

Cabinet Member for Regeneration

Agenda

Date: Tuesday 16th August 2016
Time: 4.00 pm
Venue: Committee Suite 1,2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the body in question. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

4. **Asset Transfers to Macclesfield Town Council** (Pages 1 - 24)

To consider the transfer of seven allotment sites to Macclesfield Town council as part of the Local Service Delivery -Transfer and Devolutions to Town and Parish Councils process.

For requests for further information

Contact: Cherry Foreman

Tel: 01270 686463

E-Mail: cherry.foreman@cheshireeast.gov.uk with any apologies

This page is intentionally left blank

CHESHIRE EAST COUNCIL

CABINET MEMBER FOR REGENERATION

Report of: Executive Director Economic Growth and Prosperity
Subject/Title: Macclesfield Statutory Transfers
Date of Meeting: 16 August 2016
Portfolio Holder: Councillor D Stockton, Cabinet Member for Regeneration

1.0 Report Summary

- 1.1 An approval is required to transfer seven allotment sites which are detailed below and as shown edged red on the attached plans as part of the Local Service Delivery -Transfer and Devolutions to Town and Parish Councils process. This approval is by virtue of The Local Government (Parishes and Parish Councils) (England) Regulations 2008.

1. Park Grove Allotments, Macclesfield
2. Byron Street Allotments, Macclesfield
3. Stamford Road Allotments, Macclesfield
4. Springfield Road Allotments, Macclesfield
5. Laburnam Road Allotments, Macclesfield
6. Brookfield Lane Allotments, Macclesfield
7. Birtles Road Allotments, Macclesfield

- 1.2 This will enable any existing or required rights to be retained for the Councils adjacent land and dealt with in the legal documentation as opposed to allowing the vesting and registration to occur. This will also allow the extent of the assets to be transferred to be defined.

2.0 Decision Requested

- 2.1 To dispose by way of a freehold transfer the above allotment sites to Macclesfield Town Council for a nominal value, on the terms stated in 3.4 and other terms to be agreed by the Assets Manager in consultation with the Portfolio Holder and Director of Legal Services pursuant to the provisions of s.99 of the Local Government and Public Involvement in Health Act 2007.

- 2.2 To authorise the Director of Legal Services to enter into and sign all necessary documents to give effect to those agreements reached and to vest the land interests.

3.0 Reasons for Recommendations

- 3.1 The Cheshire East Council Reorganisation of Community Governance (Macclesfield) Order 2015 confirmed that Macclesfield Town Council was to be formed. Schedule 2, Article 11 of this order identified a number of properties including seven Allotments, Weston Community

Centre and two Public Conveniences. Other assets in this grouping will be considered in a following report.

- 3.2 As Macclesfield Town Council has been created by an Order, then the Allotments are already vested in the Town or Parish Council by virtue of The Local Government (Parishes and Parish Councils) (England) Regulations 2008.
- 3.3 Whilst this falls in line with the Cabinet Decision dated 5th September 2011 for the transfer of assets and devolution of services to Town and Parish Councils, this process for these asset transfers is a separate process by virtue of The Local Government (Parishes and Parish Councils) (England) Regulations 2008.
- 3.4 The Council is proposing to deal with these transfers to Macclesfield Town Council by way of a freehold transfer to enable any existing or required rights to be legally retained for any of the Councils adjacent land being retained and dealt with in the legal documentation as opposed to allowing the vesting and registration to occur. The reason for this is the Council is seeking to manage the transfer of the property so that the rights which need to pass with the possession of the land (and those retained) such as right to light, and easements such as the flowing of water and drainage etc are agreed and recorded and the boundaries of each of the parcels of land are clearly agreed and identified to ensure better enjoyment of the land vesting. This is also required to protect the beneficial use of and enjoyment by the Council of the land retained. This will also enable the exact areas of the assets of to be defined and this will reduce any risk.

4.0 Wards Affected

- 4.1 Macclesfield Central
- 4.2 Macclesfield South
- 4.3 Macclesfield West and Ivy
- 4.4 Macclesfield East
- 4.5 Broken Cross and Upton

5.0 Local Ward Members

- 5.1 Cllr Beverley Dooley
Cllr Janet Jackson
Cllr Chris Andrew
Cllr Laure Jeuda
Cllr Alift Harewood
Cllr Nicholas Mannion
Cllr Mick Warren
Cllr Liz Durham
Cllr Martin Hardy

6.0 Policy Implications

- 6.1 The transfer is in line with the Councils policy of Local Service Delivery - Transfer and Devolutions to Town and Parish Councils.

7.0 Financial Implications

- 7.1 The impact of the transfer to Macclesfield Town Council would only have a marginal financial impact on CEC budget in 16-17 as there are currently minimal operational costs for these assets.
- 7.2 Once the Allotments have transferred, then all repair, maintenance, utility costs and rates become the responsibility of the Town Council.

8.0 Legal Implications

- 8.1 By Regulation 9 of the 2008 Regulations, it is provided that where immediately before the Order date, land in an area constituted as a parish by a reorganisation order is held by a principal council for any purpose of the Allotments Acts 1908 to 1950 or is vested in a principal council and used for those purposes, it shall on the order date transfer to and vest in the parish council for that parish or, if there is no such council, the parish meeting for that parish. As Macclesfield Town Council has been created by an Order, then the Allotments are already vested in the Town or Parish Council by virtue of The Local Government (Parishes and Parish Councils) (England) Regulations 2008. The exact area of the land and the rights associated with the vesting though have not clearly been identified and agreed between the parties.
- 8.2 Regulations made under S.97 of the Act may include provision with respect to the transfer, management or custody of property and provision with respect to the transfer of functions, property, rights of liabilities. The Council is seeking to manage the transfer of the property so that the rights which need to pass with the possession of the land (and those retained) such as right to light, and easements such as the flowing of water and drainage etc are agreed and recorded and the boundaries of each of the parcels of land are clearly agreed and identified to ensure better enjoyment of the land vesting. This is also required to protect the beneficial use of and enjoyment by the Council of the land retained.
- 8.3 The statute also provides that in default of agreement about any disputed matter, the matter is to be referred to the arbitration of a single arbitrator agreed on by the parties or in default of agreement appointed by the Secretary of State.
- 8.4 The Council is being invited to regulate the transfers of the land interests in a controlled way, pursuant to the Order by approving the transfers by agreement under s99 of the Act.

9.0 Risk Management

- 9.1 Cheshire East Council is not proposing to carry out any further improvements to the allotments that the Council considers not to be a priority due to budgetary implications. There is a risk that Macclesfield Town Council will be unwilling to enter into the proposed freehold transfer unless CEC deal with these issues first.

10.0 Background Information

- 10.1 On the 5th September 2011 it was decided by the Cabinet that a number of properties should be transferred to the Town or Parish Council for the area in which the properties are located as a first phase of the Local Service Delivery -Transfer and Devolutions to Town and Parish Councils process.
- 10.2 These assets were not on either of the Appendix A or Appendix B property lists approved to transfer in the 5th September 2011 Cabinet decision. The process by which they would be transferred to the relevant Town / Parish Councils is different as set out in paragraph 10.3 to 10.5 below.
- 10.3 Macclesfield Town Council was created in April 2015 as a result of the Reorganisation of Community Governance (Macclesfield) Order 2015. As Macclesfield Town Council has been created by an Order, then the Allotments are already vested in the Town or Parish Council by virtue of The Local Government (Parishes and Parish Councils) (England) Regulations 2008. The regulations apply to every Reorganisation Order including the 2013 Order unless varied by agreement pursuant to s.99 Local Government and Public Involvement in Health Act 2007.
- 10.4 Regulation 9 of the 2008 Regulations, it is provided that where immediately before the Order date, land in an area constituted as a parish by a Reorganisation Order is held by a principal Council for any purpose of the Allotments Acts 1908 to 1950 or is vested in a principal Council and used for those purposes, it shall on the order date transfer to and vest in the Parish Council for that parish or, if there is no such Council, the parish meeting for that parish.
- 10.5 The Council is therefore proposing to deal with these by way of a freehold transfer to enable any existing or required rights to be retained given the Councils adjacent land being retained.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Lee Beckett
Designation: Surveyor
Tel No: 01270 686122
Email: lee.beckett@cheshireeast.gov.uk

LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

The Cheshire East Borough Council (Reorganisation of Community Governance) (Macclesfield) Order 2015

Made 13th March 2015

(day, month, year)

Coming into force in accordance with article 1(2)

Cheshire East Borough Council ("the Council"), in accordance with section 83 of the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act"), has undertaken a community governance review and made recommendations dated 11 December 2014.

The Council has decided to give effect to those recommendations and, in accordance with section 93 of the 2007 Act, has consulted with local government electors and other interested persons and has had regard to the need to secure that community governance reflects the identities and interests of the community and is effective and convenient:

The Council, in accordance with section 100 of the 2007 Act, has had regard to guidance issued under that section.

The Council makes the following Order in exercise of the powers conferred by sections 86, 98(3), 98(4), 98(6) and 240(10) of the 2007 Act and of all other powers enabling it in that behalf.

1. Citation and commencement

- (1) This Order may be cited as the Cheshire East Borough Council (Reorganisation of Community Governance) (Macclesfield) Order 2015.
- (2) Subject to paragraphs (3) and (4) below, this Order comes into force on the 1st April 2015
- (3) Article 8 and Schedule 1 shall come into force on 7 May 2015
- (4) For the purposes of:
 - (a) this Article
 - (b) Article 10, and
 - (c) Article 12 – and all proceedings preliminary or relating to the election of parish councillors for the parish of Macclesfield to be held on 7 May 2015,this Order shall come into force on the day after that on which it is made.

2. Interpretation

In this Order—

"borough" means the borough of Cheshire East

"existing" means existing on the date this Order is made

"map" means the map marked "Map referred to in the Cheshire East Borough Council (Reorganisation of Community Governance) (Macclesfield) Order 2015" and deposited in accordance with section 96(4) of the 2007 Act: and any reference to a numbered sheet is a reference to the sheet of the map which bears that number

"new parish" means the parish constituted by article 4

"ordinary day of election of councillors" has the meaning given by section 37 of the Representation of the People Act 1983 and

"electoral registration officer" means an officer appointed for the purpose of, and in accordance with, section 8 of the Representation of the People Act 1983.

3. Effect of Order

This Order has effect subject to any agreement under section 99 (agreements about incidental matters) of the Local Government and Public Involvement in Health Act 2007 relevant to any provision of this Order.

4. Constitution of new parish

- (1) With effect from 1 April 2015, a new parish, comprising the area outlined in yellow and shaded green on the map, shall be constituted within the borough.
- (2) The name of the new parish shall be "Macclesfield".

5. Parish Council

- (1) There shall be a parish council for the parish of Macclesfield.
- (2) The name of that council shall be "Macclesfield Parish Council".

6. Elections for the parish of Macclesfield

- (1) Elections of all parish councillors for the parish of Macclesfield shall be held on the ordinary day of election of councillors in 2015.
- (2) The term of office of every parish councillor elected on 7 May 2015 for the parish of Macclesfield shall be four years and thereafter shall coincide with the ordinary day of election of parish councillors every four years in accordance with s.16 (3) of the Local Government Act 1972.

7. Number of parish councillors

The number of councillors to be elected for the new parish Council shall be 12.

8. Wards of the new parish of Macclesfield and numbers of parish councillors

- (1) The Parish of Macclesfield shall be divided into seven wards which shall be named as set out in column (1) of Schedule 1.
- (2) Each parish ward shall comprise the area of the borough ward in Macclesfield specified in respect of each ward in column (2) of Schedule 1 and designated on the map by reference to the name of the ward and demarcated by green lines.
- (3) The number of councillors to be elected for each ward shall be the number specified in column (3) of Schedule 1.

9. Annual meeting of parish council

The annual meeting of the new parish council in 2015 shall be convened by the Chief Executive of Cheshire East Borough Council. The meeting for the new parish council shall take place no later than 14 days after the day on which the councillors elected to the new parish council take office.

10. Calculation of Budget Requirement

For the purposes of regulation 3 of the Local Government Finance (New Parishes) (England) Regulations 2008, there is specified in relation to the parish of Macclesfield the sum of £575,640.

11. Transfer of property, rights and liabilities

The land, property, rights and liabilities described in Schedule 2 shall transfer from the borough to the new parish council on the date specified in column (2) of that Schedule.

12. Electoral register

The Electoral Registration Officer for the borough shall make such rearrangement of, or adaptation of, the register of local government electors as may be necessary for the purposes of, and in consequence of, this Order.

13. Order date

1st April 2015 is the order date for the purposes of the Local Government (Parishes and Parish Councils) (England) Regulations 2008.

THE COMMON SEAL OF
CHESHIRE EAST BOROUGH COUNCIL
Was hereunto affixed in the presence of



AUTHORISED SIGNATORY



6038

SCHEDULE 1 (ARTICLE 8)

WARDS OF THE PARISH OF MACCLESFIELD

NAMES AND AREAS OF WARDS AND NUMBERS OF COUNCILLORS

Column 1 Name of parish Ward	Column 2 Area of Ward	Column 3 Number of parish councillors
Broken Cross and Upton	The whole of the borough ward of Broken Cross and Upton as shown on the map	2
Macclesfield Central	The whole of the borough ward of Macclesfield Central as shown on the map	2
Macclesfield East	The whole of the borough ward of Macclesfield East as shown on the map	1
Macclesfield Hurdsfield	The whole of the borough ward of Macclesfield Hurdsfield, as shown on the map	1
Macclesfield South	The whole of the borough ward of Macclesfield South (except for Polling District 4BFR), as shown on the map	2
Macclesfield Tytherington	The whole of the borough ward of Macclesfield Tytherington as shown on the map	2
Macclesfield West and Ivy	The whole of the borough ward of Macclesfield West and Ivy as shown on the map	2

SCHEDULE 2 (ARTICLE 11)

LAND AND PROPERTY TO BE TRANSFERRED

Column 1	Column 2
Land and property to be transferred	Date
Allotments	1 April 2015
Weston Community Centre	1 October 2015
Public Conveniences	1 October 2015

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to a decision made by Cheshire East Borough Council for the creation of a new parish and a parish council for Macclesfield within the borough of Cheshire East.

The new parish will be created with effect from 1 April 2015. The electoral arrangements for the parish council apply in respect of parish elections to be held on 7 May 2015.

Article 6 provides for the first parish elections in the parish of Macclesfield in 2015, and every four years thereafter according to the established system of parish elections.

Article 7 specifies the number of parish councillors for the new parish of Macclesfield.

Article 8 and Schedule 1 establish the names and areas of the wards of the new parish of Macclesfield (as indicated on the map) and the numbers of councillors for each ward.

Article 10 specifies the amount of the initial precept for the new parish to be applied in the 2015 – 16 financial year.

Article 12 obliges the Electoral Registration Officer to make any necessary amendments to the electoral register to reflect the new electoral arrangements.

The map defined in Article 2 shows the area comprising the new parish of Macclesfield and the wards of the new parish. It is available for inspection, at all reasonable times, at the offices of Cheshire East Borough Council.

This page is intentionally left blank

Page 11
Park Grove Allotments, Macclesfield



December 22, 2015



1:1,250

Crown copyright and database rights 2015. Ordnance Survey 100049045

This page is intentionally left blank



BYRON STREET AND MAPLE AVENUE ALLOTMENTS MACCLESFIELD

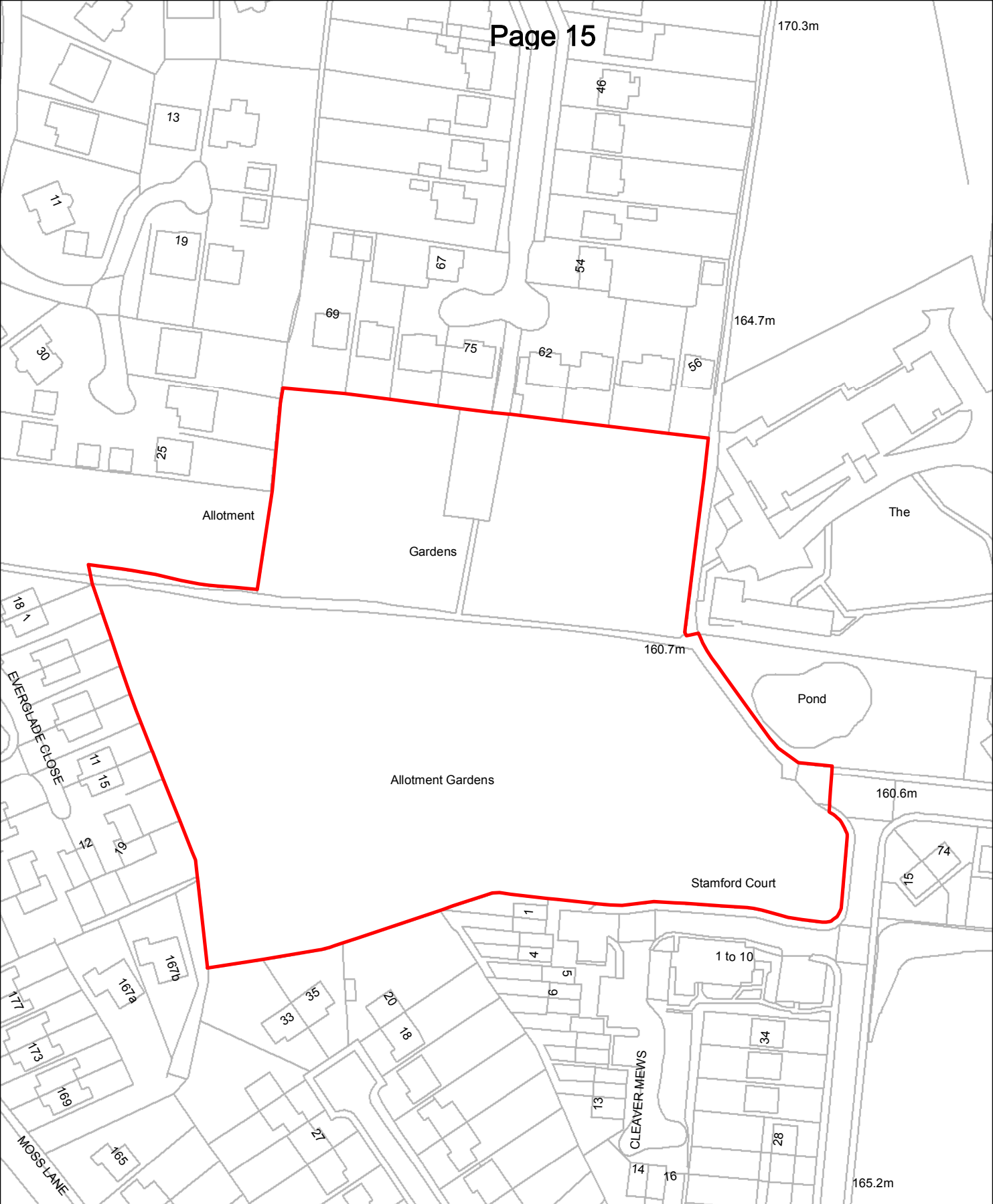


Map Ref: 31682
Date: 24th Aug 2015

© Crown copyright and database rights 2015
Ordnance Survey 100049045 100049046



This page is intentionally left blank



STAMFORD ROAD ALLOTMENTS MACCLESFIELD

Map Ref: 31682
Date: 25th Aug 2015

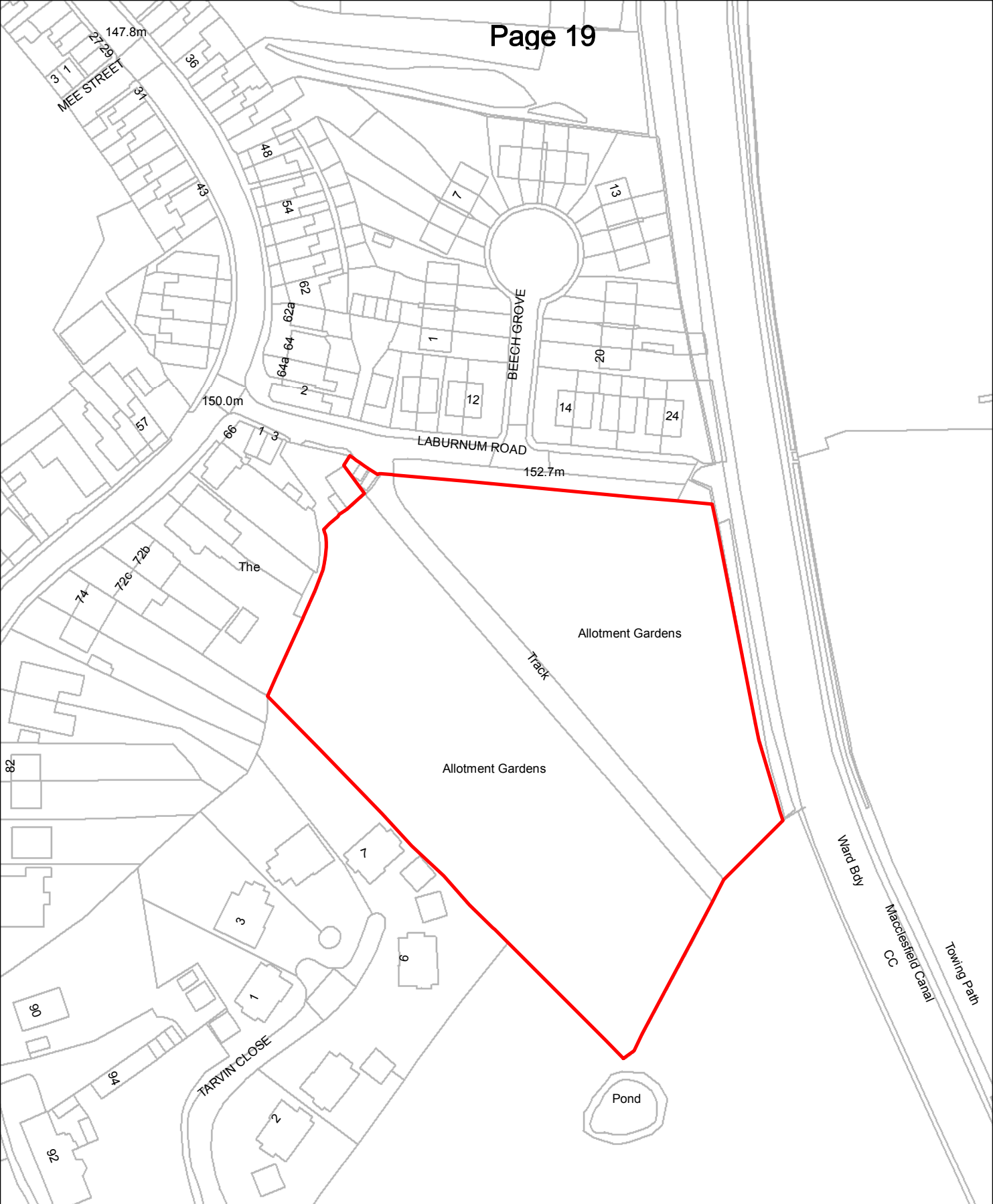
© Crown copyright and database rights 2015
Ordnance Survey 100049045 100049046

N
1:1,250
at A4

This page is intentionally left blank



This page is intentionally left blank



LABURNUM ROAD ALLOTMENTS MACCLESFIELD

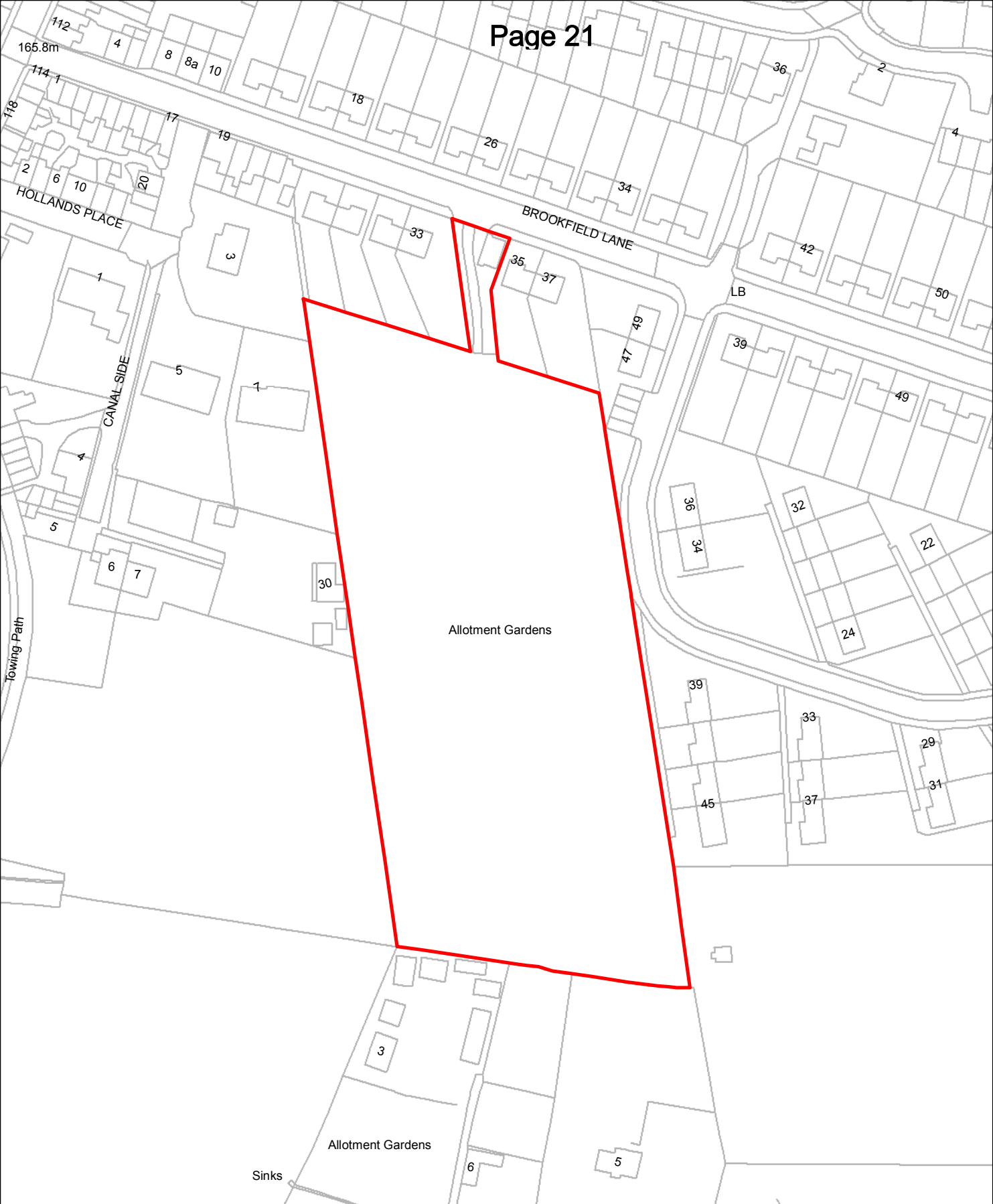
Map Ref: 31682
Date: 25th Aug 2015

© Crown copyright and database rights 2015
Ordnance Survey 100049045 100049046



1:1,250
at A4

This page is intentionally left blank



BROOKFIELD LANE ALLOTMENTS MACCLESFIELD

Map Ref: 31682
Date: 24th Aug 2015



© Crown copyright and database rights 2015
Ordnance Survey 100049045 100049046



This page is intentionally left blank



BIRTLES ROAD ALLOTMENTS MACCLESFIELD

Map Ref: 31682
Date: 24th Aug 2015



© Crown copyright and database rights 2015
Ordnance Survey 100049045 100049046

N

1:1,250
at A4

This page is intentionally left blank