE TOWN AND PARISH COUNCILS**

**Macclesfield Town Council (MTC)** - Object on the grounds of:

- Site is Green Belt and exceptional circumstances haven't been demonstrated
- Significant impact on highways through traffic congestion requiring in depth traffic management assessment
- Impact on air quality
- Other sizeable sites within the 1 mile of the site have not been accounted for
- The cumulative impact of localised development in that area of Macclesfield
- That the impact on air quality will adversely affect the amenity of residents
- That an environmental impact assessment does not clearly demonstrate sustainability of the proposed development

- The development does not provide adequately for sustainable transport methods, such as cycle and pedestrian routes

MTC also asked that neighbours' comments are taken into consideration, and that if the development goes ahead infrastructure must be put in place to support the development and appropriate air quality measures as well as community infrastructure and cycling measures.

**Henbury Parish Council** – Detailed objections have been received from the Parish. This has included detailed traffic surveys and air quality reports submitted on behalf of the Parish which have been considered by respective consultees. The main concerns are summarised below:

- The submitted applications do not cover the whole site allocation
- Traffic on the Chelford Rd frequently queues past the proposed site access towards the Broken Cross roundabout. A report commissioned by the Parish Council shows that the traffic volume and congestion is far greater than indicated in the transport assessments for applications 17/4277M and 17/4034M.
- Pedestrian flow surveys were carried out when a number of year groups were on leave due to exams
- Traffic flows are inaccurate (and therefore the Air Quality modelling also) as they do not account for the new location for Kings School, or the developments lower down the A537 e.g. Bollin Meadow
- The overall expansion of Macclesfield in the local plan is for 4350 properties, despite the original requirement being under 2500
- The proposed access will require a new roundabout on the A537, within the extent of the queues frequently encountered in east-bound traffic at Broken Cross.
- This application must be assessed in combination with surrounding applications with regards to the impacts on local infrastructure (schools, health care, utility supply etc.)
- This proposal will adversely affect air quality around Broken Cross.
- The Council has failed to produce an Air Quality Action Plan and put in place appropriate monitoring
- The air quality reports are based on inconsistent, inaccurate data and poorly positioned monitoring tubes
- There will be an adverse impact on the health of walkers and cyclists who will be exposed to NO<sub>2</sub> levels that exceed limits, which the travel plans for these applications are promoting
- Will be very long waiting times of pedestrians which will be unsafe for school children
- The site is mostly marshy grassland on peat. It is part of the area named 'Longmoss', the name being indicative of the ground conditions. The proposal would have a significant impact on ecology and a nearby SBI and would be contrary to Local Plan Policy SE 3.
- There is oversubscription at area schools with no spare places at – Fallibroome Academy and Macclesfield Academy. Proposed development would have detrimental impact on education provision. These schools are academies so the LEA cannot arrange their expansion. Approval without addressing this situation would be negligent.
- Site lies in a critical drainage area and is susceptible to surface water flooding.
- This application does not represent sensitive development and has a negative impact on the local environment and transport infrastructure.

## OTHER REPRESENTATIONS

Representations have been received from over 50 properties over the two periods of consultation objecting to this application on the following grounds:

- Intrusion into Green Belt
- Brownfield sites should be considered first
- Application needs to be considered alongside planning refs; 17/4034M and 17/4277M on air quality, traffic and congestion at broken cross roundabout, school places, doctors surgeries etc
- Applications should not be made on a piecemeal approach
- Impacts will be worse with other developments e.g. Bollin Meadow and Kings School sites
- Impact on Local Wildlife Site
- Trees have already been cleared from the site with survey works carried out afterwards
- Road congestion will be made worse
- Increase in pollution levels and impact on quality of life and health
- Road safety, lack of crossings, scarcity of speed cameras
- Impact on bats, nesting birds, owls, buzzards, moles, water voles, frogs and newts
- Site should be a designated and protected area of wetland
- Lack of consideration to parking and need for a second emergency access
- The site is susceptible to flooding and drainage problems
- Positioning of the proposed roundabout will cause accidents
- Proposed roundabout will increase emission from vehicles braking and speeding up and also vibration from heavier vehicles causing damage to properties
- Broken Cross area is already above the national guidelines for air pollution and further traffic using the area will only make this worse
- Application should not be approved until an Air Quality Action Plan is in place and measures such as electric charging points have not been proven to reduce pollution
- Application should be refused due to a lack of trust in CEC owing to previous falsified data and maladministration
- Affordable housing provision is not sufficient
- Many people objected to the allocation of this site during the local plan process
- Traffic surveys and assessments submitted for other developments in the area have been found to be inaccurate by other third party assessments
- Local schools have no capacity to accommodate more children and GP surgeries and hospital cannot cope with an increase in population
- Highway improvement works will not work
- How will farmers access their land
- Will erode the gaps between important rural settlements and lead to a loss of identity to villages such as Henbury
- Proposal with 17/4277M would exceed 150 houses
- Documents submitted on application not uploaded or removed
- There are proposals for 2.5 storey houses which are unacceptable given the mix of bungalows and 2 storey houses that border the site
- Surrounding junctions not been adequately assessed and will be over capacity

- Pedestrian and cycle environment unsafe around Broken Cross
- High number of errors, omissions and inaccuracies in submissions
- Pedestrian safety survey was undertaken when at least 3 school years weren't in at Fallibroome
- Houses unlikely to be low cost / affordable
- Conflicts with advice in the NPPF
- Pollutants from surface water will affect ancient woodland

**Macclesfield Civic Society** have also raised the following concerns:

- The delivery of a roundabout must be insisted on and should be linked into the development of the adjacent site (Robinsons) to provide alternative entrance/exit points for the combined developments
- This combined with the other application/s may result in an overprovision above the site allocation
- Proposal will need to provide full 30% affordable housing
- Some concern that the cumulative impact of the strategic allocations would impact upon the efficiency and safety of the road network as a whole
- Severe congestion already occurs at a number of critical points along the A537 (Broken Cross; Prestbury Road and Chester Road junctions; Cumberland Street and Hibel Road)
- Of paramount importance that the landscaped edge of the sites in this area which form the new boundary to the Green Belt is defined in such a way as to preclude further urban expansion
- Air Quality (AQ) - compliance with currently adopted air quality levels is insufficient given that the impact of increased traffic flows on the AQMA will only increase up to and beyond 2030 as a result of developments planned or foreseen in the adopted Local Plan Strategy
- Predicted levels of the measured pollutants will be worse than anticipated
- None of the AQ impacts appear to be mitigated and no suggestions are made such as encouraging modal shift to public transport or other traffic management measures to restrain traffic growth
- Transport Assessment - The Transport Assessments accept the prospect of increased flows along all approaches to the Broken Cross junction with or without the proposed developments but argue that the provision of traffic signals at the junction, together with two pedestrian priority crossings would not only accommodate such flows but also reduce queue lengths on all approaches to the junction. Despite considerable mathematical modelling it appears to the Society that such a conclusion is counter intuitive. With traffic signals there are periods where all approach roads would have standing traffic (with idling engines doing no good for pollution levels) and potentially conflicting right-turning movements.

## **OFFICER APPRAISAL**

### **Principle of Development**

Macclesfield is identified as one of the 'principal' towns in Cheshire East where CELPS Policy PG 2 seeks to direct 'significant development' to the towns in order to 'support their

revitalisation', recognising their roles as the most important settlements in the borough. Development will maximise the use of existing infrastructure and resources to allow jobs, homes and other facilities to be located close to each other and accessible by public transport.

The application site is part of a strategic site allocation for housing under Policy LPS 18 of the Cheshire East Local Plan Strategy (CELPS). When the Council adopted the Cheshire East Local Plan Strategy on 27th July 2017, the site was removed from the Green Belt.

Site LPS 18 states that the development of Land between Chelford Road and Whirley Road will be achieved over the Local Plan Strategy period through:

1. The delivery of around 150 new dwellings;
2. Provision of public open space and green linkages to existing footpaths and rights of way;
3. The incorporation of natural features such as trees, the existing pond and landform features into any development proposal;
4. Creating a readily recognisable Green Belt boundary, that will endure in the long term, along the western edge by tree planting and landscaping along the existing hedge line extending north-eastwards to the existing pond;
5. Pedestrian and cycle links to new and existing residential areas, shops, schools and health facilities; and
6. On site provision, or where appropriate, relevant contributions towards highways and transport, education, health, open space and community facilities.

Additionally, the following site specific principles of development apply:

- a. The development would be expected to contribute towards off-site road infrastructure improvements in the central, western and southern/south western Macclesfield area.
- b. The Local Plan Strategy site is expected to provide affordable housing in line with the policy requirements set out in Policy SC 5 'Affordable Homes'.
- c. The line of the existing sewer should be protected.
- d. The site should be developed so as to facilitate any junction improvements that may be necessary for a future road link between Chelford Road and Congleton Road.

Sec.38 (6) of the Planning and Compulsory Purchase Act 2004 states that planning applications and appeals must be determined "*in accordance with the plan unless material considerations indicate otherwise*". In light of LPS 18, which allocates this site for housing development, the principle of developing the site for around 150 dwellings is acceptable. Whilst this proposal does not include all of the land allocated under LPS 18, it is not a requirement that any applications submitted on allocated sites are done so in a single application. The important thing to note is that this proposal would not preclude the remaining part of the site allocation from being brought forward. In this regard, there is an application currently being considered on land to the north and east under planning ref; 17/4277M for the larger part of this allocated site. The applications need to be considered on their merits. The total number of dwellings proposed by the two applications in relation to LPS 18 is 165, which can be accommodated satisfactorily and is therefore in compliance with LPS 18.

As per para 11 of the Framework and CELPS Policy MP 1, there is a presumption in favour of sustainable development taking into account the three dimensions of sustainable development (social, economic and environmental) and compliance with the Development Plan in accordance with Sec.38 (6).

## **SOCIAL SUSTAINABILITY**

### **Housing Land Supply**

The Cheshire East Local Plan Strategy forms part of the statutory development plan.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. This is the test that legislation prescribes should be employed on planning decision making. The 'presumption in favour of sustainable development' at paragraph 11 of the NPPF means: "approving development proposals that accord with an up to date development plan without delay"

The Council can now demonstrate a 5 year supply of land for housing, but it is important to note that this proposal would deliver 31 no dwellings on an allocated site within the adopted Local Plan within one of the Principal Towns in the Borough. The Council needs to keep the supply rolling and proposals that bring forward the Council's strategic vision through the development of the allocated sites such as this one will assist in relieving pressure on other edge of settlement sites and the countryside. As such, this is a key benefit of the scheme.

### **Affordable Housing**

Policy SC 5 of the CELPS and the Councils Interim Planning Statement on Affordable Housing (IPS) requires the provision of 30% affordable housing on all 'windfall' sites of 15 dwellings or more. This relates to both social rented and/or intermediate housing, as appropriate. Normally the Council would expect a ratio of 65/35 between social rented and intermediate housing.

As this is an outline application for up to 31 dwellings, 9 of the units will be required to be affordable, depending on the final number of dwellings on the site. To satisfy the required tenure split, 6 of the units would need to be provided as social rented accommodation and 3 of the units as intermediate tenure.

The SHMA 2013 shows the majority of the annual need in Macclesfield up to 2018 is for 103 x 2 bedroom and 116 x 3 bedroom General Needs dwellings and 80 x 1 bedroom dwellings for Older Persons accommodation which could comprise of Flats, Bungalows, Cottage Flats or Lifetime Homes.

The number on the Cheshire Homechoice waiting list that have expressed Macclesfield as their first choice is 1294. This can be broken down to 683 x 1 bedroom accommodation, 417 x 2 bedroom, 158 x 3 bedroom, 36 x 4+ bedroom dwellings, therefore a mix of 1, 2 and 3 bedroom general needs dwellings, and 1 bedroom Older Persons dwellings on this site would be acceptable.

The applicant has confirmed that the proposal will provide 30% of the site as Affordable Housing with the required tenure split. The precise number, size, location and type of units will be secured at Reserved Matters stage. On this basis, the Council's Housing Strategy and Needs Manager has no objection and the scheme is in compliance with Local Plan Policy SC 5 and criterion b of LPS 18.

## **Education**

One of the site specific principles of the site allocation under LPS 18 is that the development of the site will require "contributions to education and health facilities".

In the case of the current proposal for 31 dwellings, the Council's Children's Services have advised that a development of this size this would generate:

- 6 primary children (31 x 0.19)
- 5 secondary children (31 x 0.15)
- 0 SEN children (31 x 0.51 x 0.023%)

The development is expected to impact on both primary school and secondary places in the immediate locality. Any contributions which have been negotiated on other developments are factored into the forecasts undertaken by the Council's Children's Services both in terms of the increased pupil numbers and the increased capacity at schools in the area as a result of agreed financial contributions. The analysis undertaken has identified that there remains a shortfall in school places.

To alleviate forecast pressures, the following contributions would therefore be required:

- 6 x £11,919 x 0.91 = £65,078 (primary)
- 5 x £17,959 x 0.91 = £81,713 (secondary)
- Total education contribution: £146,791

The applicant has confirmed acceptance of this requirement and therefore this application is compliant with criterion 6 of LPS 18 in this regard.

## **Healthcare**

The NHS Eastern Cheshire Clinical Commissioning Group (CCG) has commented on the application and has confirmed that they would not be seeking any financial contributions towards healthcare from this small scale development.

## **Public Open Space and Recreation**

The local plan allocation for this site and Policy SE 6 of the CELPS sets out that the open space requirements for housing development are (per dwelling):

- Children's play space – 20sqm
- Amenity Green Space – 20sqm
- Allotments – 5sqm

- Green Infrastructure connectivity 20sqm

This policy states that it is likely that the total amount of 65sqm per home (plus developer contributions for outdoor and indoor sports) would be required on major Greenfield and brownfield development sites. The indicative site plan shows an area for some on site open space measuring approximately 1192 square metres in area. At 65sqm per dwelling, the total amount of open space required could be up to 2,015sqm on site. Whilst there would appear to be a shortfall in provision, this is only a small scale site and in any event it is considered that the proposed provision would be commensurate with the size and scale of the development proposed.

There is a requirement for outdoor and indoor sport in Line with CELPS Policies SC 1 and SC 2. The necessary outdoor sports and indoor sports facilities would be provided by way of a financial contribution towards off site provision. This Recreation and Outdoor Sport (ROS) provision would be met through a financial contribution of £1,000 per open market family dwelling or £500 per 1 / 2 bed apartment.

The development will increase the need for local indoor leisure provision and as such a financial contribution should be sought towards Macclesfield Leisure Centre (less than 1 mile distance from the site). A contribution of £5460 towards fitness equipment would be required.

Subject to the above being secured by way of a legal agreement, the scheme is found to accord with MBLP Policies RT5 and DC40 and CELPS Policies SC 1 and SC2.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Air Quality**

Policy SE 12 of the Local Plan states that the Council will seek to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon air quality. This is in accordance with paragraph 181 of the NPPF and the Government's Air Quality Strategy.

As this proposal is only for 31 units, there is no technical requirement for the application to be supported by an air quality impact assessment. However, owing to the potential cumulative impacts of this proposal coupled with the other applications in the vicinity currently under consideration by the Council, the applicant has submitted an air quality report which the council's Environmental Protection Unit has considered.

When assessing the impact of a development on Local Air Quality, regard is had to the Council's Air Quality Strategy, the Air Quality Action Plan, Local Monitoring Data and the EPUK Guidance "Land Use Planning & Development Control: Planning for Air Quality January 2017). The Council's Environmental Protection Unit has considered these proposals in the context of each other. Whilst these three applications were initially considered as separate entities, it has been concluded that a more thorough approach would be to consider the three developments together and assess the impacts accordingly. It should also be noted that as part of the development proposals, a highway improvement scheme comprising of the redesign of the Broken Cross roundabout is also proposed. The highway improvement scheme would see the removal of the roundabout to be replaced with a traffic light system.

Air quality impacts have, therefore, been considered within the air quality assessment submitted in support of the applications. The report considers whether the developments will result in increased exposure to airborne pollutants, particularly as a result of additional traffic and changes to traffic flows. The assessment uses ADMS Roads to model NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> impacts from additional traffic associated with these developments and the cumulative impact of committed developments within the area. A number of modelled scenarios have been considered within the assessment. These were:

- 2017 verification
- 2020 – opening year do-minimum (predicted traffic flows should the proposals not proceed)
- 2020 – opening year do-something (predicted traffic flows should the proposals be completed)

As well as the standard detailed assessment, a sensitivity test was also conducted whereby the assumption is made that background concentrations will not decrease as predicted over the coming years. It is these figures that have been reviewed here as they represent a “worst case scenario” approach.

The assessment concludes that the impact of the future developments on the chosen receptors will ***not be significant*** with regards to NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> concentrations, with only one of the receptors experiencing a slight adverse effect for NO<sub>2</sub>. Many of the receptors are predicted to see an improvement in NO<sub>2</sub> concentrations due to the highway improvements proposed at Broken Cross. There are also no new exceedances predicted to occur as a result of the developments. However, several of the receptors are located within the nearby Broken Cross AQMA and it is the view of the Council’s EPU that any increase in concentrations, no matter how small, within an AQMA is considered significant as it is directly converse to our local air quality management objectives, the NPPF and the Council’s Air Quality Action Plan.

The Council’s EPU has also queried the baseline figures within the submitted report. For some of the receptors given that a local diffusion tube monitoring site for 2016 showed significantly higher figures. In response, the applicant’s consultant provided the following explanation:

- *“Finally regarding the difference between monitored diffusion tube concentrations and modelled concentrations at the receptor locations, it is important to note that differences between distance from the road, wind direction e.g. being upwind or downwind of the pollutant source, leeward or windward direction, angle from pollutant source, building effects (which are not included in the ADMS-Roads model), distance from queuing sections and other road sources will all greatly affect predicted concentrations. In addition, the monitored concentrations are subject to pollutant emissions from every road in the area and any other sources, whereas the modelled concentrations are predicted based on the roads included in the model, as detailed in our report. Also the monitored concentrations may be affected by unknown queuing/idling sources e.g. bus stops, any road works or other short term works in the area, parking in the vicinity etc. The purpose of the model verification process is to try and minimise these discrepancies between monitored and modelled concentrations. A thorough verification process has been undertaken using 4 / 5 diffusion tube locations and a sensitivity analysis has also been undertaken to consider a conservative*

*scenario where background concentrations and emission factors may not decline from base year levels. All results show a slight/negligible impact which is considered to be 'not significant' and the proposals for the junction improvements actually show some pollutant concentrations decreasing slightly at receptors with the junction improvements in place."*

The EPU considers these conclusions to be acceptable, especially when the uncertainty (roughly 20%) associated with diffusion tube monitoring is also factored in. However, there is a need for the Local Planning Authority to consider the cumulative impact of a number of developments in a particular area. In particular, the impact of transport related emissions on Local Air Quality. Taking into account the uncertainties with modelling, the impacts of the development could be significantly worse than predicted.

Macclesfield has four Air Quality Management Areas, and, as such, the cumulative impact of developments in the town is likely to make the situation worse unless managed. Poor air quality is detrimental to the health and wellbeing of the public and also has a negative impact on the quality of life for sensitive individuals. It is therefore considered appropriate that mitigation should be sought in the form of direct measures to reduce the adverse air quality impact. In the case of this scheme, such measures will include the provision of electric vehicle charging infrastructure and the submission of a Travel Information Pack and could be secured by way of conditions. The use of low emission boilers is also recommended by the Council's EPU, however, it is not considered that the implementation of such would be enforceable.

### **Residential Amenity**

Saved policy DC38 of the Macclesfield Borough Local Plan (MBLP) states that new residential developments should generally achieve a distance of between 21 metres and 25 metres between principal windows and 14 metres between a principal window and a blank / flank elevation. This is required to maintain an adequate standard of privacy and amenity between residential properties, unless the design and layout of the scheme and its relationship to the site and its characteristics provide a commensurate degree of light and privacy between buildings.

The site is situated within a gap between no. 67 and no 93 Chelford Road. The gap measures approximately 154 metres in width. It is important to note that the detailed layout and appearance of the scheme are reserved matters for consideration at a later stage. However, having regard to the indicative layout, it is considered that a scheme of this size could be accommodated on the site, whilst maintaining the required separation distances between neighbouring properties and the proposed dwellings, and between the new dwellings within the development itself. Sufficient private amenity space for each new dwelling could be secured at reserved matters stage. No significant amenity issues are raised at this stage.

### **Noise**

The application is supported by a noise impact assessment which details potential noise mitigation measures in order to ensure that occupants of the proposed dwellings are not adversely affected by current and future traffic noise in the vicinity of the site. Provided that the noise mitigation measures as detailed in the supporting noise impact assessment are applied in order to meet 'BS8233:2014 Guidance on Sound Insulation and Noise Reduction

for Buildings and / the Guidance Document Calculation of Road Traffic Noise', it is considered that there should be no adverse impacts on health and quality of life of the future occupants resulting from road traffic noise at this location.

As the detailed design and final layout of the site has not yet been confirmed; in order to ensure that future occupants of the development do not suffer a substantial loss of amenity due to noise, a detailed noise impact assessment report will be required at the Reserved Matters stage, demonstrating that all the residential properties can achieve appropriate standards. Subject to this requirement it is considered that the proposal will comply with policy SE12 of the CELPS and DC14 of the MBLP relating to noise and soundproofing.

## **Highways**

The highways infrastructure requirements were considered during the allocation of this site under the Local Plan process and its subsequent adoption where the expectations for accessing the site were set out. It was envisaged that this site would provide a joint access with other Local Plan sites in the northwest of Macclesfield to form a link road between Chelford Road and Congleton Road. This submission does not conform to these requirements and has the principal access being from Chelford Road. Nonetheless, the proposed access would provide the potential to link in with the vehicular access serving the adjoining site to the south of this application currently being considered under planning ref; 17/4034M on LPS16.

The proposed access would be taken directly off Chelford Road. The Head of Strategic Infrastructure (HSI – Highways) has confirmed that the design of the proposed access is satisfactory to serve the level of development proposed and no objections are raised. However, whilst this scheme is modest in size and impact, this scheme also needs to be considered in the context of all three applications currently under consideration

All three of the sites that are currently being considered by the Council have been subject to re-consultation as further highway information has been submitted that affects all three applications in relation to the off-site traffic impact at the Broken Cross roundabout. The applicants have submitted joint mitigation measures/financial contributions for all three applications. The three applications are as follows:

**17/4034M Land south of Chelford Road** - This is an outline application for up to 232 dwellings. The access to the site is provided by a new roundabout on the A537 Chelford Road, that incorporates pedestrian crossing points. The roundabout design also includes an access stub on the northern side of the roundabout that will serve this application (18/0294M) for 31 units, although there is no internal link provided to serve the 135 units in 17/4277M. A capacity assessment of the proposed new roundabout has been undertaken in 2022 with the development traffic added and it also includes likely future development on the safeguarded land indicated in the Local Plan. The results indicate that the roundabout operates well within its capacity.

**17/4277M Land between Chelford Road and Whirley Road** - This is an outline application for up to 135 dwellings and takes its principal access from Chelford Road.

**18/0294M Land north of Chelford Road** - There have been two forms of access submitted, a priority junction arrangement or a connection to a roundabout on Chelford Road. Whilst, both types of access are capable of working independently of each other, it is the preference of the Head of Strategic Infrastructure (HSI – Highways) that this site is accessed via a roundabout that includes the land south of Chelford Road.

### Combined Development Impact

As the principal impact of the development proposals is at the Broken Cross roundabout, a joint impact assessment of the junction has been submitted by the applicants of all three applications.

The current roundabout junction at Broken Cross has existing congestion problems with long queues forming in the peak hours particularly on the A537 Chelford Road approach. As the roundabout junction is currently operating over capacity, the addition of further development traffic would only extend the queues further and increase congestion, which is not acceptable. Due to the lack of land in public ownership at Broken Cross, it is not possible to enlarge the existing roundabout to cope with increased traffic flows.

The scope of the development impact has been agreed with the applicants and assessments are required for the proposed site access points and also at the Broken Cross junction where the sites have a direct traffic impact. The Kings School development has been included in the assessment as committed development as this scheme has a material impact at the Broken Cross junction. The former TA centre in Chester Road is not included in the assessment as the traffic generation is low and also once distributed on the network, the flows using Broken Cross are negligible.

Given the capacity problems with the existing roundabout, an improvement scheme has been submitted that removes the existing roundabout and replaces it with a traffic signal control junction. The junction would have two lanes on the A537 Chelford Road eastbound approach to the junction and a right turn flare on the westbound A537 approach. The junction would operate under MOVA traffic control system. As the junction would be signalised, pedestrian crossing facilities can be included and the existing crossing facilities can be removed. It is proposed to provide controlled pedestrian facilities on both the A537 Chelford Road arms of the junction.

To assess the effectiveness of the proposed signal junction and its ability to accommodate the proposed development traffic, a comparison between the operation of the existing roundabout and the traffic junction has been undertaken. The modelling of the signal junction using LINSIG software in 2022 using flows based on the average of the CBO traffic counts (November 2016) and DTPC traffic counts (September 2017) traffic surveys. The LINSIG model includes the development flows for all three sites, committed development and growth.

The comparison of the queue lengths of the 2022 Linsig model and the existing roundabout has been shown in the Table below:

Table 1.0 Mean Maximum Peak Hour Queue Lengths – Existing junction (Ex) and Proposed Signal Junction (Prop)

		Fallibroome Rd		A537 Chelford Rd		Gawsworth Rd		A537 Chester Rd	
		Ex	Prop	Ex	Prop	Ex	Prop	Ex	Prop
AM Hour	Peak	16	29	77	35	31+	33	58	34
PM Hour	Peak	34+	14	72	26	19	35	47	19

The queue length figures show that overall the queue lengths are much reduced on the A537 arms of the junction although there are some increases on the other arms. It should be noted that the existing roundabout flows do not include traffic growth to 2022 and this would have the effect of increasing existing queue lengths should the junction remain as a roundabout.

The capacity assessment of the signal junction (Table 1.1) indicates that the introduction of the signal junction would still be operating over capacity in the peak hours and this is as a result of high traffic flows and the constrained nature of the junction preventing a larger junction being provided.

Table 1.1 LINSIG results 2022 Flows plus Development

	AM peak		PM peak	
	DOS	Q	DOS	Q
A537 East Left Ahead Right	94.6 %	34	84 %	19
	106.1 %		84 %	
Gawsworth Road Right Left Ahead	104.3 %	33	107.4 %	35
A537 West Left Ahead Right	99.7 %	35	78 %	26
	104.2 %		109.2 %	
Fallisbroome Rd Left Ahead Right	106.4 %	29	95.3 %	14

It is important to note that the proposed signal junction will not work within capacity and there will still be residual queues at the junction. However, in regards to these applications the signal scheme can accommodate the proposed development traffic without increasing the existing level of congestion and would reduce queue levels overall.

### Broken Cross Junction

An improvement for the Broken Cross junction is included in the Local Plan as part of the development of LPS sites 16 and 18 where these sites are expected to contribute to improvements at this junction. The MMS (Macclesfield Movement Strategy) identifies key infrastructure requirements in Macclesfield to be delivered by the end of the plan period (2030). Broken Cross junction is one of the junctions to be improved and it is intended that a larger junction improvement than the current proposed traffic signal scheme would be delivered by the Council by the end of the period.

The highway improvement would need to be fully funded by the applicants and secured by condition, but this would only be for the two larger sites currently being considered under

applications 17/4277M and 17/4034M. It would be delivered by the applicants through a S278 Agreement on the two larger sites. This site is excluded due to its minor highway impact. Whilst Policy LPS 18 does indicate that this site would be expected to contribute to off-site infrastructure, this proposal is not of a size that would warrant or justify a financial contribution to mitigate against the impacts of the proposed development on the Broken Cross roundabout and junctions. This scheme is found to be acceptable in highways terms.

### **Accessibility and Public Rights of Way**

Policy LPS 18 of the CELPS requires the creation of pedestrian and cycle links within the site to connect with existing residential areas and facilities. The proposal would provide cycle and pedestrian access directly off Chelford Road which would connect with the existing residential areas to the south and east. The Council's Public Rights of Way Unit (PROW) have offered no objection to the proposals.

The site access will connect with the existing footway network on Chelford Road that connects with Henbury and Broken Cross. As this is an outline application, the internal footways and cycle path connections are not to be determined at this stage and will be dealt with under the reserved matters.

There are existing bus stops on Chelford Road and Whirley Road that provide bus services to the local area. In addition to the bus stop, a number of facilities including schools, open space and general amenities are all within relatively close proximity of the site. Macclesfield Town Centre is approximately 2.4km from the site where the majority of shops, services and facilities are located. The location of the site is sustainable and accessible.

### **Trees**

The application is supported by a Tree Survey report and associated documents. The site has been subject of extensive tree felling which has resulted in the removal of all the trees located within the main developable central core of the site leaving only scattered individual specimens and hedges around the periphery of the site.

Implementation of the access appears to require the removal of one of two early mature Ash (T10) trees located on the Chelford Road frontage along with a section of mature hedgerow (H12). The Ash is a poor low value specimen which contributes little to the Chelford Road street scene or the surrounding area. The hedge cannot be considered under the 1997 Hedgerow Regulations as it does not grow next to common land, protected land or land used for agriculture, forestry or the breeding or keeping of horses etc. None of the remaining trees which form part of the site or are immediately adjacent to the proposed development are considered to be of significant high amenity to warrant formal protection.

Should the application proceed to reserved matters, a detailed arboricultural impact assessment will be required in order to ascertain if T11 can be retained within the proposed road configuration, and the spatial and social proximity of the proposed plots are sustainable in respect of the off site trees. This could be secured by way of a condition. Subject to this, the Council's Senior Arboricultural Officer has no objection.

## **Landscape**

The landscape character as identified in the Cheshire Landscape Character Assessment is 'Type 17: Higher Farms and Woods', and specifically the 'Gawsworth Character area (HFW1)' for this site is 'Urban'. Whilst the Cheshire Landscape Character Assessment does not offer descriptions of urban areas, the Cheshire East Design Guide does, and in this case identifies that the settlement pattern for this part of Cheshire are the Silk, Cotton and Market Towns.

Given that this proposal would be largely situated in-between the built up frontage to Chelford Road, with the area of land directly to the north remaining undeveloped, the landscape impacts arising from this particular proposal would not be significant adverse. Subject to the submission of appropriate details of landscaping at reserved matters stage, the landscape impact of the proposals is deemed to be acceptable.

## **Ecology**

The application has been supported by an ecological assessment dealing with the following species:

Great Crested Newts - The Council's Nature Conservation Officer (NCO) has confirmed that there is a risk that the proposed development may have an adverse impact upon great crested newts (GCN), which are known to occur within adjacent water bodies ~210m to the north. The GCN ponds in question are subject to a mitigation strategy designed for the proposed development of land north of the site. Therefore it is considered that the risks could potentially be mitigated against by the implementation of reasonable avoidance measures. The NCO has recommended that this could be secured through the submission of an appropriate method statement.

Grassland and Woodland habitats - The submitted Ecological Assessment observes that the area of marshy grassland on site is likely to qualify as Section 41 habitat of Principal Importance (NERC Act, 2006). The habitat also meets Local Wildlife Site selection criteria and accounts for around 60% of the site. In addition, an area of woodland on site is likely to qualify as S41 habitat 'Lowland mixed deciduous woodland'. Habitats of these types received protection through the Local Plan. The Council's NCO and the Cheshire Wildlife Trust have advised that the loss of habitat will result in a notable loss of biodiversity on the site.

In order to offset this loss, the applicant has confirmed within a Biodiversity Offsetting Report that these losses will be compensated for through a commuted sum of £34,500. The monies would be spent on the restoration of Kerridge Hill Nature Reserve and Swettenham Valley Nature Reserve. The funds will be used to protect, enhance and create priority grassland on the two sites by way of improving grazing infrastructure, scrub removal, invasive species control and sowing locally sourced wildflower seed. The Council's NCO has confirmed that such mitigation would satisfactorily address the impact and this would need to be included within any s106 heads of terms.

Bats - All of the trees affected by this proposal were assessed during Ecological Assessment and were deemed to offer negligible potential for roosting bats. However, bats were recorded foraging on the site and the boundaries offer connective commuting habitat. Such features could be safeguarded at reserved matters stage with appropriate landscaping and retention of

hedgerows. Bat roosts can be incorporated into the development and their provision can be required by condition.

Schedule 9 Species - The applicant should be aware that Himalayan Balsam is present on the proposed development site. Under the terms of the Wildlife and Countryside act 1981, it is an offence to cause this species to grow in the wild. Disturbance of soil on the site may result in increased growth of Himalayan Balsam on the site. If the applicant intends to move any soil or waste off site, under the terms of the Environmental Protection Act 1990 any part of the plant or any material contaminated with the species must be disposed of at a landfill site licensed to accept it and the operator should be made aware of the nature of the waste. A condition can be attached requiring the submission of a scheme to deal with this invasive species.

## **Habitat Regulations**

It should be noted that since a European Protected Species (Great Crested Newts) has been recorded near to the site, and is likely to be adversely affected by the proposed development, the Local Planning Authority must have regard to whether Natural England would be likely to subsequently grant the applicant a European Protected species license under the Habitat Regulations. A license under the Habitats Regulations can only be granted when:

- the development is of overriding public interest,
- there are no suitable alternatives and
- the favourable conservation status of the species will be maintained.

The principle of developing this site for residential purposes has been deemed to be acceptable through the adoption of the Local Plan Strategy. The allocation of the site under LPS 18 will enable a sustainable and planned housing land release which will facilitate and assist the delivery of the Council's 5 year housing land supply. It is a requirement of NPPF that LPAs maintain a 5 year housing land supply and therefore in this particular case, this is deemed to be of overriding public interest.

There are no suitable alternatives to providing the development on the site and the Council's NCO has confirmed that if planning consent were to be granted, subject to biodiversity offsetting, proposed mitigation/compensation could maintain the favourable conservation status of the Great Crested Newt species. Subject to this, it is considered that the proposal meets with the tests outlined in the Habitat Regulations and would accord with MBLP Policies NE11, NE17 and CELPS Policy SE 3.

## **Design**

As this is an outline application with matters relating to layout, scale and appearance reserved for approval at a later stage, there is an indicative plan to show how a development of 31 houses could be accommodated on the site. The proposal would be served by a new access point taken from Chelford Road situated towards the far south-western corner of the site to link in with the potential future roundabout which would also serve the development of the adjacent strategic site allocation LPS 16 to the south. The proposed access would travel northwards into the site with units indicated either side of the access then the internal road would turn 90-degress running west to east with units arranged in a linear form to the north

and block form to the south. The far south-eastern corner of the site would be given over to open space and an attenuation pond.

The general arrangement of the dwellings appears acceptable and would allow for main views to terminate on active frontages. The general spacing and layout shown for illustrative purpose demonstrates that the site could accommodate a scheme of 31 dwellings without appearing cramped and out of keeping with the surrounding built form. Accordingly, a suitably well designed scheme could be secured at reserved matters stage which would align with the principles of LPS 18 and Cheshire East's Design Guide.

### **Flooding and Drainage**

A Flood Risk Assessment (FRA) has been submitted. The site is located within Flood Zone 1 as defined by the Environment Agency indicative flood maps and as a result the chance of flooding from rivers or sea is 0.1% (1 in 1000) or less. However, it is important to note that land to the north does suffer from critical drainage issues and this is identified within the FRA and has also been highlighted by the Parish Council and residents.

The submitted FRA confirms that any risk of flooding can be adequately mitigated by raising the finished flood levels 300mm above surrounding ground levels and through site levelling / raising (to eliminate topographical low points). Coupled with this, the use of a sustainable drainage system, the use of impermeable surfacing and surface water attenuation (including features such as ponds, basins or a below ground tanks) to the north east of the site would ensure that the proposed development will adequately mitigate the residual risk of flooding from surface water and will not increase the risk of flooding to neighbouring properties.

The Council's Flood Risk Manager and United Utilities have been consulted and have raised no objection subject to conditions. The development is therefore considered to be acceptable in terms of its flood risk and drainage impact and will comply with policy SE 12 of the CELPS.

### **Contaminated Land**

The submitted Phase I Preliminary Risk Assessment has been assessed by the Council's Environmental Protection Unit, who have no objection. Any risk from unidentified contamination can be dealt with by appropriate conditions. Consequently the proposal complies with policy DC63 of the MBLP and CELPS Policy SE12.

### **ECONOMIC SUSTAINABILITY**

With regard to the economic role of sustainable development, the proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to Macclesfield including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

### **S106 HEADS OF TERMS**

A s106 agreement is currently being negotiated to secure:

- **Affordable Housing comprising 30% (65% of which will be for social rent and 35% for shared ownership / intermediate tenure)**
- **Education contributions of £65,078 (primary) £81,713 (secondary) = total of £146,791**
- **Public Open Space on site**
- **Management Plan for the on-site public open space**
- **Contribution towards Recreation Open Space of £1,000 per open market family dwelling or £500 per 1 / 2 bed open market apartments**
- **Contribution towards indoor recreation of £5460**
- **Contribution towards biodiversity offsetting of £34,500**

## **CIL Regulations**

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

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

The provision of affordable housing, public open space, indoor and outdoor sport (financial) and healthcare (financial) mitigation are necessary, fair and reasonable to provide a sustainable form of development, to contribute towards sustainable, inclusive and mixed communities and to comply with local and national planning policy.

The development would result in increased demand for school places at the primary and secondary schools within the catchment area which currently have a shortfall of school places. In order to increase the capacity of the schools which would support the proposed development, a contribution towards primary and secondary school education is required based upon the number of units applied for.

The partial loss of an existing area of marshy grassland on site will result in a loss of biodiversity and accordingly, this needs to be mitigated for by way of a biodiversity offsetting payment which would be used to improve biodiversity in the locality of the site.

All elements are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of the development

## **CONCLUSIONS**

The proposal seeks to provide around 31 dwellings on part of a site allocated within the CELPS for around 150 dwellings. The comments received in representations have been given due consideration, however, subject to the satisfactory resolution of the s106 negotiations, the proposal complies with all relevant policies of the development plan and is therefore a sustainable form of development.

In accordance with Sec.38 (6) of the Planning and Compulsory Purchase Act 2004 and paragraph 11 of the Framework, the proposals should therefore be approved without delay. Accordingly a recommendation of approval is made subject to conditions and the prior completion of a s106 agreement.

## **RECOMMENDATION**

**APPROVE** subject to conditions and a **S106 Agreement** making provision for:

- **Affordable Housing comprising 30% (65% of which will be for social rent and 35% for shared ownership / intermediate tenure) - (No more than 80% open market occupied prior to affordable provision)**
- **Education contributions of £65,078 (primary) £81,713 (secondary) = total of £146,791**
- **Public Open Space on site**
- **Management Plan for the on-site public open space**
- **Contribution towards Recreation Open Space of £1,000 per open market family dwelling or £500 per 1 / 2 bed open market apartments**
- **Contribution towards indoor recreation of £5460**
- **Contribution towards biodiversity offsetting of £34,500 (on commencement) to be spent on the restoration of Kerridge Hill Nature Reserve and Swettenham Valley Nature Reserve**

**And the following conditions:**

1. **Standard Outline Time limit – 3 years**
2. **Submission of Reserved Matters**
3. **Accordance with Approved Plans**
4. **Access to be constructed in accordance with approved plan prior to first occupation comprising either the priority junction site access or the roundabout access to Chelford Road via a S278 Agreement with the Highway Authority**
5. **Submission, approval and implementation of a Construction Management Plan**
6. **Scheme of Piling works to be submitted, approved and implemented**
7. **Dust control scheme to be submitted, approved and implemented**
8. **Noise mitigation scheme to be submitted with reserved matters and to accord with submitted Acoustic Report**
9. **Travel Plan to be submitted, approved and implemented**
10. **Provision of electric vehicle infrastructure (charging points) at each property prior to first occupation**
11. **Submission of contaminated land survey**
12. **Remediation of contaminated land**
13. **Details of drainage strategy to be submitted**
14. **Development to be carried out in accordance with submitted Flood Risk Assessment**
15. **Scheme of foul and surface water drainage to be submitted**

16. **Landscaping scheme submitted with reserved matters to show retention, replacement and mitigation of hedgerows and a native composition of new hedgerow sections**
17. **Reserved matters application to be supported by a method statement for the removal and management of invasive non-native plant species (Himalayan Balsam)**
18. **Development to be carried out in accordance with the recommendations of the submitted Ecological Report**
19. **Reserved matters application to be supported by a detailed great crested newt mitigation strategy / method statement**
20. **Nesting Birds Survey to be carried if works are to be carried out during the bird breeding season**
21. **Proposals for the incorporation of features into the scheme suitable for use by roosting bats and nesting birds to be submitted**
22. **Reserved matters application to be supported by an Arboricultural Impact Assessment and Tree Protection Plan**
23. **Detailed lighting scheme to be submitted in support any future reserved matters application.**
24. **Travel Information pack to be submitted, approved and implemented**
25. **Scheme for the provision of bat roosts to be incorporated into the development to be submitted, approved and implemented.**

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

