Public Document Pack



Northern Planning Committee Agenda

Date: Wednesday, 14th September, 2022

Time: 10.00 am

Venue: The Capesthorne Room - Town Hall, Macclesfield SK10 1EA

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

It should be noted that Part 1 items of Cheshire East Council decision making meetings are audio recorded and the recordings will be uploaded to the Council's website

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. Apologies for Absence

To receive any apologies for absence.

2. Declarations of Interest/Pre Determination

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests and for Members to declare if they have a pre-determination in respect of any item on the agenda.

3. **Minutes of the Previous Meeting** (Pages 5 - 10)

To approve the Minutes of the meeting held on 10th August 2022 as a correct record.

For requests for further information **Contact**: Gaynor Hawthornthwaite

Tel: 01270 686467

E-Mail: gaynor.hawthornthwaite@cheshireeast.gov.uk with any apologies

4. Public Speaking

A total period of 5 minutes is allocated for each of the planning applications for the following:

- Ward Councillors who are not members of the Planning Committee
- The relevant Town/Parish Council

A period of 3 minutes is allocated for each of the planning applications for the following individuals/groups:

- Members who are not members of the planning committee and are not the Ward Member
- Objectors
- Supporters
- Applicants
- 5. 21/2975M Part demolition of existing buildings, conversion and alteration of retained buildings for residential use (Use Class C3) and erection of residential development (Use Class C3) with associated open space, landscaping, access, car parking and infrastructure: The Swan Hotel, Chester Road, Bucklow Hill, Cheshire WA16 6RD for Mr Andrew McMurtrie, PH Property Holdings Limited and Premier Inn Hotels Ltd (Pages 11 54)

To consider the above planning application.

6. 21/4669M - Approval of Reserved Matters (layout, landscaping, appearance and scale) following Outline Approval 17/5837M - Outline permission for residential development, with all matters reserved except for means of access off Alderley Road, together with associated infrastructure and open space: Land West Of, Alderley Road, Wilmslow for Ms Siobhan Sweeney, Story Homes Limited (Pages 55 - 96)

To consider the above planning application.

7. 21/0289M - Redevelopment to provide a new, flexible commercial unit and 14 no. residential dwellings with associated infrastructure and landscaping: Flora Garden Centre, Chelford Road, Henbury SK11 9PG for Mr Jamie Hall, Project Iris D Limited (Pages 97 - 124)

To consider the above planning application.

8. 22/2715M - Change of use of an agricultural field to a dog exercise area and creation of associated enclosures, access and car parking: Land off Beggarmans Lane, Knutsford: for Whirleymere Limited, C/O Wharfe Rural Planning (Pages 125 - 140)

To consider the above planning application.

9. 21/1706M - Change of Use from retail shop (A1) to mixed use comprising a retail shop and café (A1/A3), extending out over private forecourt on the front elevation and rear extension for kitchen together with the erection of extraction equipment to the rear of the building: 67, London Road, Alderley Edge, SK9 7DY for Mr Nurretin Karrakulak, Bramhall Gourmet Ltd (Pages 141 - 148)

To consider the above planning application.

10. Cheshire East Borough Council (Chelford - Ashcroft Drive) Tree Preservation Order 2022 (Pages 149 - 176)

To consider the above report.

11. Cheshire East Borough Council (Wilmslow - Verge opposite 136 - 156 Altrincham Road) Tree Preservation Order 2022 (Pages 177 - 214)

To consider the above report.

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



CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Northern Planning Committee**held on Wednesday, 10th August, 2022 in the The Capesthorne Room - Town
Hall, Macclesfield SK10 1EA

PRESENT

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

Councillors T Dean, JP Findlow, A Harewood, S Holland, D Jefferay, I Macfarlane, L Smetham, J Smith and S Edgar

OFFICERS IN ATTENDANCE

Nicky Folan – Planning Solicitor
Paul Wakefield – Planning Team Leader
Neil Jones – Principal Development Officer
Faye Plant – Senior Planning Officer
Gaynor Hawthornthwaite – Democratic Services Officer

7 APOLOGIES FOR ABSENCE

Apologies were received from Councillor K Parkinson. Councillor S Edgar attended as a substitute.

8 DECLARATIONS OF INTEREST/PRE DETERMINATION

In the interest of openness in respect of application 21/6431M, Councillor Braithwaite declared that she had pre-determined the application and would be exercising her right to speak as the Ward Councillor under the Public Speaking Protocol and would then leave the room for the remainder of the item.

In the interest of openness in respect of application, 21/5730M, Councillor J Smith declared that she knew the applicant but had not discussed or predetermined the application.

It was noted that all Members had received correspondence in respect of application 21/5810M.

In the interest of openness, Councillor S Edgar declared that he was the Vice Chair of the Public Rights of Way Committee and that he had not discussed any of the applications or made any comments on them.

In the interest of openness, Councillor Dean declared during the consideration of 21/5810M that he knew the agent for the application, Ms Gregory, as she had dealt with the Knutsford neighbourhood plan.

9 MINUTES OF THE PREVIOUS MEETING

That the Minutes of the previous meeting held on 13th July 2022 be approved as a correct record and signed by the Chair.

10 PUBLIC SPEAKING

That the public speaking procedure be noted.

11 21/5810M - FULL PLANNING APPLICATION FOR THE DEMOLITION OF THE EXISTING DWELLING AND THE ERECTION OF TWO DETACHED DWELLINGS AND SIX APARTMENTS WITH ASSOCIATED LANDSCAPE AND ACCESS WORKS: 64, DICKENS LANE, POYNTON SK12 1NT FOR ABODE PROPERTY DEVELOPMENT LTD

Consideration was given to the above application.

(Councillor M Sewart, Ward Councillor and on behalf of Poynton Town Council, and Jo Gregory, the agent on behalf of the applicant attended the meeting and spoke in respect of the application).

RESOLVED:

That the application be REFUSED for the following reasons:

The proposed development would be visually dominant and form and incongruous relationship to neighbouring properties which would detract from the established character and appearance of the area. Overall, the proposals do not therefore contribute positively to the character of the area. As such the proposals do not comply with policies SE1, SD2 and SE4 of the CELPS, HOU 11 and HOU 15 of the PNP, or SADPD emerging policy HOU 8.

The proposed development would have a harmful impact upon the amenity of existing and future occupants as a result of overlooking and a loss of privacy. It is therefore contrary to Macclesfield Borough local plan Saved Policies DC3 and DC38, policies SD2 and SE1 of the Cheshire East Local Plan, policy HOU 6 of the Poynton Neighbourhood Plan, advice within the Cheshire East design guide, and emerging SADPD policy HOU 10 which all seek to safeguard residential amenity.

12 WITHDRAWN BY OFFICERS - 21/4669M - APPROVAL OF RESERVED MATTERS (LAYOUT, LANDSCAPING, APPEARANCE AND SCALE) **FOLLOWING OUTLINE APPROVAL** 17/5837M **OUTLINE** PERMISSION FOR RESIDENTIAL DEVELOPMENT. WITH ALL MATTERS RESERVED EXCEPT FOR MEANS OF ACCESS OFF ALDERLEY ROAD. TOGETHER WITH ASSOCIATED INFRASTRUCTURE AND OPEN SPACE: LAND WEST OF. ALDERLEY ROAD, WILMSLOW FOR MS SIOBHAN SWEENEY, STORY HOMES LIMITED

This item was WITHDRAWN by officers prior to the meeting.

13 21/6431M - CHANGE OF USE FROM OFFICES TO C2 ACCOMMODATION TO CREATE 8NO. 1 BEDROOM FLATS WITH ASSOCIATED AMENITIES: CATHERINE HOUSE, CATHERINE STREET, MACCLESFIELD, SK11 6BB FOR MARTIN BALL, NORTH WEST CAPITAL

Consideration was given to the above application.

(Councillor L Braithwaite, the Ward Councillor, Esme Downes and Lynne Jones, Objectors and Harriet Powell-Hall, Agent on behalf of the Applicant attended the meeting and spoke in respect of the application).

Following speaking as the Ward Member, in accordance with the public speaking protocol, as stated in the Declaration of Interest/Pre Determination, Councillor Braithwaite left the meeting and returned following consideration of the application.

RESOLVED:

That for the reasons set out in the report and update report, the application be APPROVED, subject to the following conditions:

- 1. Time Limit
- 2. Development in accord with approved plans
- 3. Materials as per application
- 4. Landscaping details to be submitted, agreed and implemented.
- 5. Obscure glazed windows to remain for lifetime of development
- 6. Bin storage to be in place prior to occupation
- 7. EV infrastructure plan to be submitted
- 8. Cycle store to be in place prior to occupation

In order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning, in consultation with the Chairman (or in his absence the Vice Chairman) of Northern Planning Committee to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

(Prior to consideration of the following item, the meeting adjourned for a short break).

14 22/0566M - RESIDENTIAL REDEVELOPMENT OF FORMER WINSTANLEY HOUSE SITE AND DEMOLITION OF ASSOCIATED GARAGES. REPLACEMENT BUILDING CONTAINING 28 NO 100% AFFORDABLE APARTMENTS, CAR PARKING AND LANDSCAPING: WINSTANLEY HOUSE, NORTHWICH ROAD, KNUTSFORD, CHESHIRE WA16 0AF FOR MR DAN BROCKLEHURST, PEAKS AND PLAINS HOUSING TRUST

Consideration was given to the above application.

(Paul Jeffrey the agent for the applicant attended the meeting and spoke in respect of the application).

RESOLVED:

That for the reasons set out in the report and update report, the application be APPROVED subject to the S106 Agreement to secure the following:

S106	Amount	Trigger	
Affordable Housing	100% on-site provision	N/a	
Health – Commuted Sum	£18,864	Prior to occupation	

and the following conditions:

- 1. Time (3 years)
- 2. Plans
- 3. Submission/approval of facing and roofing materials
- 4. Submission/approval of window and door details
- 5. Implementation of supporting tree documents/plans
- 6. Submission/approval of an engineer designed no-dig hard surface construction for hard surfacing within RPA's
- 7. Submission/approval of updated Landscaping Plan
- 8. Landscape implementation
- 9. Submission/approval of updated boundary treatment plan to include wall along western boundary (in consultation with residents beyond western boundary)
- 10. Submission/approval of levels
- 11. Obscure glazing Far southern elevation, first-floor corridor and unit 19
- 12. Implementation of Noise Mitigation
- 13. Submission/approval of electric vehicle charging infrastructure
- 14. Submission/approval of a Travel Plan
- 15. Submission/approval of a Phase I contaminated land report
- 16. Submission/approval of a contaminated land verification report
- 17. Submission/approval of an imported soil verification report
- 18. Works should stop should contamination be identified
- 19. Nesting birds
- 20. Implementation of ecological enhancement plan
- 21. Submission/approval of a detailed surface & foul water drainage strategy (drainage and trees)
- 22. Submission/approval of a drainage management and maintenance plan
- 23. Submission/approval of a dust and smoke management plan (construction and demolition)
- 24. No open pools or ponds should be created
- 25. All exterior lighting shall be capped at the horizontal
- 26. No solar panels without approval

In order to give proper effect to the Committee's intent and without changing the substance of its decision, authority is delegated to the Head of Planning (Regulation) in consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice

(Prior to consideration of the following item, the meeting adjourned for a lunch break).

15 21/5730M - CONVERSION OF EXISTING GRASS PLAYING PITCH TO ASTROTURF ALL WEATHER SURFACE WITH LIGHTING AND SPECTATOR STAND AND THE CONVERSION OF EXISTING OVERFLOW AREA TO FORM ASSOCIATED FORMAL PARKING: WILMSLOW PHOENIX SPORTS CLUB, STYAL ROAD, WILMSLOW, CHESHIRE SK9 4HP FOR ALAN MURDOCH, WILMSLOW PHOENIX SPORTS CLUB

Consideration was given to the above application.

(Councillor D Stockton, the Ward Councillor, Councillor C Novak, on behalf of Styal Parish Council and Alan Murdoch, the applicant attended the meeting and spoke in respect of the application).

(During consideration of the application, the meeting was adjourned in order for Officers to seek clarification on some issues relating to the housing, noise dampening pads and the environmental condition).

RESOLVED:

That for the reasons set out in the report the application be APPROVED subject to the following conditions:

- 1. A03FP Commencement of development (3 years)
- 2. A01AP Development in accord with approved plans
- 3. A06EX Materials as application
- 4. A02LS Submission of landscaping scheme
- 5. A04LS Landscaping (implementation)
- 6. Tree protection details to be implemented
- 7. Tree works in accordance with submitted arboricultural details
- 8. External lighting to be implemented as approved
- 9.External lighting capped at the horizontal

- 10.Construction (and ongoing) management plan to be submitted (Manchester Airport birds and pooling water)
- 11. Parking to be provided prior to first use of development
- 12. Hours of operation (Monday to Friday 0800 hrs to 2200 hrs; Saturday 0800 hrs to 2000 hrs; Sunday and B/H 0800 hrs to 2000 hrs)
- 13. Noise dampening pads to sides of pitch and goals to be submitted and implemented
- 14. Drainage scheme to be submitted, approved and implemented
- 15. Drainage scheme verification report to be submitted
- 16. Phasing of works details to be submitted (consultation with Sport England)
- 17. Construction Management Plan to be submitted to ensure protection of sports pitches
- 18. Pitch management and maintenance details to be submitted
- 19. Electric vehicle charging points to be provided
- 20.secure cycle parking details to be submitted
- 21. Pedestrian refuges to be provided and details of signage to be submitted
- 22. No floodlighting after 9pm

In order to give proper effect to the Committee's intent and without changing the substance of its decision, authority is delegated to the Head of Planning in consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice.

The meeting commenced at 10.00 am and concluded at 2.15 pm

Councillor J Nicholas (Chair)

Application No: 21/2975M

Location: The Swan Hotel, CHESTER ROAD, BUCKLOW HILL, CHESHIRE, WA16

6RD

Proposal: Part demolition of existing buildings, conversion and alteration of retained

buildings for residential use (Use Class C3) and erection of residential development (Use Class C3) with associated open space, landscaping,

access, car parking and infrastructure

Applicant: Mr Andrew McMurtrie, PH Property Holdings Limited and Premier Inn

Hotels Ltd

Expiry Date: 12-Aug-2022

REASON FOR DEFERRAL

At the Cheshire East Council Northern Planning Committee held on the 23rd March 2022, the committee resolved to defer this application for the following reasons:

to allow further consideration of the nutrient impact upon Rostherne Mere (RAMSAR site)

It should also be noted that in the intervening period, revised plans have been received proposing the following design amendments at the request of the applicant.

Drawing Title	Drawing Reference	Revision
House Type C	TSW-PP-012 rev B	Windows to the master bedroom made larger and timber cladding beneath replaced by brick.
House Type D1	TSW-PP-013 rev B	Changes to window and door design to front elevation with porch removed and a large screen introduced, larger window above, plus change to circular window design at first floor. Dining room window to Plot 6 omitted.
House Type D2	TSW-PP-014 rev B	Changes as above (for House Type D1) to front elevation.
Landscape Proposals (Site Layout Plan)	M3113-PA-02- V8	Site Layout Plan updated to reflect omission of porches to Plots 6, 8 and 9.

CONSULTATIONS (External to Planning)

Natural England – No objections, subject to appropriate mitigation being secured. The required mitigation includes the submission/approval of a Construction Environmental Management Plan (CEMP) and the submission/approval of details of an on-site reed bed and its subsequent management to absorb the increased nutrient load from the development.

OFFICER APPRAISAL

Nature Conservation

Rostherne Mere SSSI Impact Zone

Nutrient Neutrality

Nutrient pollution is having an adverse effect on some rivers and waterbodies in the catchments of habitat sites. Natural England have issued advice to local authorities where habitat sites are in an unfavourable conservation status and additional nutrient loads, such as from development, may have an adverse effect.

This advice advises that planning application proposals that affect habitat sites in an unfavourable condition (such as Rostherne Mere) should be carefully considered, and mitigation should be used to ensure that there are no adverse effects in order to meet the requirements of the Conservation of Species and Habitat Regulations 2017 (as amended).

The requirement for local authorities to consider this particular impact is relatively recent, having been introduced during the course of this planning application.

The Council's Nature Conservation Officers are working very closely with Natural England on a case-by-case basis to determine what the likely impacts of any development upon nutrient neutrality are and subsequently, where mitigation is required to offset any impact, what form that should take.

It was calculated that the proposed development would have a negative impact upon nutrient neutrality, specifically resulting in an increase in phosphorous. Without mitigation, it was concluded that the development would have an adverse effect on the integrity of Rostherene Mere.

Natural England and the Council's Nature Conservation Officer have subsequently worked with the applicant to explore mitigation options. An agreement has been reached which both Natural England and the Council's Nature Conservation Officer are satisfied with that would be sufficient to mitigate the nutrient impact of the development proposals.

More specifically, it is required that a Construction Environmental Management Plan (CEMP) be submitted for approval which details all measures to prevent pollutants impacting Rostherne Mere as outlined in the submitted Ecological Statement. Furthermore, design proposals of a required on-site reed bed (of at least 267m2 in size) including planting specification and a monitoring programme (in perpetuity), based on the submitted mitigation proposals are also required to be submitted for approval. It is recommended that this detail be secured by condition and would be sufficient to overcome the nutrient neutrality harm.

Other Ecology Matters

All other Ecology matters were considered as part of the previous committee reports and no changes are proposed to these sections other than the removal of a previously proposed condition

requiring the submission/approval of an updated bat survey. This has been undertaken in the intervening period and the Council's Nature Conservation Officer is satisfied with the findings and advises that no further survey effort for bats is required in support of the application.

Conclusions

Subject to the above conditions along with those recommended as part of the original committee report minus the bat survey condition, it is considered that the proposal adheres with Policy SE3 of the CELPS and saved Policy NE11 of the MBLP.

Other matters

The proposed amendments to house types on plots 4-6 and 8 & 9 are deemed minor in nature and do no degrade the quality of the design considered at previous committees. In addition, these amendments create no new concerns in relation to amenity.

Since the application was last considered by committee, the Cheshire East Council Executive Director of Place made the decision not to approve an application to list the Swan as an Asset of Community Value. This was primarily based on the lack of evidence that the Swan Inn was regularly used for community activities above and beyond it being a public house.

RECOMMENDATIONS

APPROVE subject to a \$106 Agreement to secure the below:

S106	Amount	Trigger
Affordable Housing – Commuted Sum	£5,314.02	Prior to occupation
Public Open Space & Recreation and Outdoor Sports – Commuted Sum	£51,000 towards off-site POS improvements £17,000 towards off-site Recreation & Outdoor Sport improvements	Prior to commencement
Requirement to provide an on-site Management Company	Secure requirement to provide on-site Management Company to manage out of curtilage landscaping	Prior to occupation of any of the development

And the following conditions:

- 1. Time (3 years)
- 2. Plans
- 3. Submission/approval of facing, roofing and external hard surfacing materials
- 4. Retention of Milestone
- 5. Submission/approval of new or replacement window and door details to (Buildings 1 and 3)
- 6. Any new or replacement fenestration to Buildings 1 and 3 should include reveals to match
- 7. Removal of Permitted Development Rights (Part 1, Classes A-E and Part 2 Class A)
- 8. Obscure Glazing provision
- 9. Implementation of electric vehicle charging infrastructure details
- 10. Submission/approval an updated Conceptual Model (contaminated land)
- 11. Submission/approval of a verification report (contaminated land)
- 12. Submission/approval of a soil verification report
- 13. Works should stop in the event that contamination is identified
- 14. Submission/approval of cycle storage details
- 15. Submission/approval of updated Landscaping scheme (incl boundary treatment)
- 16. Landscaping Implementation
- 17. Submission/approval of levels details
- 18. Tree retention
- 19. Submission/approval of a Tree Protection Plan
- 20. Submission/approval of an updated Arboricultural Method Statement
- 21. Submission/approval of a service/drainage layout (trees)
- 22. Ecological Mitigation Implementation
- 23. Submission/approval of a Construction Environmental Management Plan (CEMP)
- 24. Submission/approval of on-site reed bed details, monitoring/management plan & implementation
- 25. Nesting/breeding birds
- 26. Submission/approval of Ecological Enhancement Strategy
- 27. Implementation of FRA
- 28. Submission/approval of detailed overall drainage strategy
- 29. Submission/approval of a drainage management and maintenance plan

In order to give proper effect to the Committee's intent and without changing the substance of its decision, authority is delegated to the Head of Planning (Regulation) in consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice

REASON FOR DEFERRAL

At the Cheshire East Council Northern Planning Committee held on the 22nd February 2022, the committee resolved to defer this application for the following reasons:

- to allow further consideration of the submitted marketing information.

In addition, it has been identified in the intervening period that there was an error in the Vacant Building Credit calculations originally presented meaning that now, an affordable housing contribution is required in the event of approval. However, the final figure is yet to be agreed.

For completeness this update report sets out that updated comments have been received from United Utilities in response to the revised plans. In addition, the late representations received on behalf of an objector just prior to the previous committee (reported to committee by way of a verbal update), are now also set out.

CONSULTATIONS (External to Planning)

United Utilities – No objections, subject to the following conditions including: the implementation of the drainage principles within the submitted Flood Risk Assessment and the submission/approval of a sustainable management and maintenance plan

REPRESENTATIONS

Just prior to the previous Northern Planning Committee, a further objection from one of the original objectors was received in response to the content of the committee report. The main issues raised were as follows:

- Loss of Public House / community asset
 - o There is interest to take the buildings on to run as a pub / restaurant
 - o The interested party includes a design proposal for their intentions
 - The interested party contacted the marketing company (via phone) in September 2020, but had an offer immediately rejected
 - Whilst this offer was after closing date for 'best and final offers', contrary to Officer's committee report that set out that no approaches have been made from pub or hotel operators or persons looking to continue the use. Misleading to report that there has been no interest
 - Interested party also contacted landowners directly (writing and phone) demonstrating intentions to acquire
 - Not clear why site was not marketed in specialist publications
 - Marketing was clearly an exercise to sell the site for residential use
 - Proposal represents a breach of local and national policies which seek to protect community facilities

OFFICER APPRAISAL

Loss of Public House

Policy context

Planning Law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

Development plan

There are no adopted or saved Cheshire East Council development plan policies that prohibit or restrict the loss of a public house (or a community facility). Whilst Policy EG2 of the CELPS refers to instances where planning would support the retention of community facilities such as public houses, this is in the context of application proposals that propose to retain such facilities, not those that propose their loss.

As such, attention then turns to other relevant material policy considerations.

Other material policy considerations

In this instance, this includes any reference to community facilities within the National Planning Policy Framework (NPPF) and draft policy within the Cheshire East emerging Site Allocations Development Plan Document (SADPD).

Paragraph 93 of the NPPF advises planning policies and decisions should guard against the unnecessary loss of valued facilities and services particularly where this would reduce the community's ability to meet its day-to-day needs.

Reference has been drawn to one of the draft policies within the SADPD, draft Policy REC5. The crux of draft Policy REC5 is that development proposals should seek to retain, enhance and maintain community facilities that make a positive contribution to the social or cultural life of a community. In addition, it sets out that any such facility which makes a positive contribution should be retained unless an alternative provision is made. Finally, it sets out that proposals for new community facilities will be supported. This final point is not relevant to the application proposals.

Assessment

National Planning Policy Framework (NPPF)

In order to assess the acceptability of the loss of the public house in line with paragraph 93 of the NPPF consideration needs to be given to whether the facility to be lost is valued and its loss would reduce the community's ability to meet its day-to-day needs on one hand. On the other hand consideration needs to be given to whether the loss of the facility is unnecessary.

Whether The Swan is a 'valued' community facility

The vast majority of the representations received from 24 separate addresses refer to the loss of the public house and the role it plays in the community. More specifically, amongst various reasons put forward by objectors as to the public house's importance, it has been repeatedly commented upon that The Swan was an important facility in the community for social interaction.

Therefore, there is some evidence that The Swan had some value as a community facility and therefore its loss is a material consideration in this case. However, it is not known how representative of the local community as whole the views expressed in the letters from the 24 addresses are. Furthermore, it is questionable whether its loss, given that it has been vacant for a number of years and the nature of how it served the community, particularly reduces the community's ability to meet its day-to-day needs.

It should be noted that the Swan is not currently listed by Cheshire East Council as an Asset of Community Value (ACV). In addition, it is understood that there are currently no applications that have been submitted to the Council to list the public house as an ACV. Having AVC status effectively pauses to sale process for six months, so it allows community groups the opportunity to make an expression of interest to make a bid.

However, it should be noted that even if an application to list the public house as an ACV was submitted and approved by Cheshire East Council, this status only allows time for the community to put a bid together. After that window closes, it is entirely up to the landowner to sell to whoever they choose. There is no scope for a community group to purchase at a 'reduced rate' but simply gives them a little extra time to perhaps pull on resources to make a bid.

Is the loss of the public house 'unnecessary'?

A further understanding of the business, the reasons for its closure and an understanding of any attempts made for possible continued use as a public house / hotel under a new owner/operator are considered to be relevant factors in the consideration as to whether the loss of the public house should be deemed 'unnecessary'.

Reason for closure of The Swan:

The application sets out that the business formally closed on the 4th August 2020.

The agent for the application advises that the location of the Swan and Premier Inn meant much of its business resulted from its strategic location on the highway network, which provided a link between the West Midlands and Manchester, and Manchester Airport. It is advised that a significant part of The Swan's business was overnight stays and parking for travellers using Manchester Airport. It is stated that the opening of the new A556 bypass in 2017 dramatically reduced passing traffic and changed the location of the pub and hotel from that of a strategic location, to a local B-road. Competition from more modern airport and city hotels was also impacting business.

Viability:

In a letter received from the owners, financial details have been provided showing a steady decline in profits of the business from 2014 through to the 2019/2020 financial year when a loss was recorded. The profits appeared relatively healthy for the 2014/15, 2015/16 and 2016/17 financial years, but took a notable drop-off in the 2017/18 financial year and showed little sign of improvement after resulted in a loss in 2019/20. This would appear to substantiate the applicant's reasoning as to why the business closed.

The agent advises that these factors meant there was no business case to support the landowner's continued presence at the site, or future investment - estimated in excess of £500k to bring the building up to a reasonable state. Despite various objectors suggesting otherwise, the reasons behind the closure of the public house are considered to have been substantiated.

Likelihood of continued use (Marketing):

If weight is to be given to the retention of the existing use, there has to a reasonable chance of that use continuing should permission be refused. A Marketing Statement was provided during the

application process to address this point. It sets out the following key points which have been supplemented during the application process by the agent for the application:

- Gerald Eve were instructed to market the freehold for the site in January 2019
- A six-page marketing brochure was produced, along with a dedicated data room of further detailed information of the site
- The opening page of the marketing brochure (seen by the Council) identified the site as 'Freehold hotel, restaurant and public house with potential for a number of alternative uses including residential, care or retirement living'
- Under 'The opportunity' section of the brochure, it is stated that 'The Site offers the potential for redevelopment for alternative uses including residential, care or retirement living'. Whilst re-use of the existing use is not expressly listed, it did not preclude interest form the continued use of the site for public house and hotel uses. Under the 'method of sale' within the marketing brochure, it is stated that 'Offers are invited for the freehold interest via informal tender process on an unconditional or conditional (subject to planning basis)'
- The site was marketed for a continuous period of approximately 2 ½ years between March 2019 and September 2021 on the Estates Gazette website (within no minimum asking price) and Gerald Eve's website.
- The story of the sale was also covered locally in an article on the Knutsford Guardian's website dated 8th January 2019
- The initial results of the marketing generated approximately 100 initial enquiries and 56 requests for access to the specific marketing data
- Following an initial call for bids in July 2019, offers from 15 separate parties were received.
 The majority of these were from developers looking to redevelop the site for residential use
- Note: It has been advised that no offers were received from either pub or hotel operators or persons looking to continue the use within the 2 ½ year period
- 5 shortlisted parties were then invited to submit a best and final offer on the 4th December 2019. The applicant (PH Property) was chosen as the preferred purchaser in March 2020
- Gerald Eve conclude that the marketing exercise has demonstrated that there are no viable offers for the site from either pub or restaurant operators despite it being marketed for approximately 2.5 years.

This report demonstrates that marketing was undertaken for a considerable length of time with no evidence of offers coming forward to take the site on for its existing use which includes the public house.

It is acknowledged that the marketing brochure did not specifically advertise the continued use of the site as a public house and hotel, but it did also not exclude it as an option either. It simply suggested what alternative uses were possible. In addition, the front page of the brochure advertised the description of the site as 'Freehold hotel, restaurant and public house with potential for a number of alternative uses including residential, care or retirement living'. As such, any interested party could see what the existing use was if an interest in continuing that use was held.

Following the receipt of further information from an objector, it is now apparent that interest in the application site <u>was</u> expressed from a party looking to purchase the site to continue a community use. Based on the evidence submitted within this further late objection (reported verbally to committee), it is now apparent to the Council that an interested party contacted the landowners to express an interest in the site on two occasions, September 2021, and January 2022. It should

also be highlighted that a brochure produced by the interested party demonstrating what they intend to do with the premises if they did acquire the site was also received alongside their earlier objections.

Although a representative of the interested party claims they contacted the marketing company in September 2020, (after 'best and final offers') and 'had an offer for the pub immediately rejected', it remains that case that there is still no hard evidence before the Council that an actual offer from this interested party has ever been made to the applicant or Gerald Eve by the said interested party, nor to the applicant of the current planning application (PH Property), according to the planning agent for the application.

Conclusions:

It is clear from the objections received that the public house on this site did have some value as a community facility. However, it is deemed that the reason for the closure of the business has been substantiated. In addition, the business has been marketed for a significant period of time and there is no evidence that an offer has been made by an individual or group looking to continue the existing use. For these reasons combined, is it not deemed that the loss of this facility for an alternative use, whilst regrettable, is 'unnecessary'.

<u>Draft Policy REC5</u>

Before addressing the specifics of this draft policy, it is deemed important to set-out the current stage of the draft Cheshire East Site Allocations Development Plan Policy (SADPD) because this determines the weight afforded to policies that fall within it.

The Site Allocations and Development Policies Document (SADPD) is the second part of the council's Local Plan. The purpose of the SADPD is to provide further, non-strategic planning policies and land allocations, in line with the overall strategy set out in the CELPS. It has been prepared to support the policies and proposals of the CELPS by providing additional policy detail.

The next stage in the SADPD examination will be for the Council to publish Main Modifications for a minimum 6-week period of public consultation. The timing of this is in the hands of the Inspector but is expected in late spring 2022. Subject to the consideration of any representations received, the Inspector's conclusions will then be set out in his final report accompanied by a final set of Main Modifications. The SADPD, incorporating these Main Modifications, will then need be considered for adoption at a Full Council meeting.

Although at a relatively advanced stage, the draft SADPD is still in draft format and as such, so are its policies. At this stage, it is considered that any weight afforded to these policies is moderate at best.

Draft Policy REC5 includes two parts relevant to the application proposals. The first sets out that development should seek to retain, enhance and maintain community facilities that make a positive contribution to the social or cultural life of a community. The second is that any community facility that makes a positive contribution to the social or cultural life of a community should be retained unless suitable alternative provision is made.

It is considered that the crux of this first part of this draft policy is similar to that assessed as part of the NPPF above; that valued community facilities should be retained. As such, the conclusions for the assessment of this part of the draft policy are the same as NPPF conclusions above. Whereas the NPPF sets out that planning should guard against the unnecessary loss of valued community facilities, draft Policy REC5 sets out that planning should seek to retain facilities that make a positive contribution to the social or cultural life of a community (valued facilities).

However, as set-out, the weight afforded to this draft policy is moderate at best for the reasons set-out.

In consideration of the requirement to provide a replacement facility under draft Policy REC5, for the reasons that the loss of the public house has been accepted in conjunction with the status of the draft policy, it is not deemed reasonable to insist that a replacement facility should be provided in this instance.

Loss of public house conclusions

Whilst the loss of the Swan as community facility is regrettable, the weight afforded to its loss as a valued community facility is limited at best, for various reasons. These include: that the site has been vacant for almost 2 years, because the site had been marketed for over 2 ½ years without any evidence that a single formal offer has been received for its continued existing use, the submitted evidence that the business was increasingly unviable in its current guise due to factors largely outside of the control of the owner and the amount of investment identified as being required for continued use and

For the above reasons, the loss of the public house is accepted.

Flooding and Drainage

In consideration of matters of drainage, United Utilities have raised no objections, subject to the following conditions: implementation of the drainage principles within the submitted Flood Risk Assessment and the submission/approval of a sustainable management and maintenance plan. It is considered that these are still relevant given that the drainage strategy has not significantly altered.

Subject to the suggested conditions, along with those suggested by the Council's Flood Risk Officer previously reported upon, the application is considered to adhere with Policy SE13 of the CELPS.

Affordable Housing

Policy SC5 of the CELPS refers to Affordable Housing. It states that in residential developments, 30% affordable housing will be provided in developments of 15 or more dwellings (or 0.4 hectares) in Principal Towns and Key Service Centres or in developments of 11 dwellings or more (or that have a combined gross floorspace of more than 1000sqm) in Local Service Centres and all other locations.

The applicant has not proposed any affordable housing as part of the proposals. They advise that this is because the site qualifies for the Government's Vacant Building Credit which incentivises

brownfield redevelopment and regeneration by reducing affordable housing requirements on qualifying sites.

Government guidance on this incentive is provided within the Planning Obligations NPPG. To be applicable, there are qualifying criteria. These are:

- 1. That the buildings on site must be vacant for at least 6 months; and
- 2. The buildings need to have been vacant for reasons other than the redevelopment of the site

The applicant has set out why they consider the proposals adhere with these requirements. More specifically:

- That the buildings have been vacant since February 2020, a period in excess of 12 months;
 and
- 2. The reason for them becoming vacant was the impact upon trade of the opening of the new A556 link road between the M6 and M56

Where a vacant building is either demolished to be replaced by a new building or re-used, the developer is offered a financial credit equivalent to the existing gross floorspace of the relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought.

It has been calculated that the floorspace of the proposed development (3751m2) compared to the floor space that is either being demolished or reused (3712m2) is marginally greater, 39m2.

The Vacant Building Credit Calculation

- Proposed development of 3,751 sqm results in 17 homes
- Policy SC5 (affordable homes) of the CELPS requires 30% affordable homes
- 30% of 17 homes = 5.1 (rounded up to 6 homes)
- There is an existing vacant building on site with a floorspace of 3,712 sqm
- The difference between the gross floorspace of the existing vacant building and the proposed new build floorspace is 39 sqm
- Therefore, the affordable housing requirement for this site is $(39/3751) \times 6 = 0.062$.

As such, the most appropriate way to secure this would be through a financial contribution towards off-site provision. Although the proposed development is in Bucklow Hill, there is insufficient sales data for this area due to its rural location to assist in determining average house prices. Therefore, average sales figures for Knutsford were considered.

Recent sales figures in Knutsford for comparable smaller units of which there is an identified need, range from a 2-bedroom flat sold for £213,000 to a 3-bedroomed terraced house valued as £385,000

Even when multiplied by the 0.062 affordable housing requirement, these sales figures generate a healthy commuted sum which can be invested by the local authority into affordable housing. Therefore, Council's Housing Officer seeks a financial contribution based on local property values.

The calculation to determine the commuted sum would be (values to be confirmed)

- Property OMV £300,000
- RP offer (typically around 70% of OMV) £210,000
- Difference between offer and OMV £90,000
- £90,000 x AH requirement of 0.062 = £5.580

To confirm the final sum, the Council's Housing Officer requests the applicant provide the team with a range (between 3-5 examples) of smaller 2 or 3 bed properties which have sold within the Knutsford area within recent months. Then, between the Council and the applicant, we can then agree a general Open Markey Value (OMV) for what should be the affordable housing.

Subject to this contribution, the specific figure to be agreed and secured via a S106 in the event of approval, the development is deemed to adhere with the affordable housing policy of the development plan.

Heads of Terms

If the application is approved, a Section 106 Agreement will be required to secure the following:

- Contribution of £5,580 (TBC) towards off-site affordable housing provision
- Contribution of £68,000 towards off-site Public Open Space (POS), Recreation and Outdoor Sports improvements (£51,000 towards off-site POS improvements & £17,000 towards off-site Recreation & Outdoor Sport improvements)
- Requirement to provide a private management plan to manage landscaping outside of domestic curtilages

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.

A contribution of £5,580 (or the final figure to be agreed) is deemed necessary to ensure the required policy provision of affordable housing is provided in accordance with policy.

The total financial contribution of £68,000 is deemed necessary to ensure that the impact of the development upon nearby Public Open Space and Recreation and Outdoor Sports is mitigated.

The requirement to establish/hire a Management Company to manage the landscaping of the site outside of residential curtilages is required to ensure the development remains well screened from the most public vantage points in perpetuity.

The requirements are therefore considered to be necessary, fair and reasonable in relation to the development. The S106 recommendation is compliant with the CIL Regulations 2010.

Conclusions

The site lies entirely within the Cheshire Green Belt. Planning policy seeks to control new development within the Green Belt and does not support the construction of new buildings or uses within it, unless it is for one of the purposes set out in the policy. Those purposes include: the reuse of buildings provided they are permanent and substantial, and the development preserves the openness of the Green Belt and purposes of including land within it. In addition, it includes the redevelopment of previously developed land so long as the development does not have a greater impact on the openness of the Green Belt than the existing development.

The proposed development is deemed to fall within and adhere with the requirements of these Green Belt policy exceptions. As such, the proposals are deemed to represent appropriate development in the Green Belt.

Although the built form of the most historic elements of the on-site public house (The Swan) are to be retained as part of the development (as a conversion), the loss of the public house as a community facility is a material consideration.

The applicant has submitted financial and marketing information to the Council which is deemed to effectively validate the reasons why the now former public house closed. It also demonstrates that the business was marketed for a sufficient period of time (2 ½ years) and there is no evidence that any formal offers for the continuation of the use have been received.

As such, whilst the loss is regrettable, the weight afforded to its loss is limited at best. It is not the purpose of the planning system to perpetuate the continuation of a non-viable use in order to meet social objectives. It is also not the role of this application to consider alternative proposals for the site when no such proposals have been submitted for consideration/assessment at this time.

Although the location of the site is relatively isolated from larger communities and their associated public facilities, making it highly likely that the future occupiers would rely heavily of the use of private motor vehicles to travel to and from the site, this has historically been the case on this site given that the previous use was that of a public house and a hotel.

Planning benefits are derived from the re-use of two of the three most historical buildings on site. These are not formal heritage assets but have been identified as 'non-designated heritage assets' during the application process and as such, the retention of these, as well as the on-site milepost, as part of the development is welcomed.

No issues are deemed to be created by the application proposals with regards to design, amenity, highway safety, landscape, trees, ecology or flood risk and drainage, subject to a S106 Agreement to secure the management of the landscaping outside of the curtilages on site and conditions, where deemed necessary.

The application proposals will provide a commuted sum towards off-site Open Space and affordable housing, in line with policy. This is proposed to be secured via S106 Agreement in the

event of approval. The development does not trigger the requirement to provide health of education contributions due to the number of dwellings sought.

Subject to a S106 Agreement to ensure an on-site management company is provided to manage landscaping outside of curtilages in addition to securing the required commuted sums towards off-site open space improvements and off-site affordable housing, along with planning conditions, the application is recommended for approval.

However, until the final affordable housing commuted sum figure is agreed, the recommendation is that authority be delegated to the Head of Planning in consultation with the Chairman of the Northern Planning Committee (or in their absence the Vice Chair), to APPROVE the application for the reasons set out in the report, subject to the finalised affordable housing commuted sum, the commuted sum towards off-site public open space provision, the requirement to provide an on-site management company, and conditions.

RECOMMENDATIONS

That authority be DELEGATED to the Head of Planning, in consultation with the Chairman of Northern Planning Committee (or in their absence the Vice Chair), to APPROVE the application for the reasons set out in the report, subject to;

S106	Amount	Trigger
Affordable Housing – Commuted Sum	£5,580 (TBC)	Prior to occupation
Public Open Space & Recreation and Outdoor Sports – Commuted Sum	£51,000 towards off-site POS improvements £17,000 towards off-site Recreation & Outdoor Sport improvements	Prior to commencement
Requirement to provide an on-site Management Company	Secure requirement to provide on-site Management Company to manage out of curtilage landscaping	Prior to occupation of any of the development

And the following conditions:

- **30. Time (3 years)**
- 31. Plans
- 32. Submission/approval of facing, roofing and external hard surfacing materials

- 33. Retention of Milestone
- 34. Submission/approval of new or replacement window and door details to (Buildings 1 and 3)
- 35. Any new or replacement fenestration to Buildings 1 and 3 should include reveals to match
- 36. Removal of Permitted Development Rights (Part 1, Classes A-E and Part 2 Class A)
- **37.Obscure Glazing provision** (*Plot 11 & 12 First-floor side bathroom window, Plot 13 & 14– Both first-floor, side bathroom windows and Plot 15 First-floor en-suite window on southern elevation*)
- 38. Implementation of electric vehicle charging infrastructure details
- 39. Submission/approval an updated Conceptual Model (contaminated land)
- 40. Submission/approval of a verification report (contaminated land)
- 41. Submission/approval of a soil verification report
- 42. Works should stop in the event that contamination is identified
- 43. Submission/approval of cycle storage details
- 44. Submission/approval of updated Landscaping scheme (incl boundary treatment)
- 45. Landscaping Implementation
- 46. Submission/approval of levels details
- 47. Tree retention
- 48. Submission/approval of a Tree Protection Plan
- 49. Submission/approval of an updated Arboricultural Method Statement
- 50. Submission/approval of a service/drainage layout (trees)
- 51. Ecological Mitigation Implementation
- 52. Submission/approval of a Construction Environmental Management Plan (CMP)
- 53. Further Bat survey required if works do not start by May 2022
- 54. Nesting/breeding birds
- 55. Submission/approval of Ecological Enhancement Strategy
- 56. Implementation of FRA
- 57. Submission/approval of detailed overall drainage strategy
- 58. Submission/approval of a drainage management and maintenance plan

SUMMARY

The proposed development is deemed to fall within and adhere with the requirements of Green Belt policy exceptions, specifically, the re-use of buildings and the re-development of previously developed land. As such, the proposals are deemed to represent appropriate development in the Green Belt.

The loss of the public house as a community facility is a material consideration. The applicant has submitted financial and marketing information to the Council which is deemed to effectively validate the reasons why the now former public house closed (2020) and demonstrates that the business was marketed for a sufficient period of time (2 $\frac{1}{2}$ years) without any formal offers for the continuation of the use being received. As such, whilst the loss is regrettable, the weight afforded to its loss is limited at best.

Although the location of the site is relatively isolated from larger communities and their associated public facilities, making it highly likely that the future occupiers would rely heavily of the use of private motor vehicles to travel to and from the site, this has historically been the case on this site given that the previous use was that of a public house and a hotel.

Planning benefits are derived from the re-use of two of the three most historical buildings on site. These are not formal heritage assets but have been identified as 'non-designated heritage assets' during the application process and as such, the retention of these, as well as the on-site milepost, as part of the development is welcomed.

No issues are deemed to be created by the application proposals with regards to design, amenity, highway safety, landscape, trees, ecology or flood risk and drainage, subject to a S106 Agreement to secure the management of the landscaping outside of the curtilages on site and conditions, where deemed necessary.

The application proposals will provide a commuted sum towards off-site Open Space in line with policy. This is proposed to be secured via S106 Agreement in the event of approval. No affordable housing is required as part of the development proposals when Vacant Building Credit is applied. The development does not trigger the requirement to provide health of education contributions due to the number of dwellings sought.

Subject to a S106 Agreement to ensure an on-site management company is provided to manage landscaping outside of curtilages in addition to securing the required commuted sums towards off-site open space improvements, along with planning conditions, the application is recommended for approval.

RECOMMENDATION

APPROVE subject to a \$106 Agreement to secure:

- £68,000 towards off-site Open Space additions, improvements and amendments to nearby facilities identified for such works
- Requirement to provide a Management Company to manage on-site incidental landscaping

and conditions

This application is referred to Cheshire East Council's Northern Planning Committee because it's for a residential development between 1ha and 4ha (1.29ha).

DESCRIPTION OF SITE AND CONTEXT

This application relates to the vacant Swan public house and hotel located on a corner plot between the B5569 to the west and the A5034 and Ciceley Mill Lane, both to the south. The application site covers an area extending 1.286 hectares.

The site lies entirely within the Green Belt and a Designated Local Landscape (Former ASCV).

DETAILS OF PROPOSAL

Full planning permission is sought for the part demolition of existing buildings, conversion and alteration of retained buildings for residential use (Use Class C3) and erection of residential development (Use Class C3).

In total, 17 dwellings are proposed. The housing schedule of the development sought comprises of:

- Partially converted pub (Swan) 5-bed detached (Plot 1)
- House type A (New build) 4-bed detached (Plot 2)
- House type B (New build) 5-bed detached (Plot 3)
- House type C (New build) 5-bed detached (Plots 4 & 5)
- House type D1 (New build) 5-bed detached (Plots 6 & 8)
- House type D2 (New build) 4-bed detached (Plot 9)
- House type E (New build) 4-bed detached (Plots 7 & 10)
- House type F (New build) 4-bed detached (Plots 11 & 12)
- House type G (New build) 5-bed detached (Plots 13 & 14)
- Converted 'Building 3' x3 dwellings 3-bed mews (Plots 15, 16 & 17)

Revised plans were received during the course of the application making the following main changes:

- Change in scope of the application so it now includes the retention and conversion of the older part of the Swan and the adjacent building to the north to residential use, in response to heritage concerns
- Reduction in the number of dwellings from 19 to 17 to account for the retention of the above buildings
- Removal of the originally proposed on-site Public Open Space (POS) due to ANSA Open Space Officer concerns. Off-site POS contribution proposed instead.

RELEVANT HISTORY

07/2691P (Premier Inn) - Enclosure of ground and first floor walkways to existing bedrooms and formation of ground floor access ramps – Approved 28th December 2007

06/2844P (Swan Hotel) - Raised decking area within existing courtyard providing improved disabled access – Approved 20th February 2007

06/1060P (Premier Lodge) - 1no. Internally illuminated projecting sign (resubmission of 06/0147p) - Refused 26th June 2006

06/0812P (Swan Hotel) - 1no. Externally Illuminated Double Sided Freestanding Sign – Refused 1st June 2006

06/0147P (Premier Lodge) - 1no. Internally Illuminated Projecting Sign – Refused 13th April 2006

04/2915P (Premier Travel Inn) - Retention Of 2no. Non-Illuminated Fascia Signs, 1no. Externally Illuminated Fascia Sign And 1no. Internally Illuminated Fascia Sign. And 1no. Internally Illuminated Post Mounted Sign – Approved 14th January 2005

04/2119P (The Swan) - Installation of 1no. Externally illuminated fascia sign and 2no. Totem signs, 1no. Internally illuminated menu case, various directional signs and wall-mounted plaques (advertisement consent) – Approved 7th October 2004

03/0675P (Swan Hotel) - Installation of rising stop barrier to car park entrance – Refused 27th May 2003

01/0644P (Swan Hotel) - Externally Illuminated Fascia Signs and Free-Standing Signs – 4th May 2001

99/2268P (Swan Inn) - Extensions and Alterations to Provide 51 Bedrooms. Additional Car Parking – Refused 10th April 2000

98/0559P (Swan Inn) - Restaurant Extension and Alterations to Access – Approved May 1998

97/2285P (Swan Inn) - Restaurant Extension and Alterations to Access – Withdrawn 27th January 1998

97/1622P (Swan Inn) - Single-Storey Front Extension, Additional Car Parking and Alterations – Refused 16th October 1997

77714P (Swan Inn) - Externally-illuminated signs and non-illuminated fascia – Approved 15th June 1994

76461P (Swan Hotel) - Boundary wall on Chester Road frontage – Approved 1st February 1994

20315P (Swan Inn) - Erection of bulk gas storage tank and compound – Approved 21st November 1979

14985P (Swan Hotel) - Managers Bungalow and Bungalows to Form Staff Block – Approved 31st July 1978

14984PB (Swan Hotel) - Alterations & Extensions to Form New Bedroom Accommodation And Enlarged Dining Room (Listed Building) – Approved 31st July 1978

14922P (Swan Hotel) - Erection of Two Illuminated Signs – Approved 24th May 1978

12400P (Swan Inn) - Alterations & Extension to Kitchens – Approved 21st November 1977

10823P (Swan Hotel) - Provision of Car Parking Area and Landscaping – Approved 6th July 1977

ADOPTED PLANNING POLICIES

The relevant aspects of the Cheshire East Council Development Plan subject to this application are: the Cheshire East Local Plan Strategy and the Macclesfield Borough Local Plan. The relevant policies within these include:

Cheshire East Local Plan Strategy (CELPS)

PG1 - Overall Development Strategy, Policy PG2 - Settlement Hierarchy, PG3 – Green Belt, PG6 – Open Countryside, PG7 – Spatial Distribution of Development, 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, SE7 – This Historic Environment, SE9 - Energy Efficient Development, SE12 Pollution, Land Contamination and Land Instability, SE13 – Flood Risk Management, SC4 – Residential Mix, SC5 - Affordable Homes, IN1 - Infrastructure, IN2 - Developer Contributions, CO1 – Sustainable Travel and Transport

Macclesfield Borough Local Plan (MBLP)

NE1 – Areas of Special County Value, NE11 - Nature Conservation, Policy GC1 - Green belt (new buildings), GC8 – Reuse of Rural Buildings – Employment and Tourism, GC9 – Reuse of Rural Buildings – Residential, H9 – Occupation of Affordable Housing, DC3 - Protection of the amenities of nearby residential properties, Policy DC6 - Circulation and Access, Policy - DC8 – Landscaping, Policy DC9 - Tree Protection, Policy DC38 - Guidelines for space, light and privacy for housing development and Policy

Other Material planning policy considerations

National Planning Policy Framework (NPPF) 2021

National Planning Policy Guidance (NPPG)

Planning Obligations

There is no Neighbourhood Plan for the area.

CONSULTATIONS (External to Planning)

Head of Strategic Transport (CEC Highways) – No objections

Environmental Protection (CEC) – No objections, subject to a number of conditions including the implementation of electric vehicle charging infrastructure details, the submission/approval an updated Conceptual Model (contaminated land), the submission/approval of a verification report (contaminated land); the submission/approval of a soil verification report and; works should stop in the event that contamination is identified. A number of infomatives are also proposed.

Flood Risk Manager (CEC) – No objections, subject to the following conditions: Implementation in accordance with submitted Flood Risk Assessment and the Submission/approval of an overall drainage strategy and associated management and maintenance plan.

Housing Officer (CEC) – No objections. Although proposals would normally trigger an on-site affordable housing requirement, the policy need to provide this is negated when nationally prescribed Vacant Building Credit is applied.

Education Officer (CEC) – No claim for education contributions.

ANSA Greenspace (CEC) – Commuted sum of £51,000 towards off-site improvements and amendments to the play and amenity facilities within High Leigh. Commuted sum of £17,000 towards Recreation and Outdoor Sport which would be used to make additions, improvements and amendments within the Council's Playing Pitch Strategy in the Knutsford analysis area. Total sum: £68,000.

NHS CCG – No comments received at time of report.

Note: The proposed number of units fall short of triggering a Health contribution

Natural England – No objections, subject to the inclusion of a Construction Environmental Management Plan (CEMP) condition

United Utilities – No comments received in relation to the revised proposals

Comments in response to the original scheme: No objections, subject to a number of conditions including: the implementation of the submitted surface water drainage strategy and the submission/approval of a sustainable management and maintenance plan

Cadent Gas Ltd – No comments received in relation to the revised proposals

Comments in response to the original scheme: Note that Cadent Gas apparatus is within the vicinity of the application site that maybe affected by the proposals.

Rostherne Parish Council (within which the Majority of the site falls) – No comments received in relation to the revised proposals

Comments in response to the original scheme: Wish to make a number of observations which are summarised below:

- That part of the Swan Hotel has heritage value and this should be taken into consideration. Strongly recommend that the existing building be kept and refurbished
- Would like to see the retention of the existing 'Milestone'

- Suggests that the plans are reviewed to ensure that the houses that back on to Cicely Mill Lane have their rear gardens fully bordering the road
- Seek clarification as to who will be responsible for the maintenance of the land adjacent to Cicely Mill Lane
- Highways concerned about traffic volume on Cicely Mill Lane and that the proposed junction would not be safe. As such, proposed it be re-sited
- Concern about the lack of affordable housing provision
- Request the provision of electric charging points
- Ask that the developer consider a play area and help to campaign to restore bus frequency and a new bus shelter as there are currently no provisions for public transport
- Landscaping request native planting and that the white posts on Cicely Mill Lane be extended

Mere Parish Council (within which the Minority of the site falls) – Concerned about the loss of the public house and support alternative proposals for its re-use

REPRESENTATIONS

In response to the re-consultation exercise, at the time of writing this committee report, letters of representation have been received from 24 address, 23 of which raise the following objections:

- Loss of Public House / community asset
 - o Principle of the loss of the Public House as a community facility
 - Associated impact upon mental health
 - The Swan is the focal point for 3 parish councils (Millington, Rostherne & Mere), all
 of which oppose the application
 - Contrary to emerging SADPD policy REC5 & paragraph 92 of NPPF, & EG2 of CELPS
 - At no point was the Public House marketed publicly as a public house/restaurant.
 Advise that the marketing specifically referred to the site as being potentially redeveloped for 'housing, care or retirement living'
 - Local parishes or residents not approached for their views on the loss of the Public House
 - Loss has not been justified nor have alternative options been thoroughly considered
 - Its not whether the current owner is able to viably operate the site as a Public House, but whether the premises themselves are no longer able to support a viable business.
 There are other successful gastropubs in remote locations that are thriving
 - Adjacent BP garage also impacted by change in road, but still operating, why is the Public House any different
 - o Do not accept that there is no 'footfall' past the site, there is still passing traffic
 - Applicant uninterested in selling to local who wants to run as a gastro-pub (which would also offer numerous community facilities)
 - o No attempts have been made to provide a community facility elsewhere
 - No need for additional housing

Heritage

Loss of heritage asset as part of the community heritage

Locational sustainability

- Site is not located close to community facilities to support the proposed housing
- Lack of access to public transport

Highways

Resultant increase in traffic

Of the 24 comments received, 1 was received in support of the application proposals.

In response to the original consultation exercise, representations were received from 6 residences, a neighbouring Parish Council (Millington) and the Campaign for Real Ale (CAMRA). All of these consultation responses raised objections or concerns for the following reasons:

• Loss of Public House / community asset

- No apparent attempt to assess its viability Should be marketed for a period of at least 12 months before an alternative use is considered (CAMRA)
- Only community facility in the Mere/Rostherne/Millington area. Has operated as such for more that 170 years. Important facility in the community for social interaction

Locational sustainability

- Rural hamlet with few facilities for its community. Other areas that need housing that will result in less of an impact upon the environment
- Lack of public transport in area

Procedural

- Suggestion that paragraph 17 of the application is incorrect as the floorspace added is on the same line as the floorspace eliminated for Class C3 Hotels whereas the floorspace added should be a separate line under Class C3(a) dwellinghouses
- Did not receive notice of the application (The Moorings)

Heritage

- Proposal has not sufficiently considered/accounted for the historical or archaeological value of The Swan
- Existing 'Milestone' should be retained
- Small part of the ancient building should be preserved
- o Is the building listed?

Design

 Suggests that the plans are reviewed to ensure that the houses that back on to Cicely Mill Lane have their rear gardens fully bordering the road Suggest the erection of a red brick wall along Cicely Mill Lane perimeter to provide security and a boundary that is aesthetically pleasing

Amenity

- Dwellings proposed backing onto Chester Road are too close to the road (creation of privacy and noise concerns)
- Concerns about construction phase such as noise and air pollution & where the site compound will be located and general nuisance from construction
- Overlooking concerns due to building orientation
- Distance from existing buildings to prevent nuisance
- o Request the provision of electric charging points
- Contributions Developer should be requested to make a contribution towards public art possibly from CIL contributions
- Highways
 - o Unclear what the traffic, parking and junction arrangements will be
 - o Proposals will result in a considerable increase in traffic
 - Suggest that a better line of sight is achieved for the Cicely Mill Lane access
- Affordable housing concerned about the lack of
- Landscaping Lack of information about what is proposed
- Ecology Impact of development upon rural wildlife
- Other
 - Suggest site could be a park or the public house retained
 - Query why a large portion of the land is not being incorporated into the development (Plot 8)

OFFICER APPRAISAL

Principle of development

Whether or not Inappropriate development in the Green Belt

The site lies entirely within the Cheshire Green Belt.

Policy PG3 of the Cheshire East Local Plan Strategy (CELPS) seeks to control new development within the Green Belt and does not support the construction of new buildings within it, unless it is for one of the purposes set out in the policy.

These purposes include; buildings for agriculture or forestry, appropriate facilities for outdoor sport and outdoor recreation, for cemeteries and for other uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it; extensions or

alterations to buildings provided that it does not result in a disproportionate additions over and above the size of the original dwelling; replacement buildings provided that the replacement is within the same use and not materially larger; limited infilling in villages, and limited affordable housing; limited infilling or the partial or complete redevelopment of previously developed sites provided they would not have a greater impact upon openness; mineral extraction, engineering operations, local transport infrastructure, the re-use of buildings provided that are permanent and substantial and development brought forward under a Community Right to Build Order.

The revised application proposals would fall into two separate categories within PG3 of the CELPS:

- The re-use of buildings provided that they are of permanent and substantial construction (Plots 1 & 15-17)
- Re-development of previously developed sites which would not have a greater impact upon openness of the Green Belt and the purpose of including land within it than the existing development (Remainder of plots)

Re-use of buildings

The dwellings proposed on Plots 1, 15, 16 and 17 involve the re-use of existing buildings (Buildings 1 and 3). As stated above, the principle of the conversion of existing buildings in the Green Belt is acceptable, subject to the buildings being permanent and substantial.

Although no structural surveys accompany the submission, from a visual inspection only, the buildings appeared to be of a solid construction, suitable for conversion.

This Green Belt exception also includes a pre-cursor that any such development should also preserve the openness of the Green Belt and not conflict with the purposes of including land within it.

As part of the proposed conversions, additional development is proposed to buildings 1 and 3. However, it is deemed that this is balanced out / more than compensated for by the associated proposed demolition to the buildings. As such for this element of the proposal, it is considered that the openness of the Green Belt would be preserved, and the proposals would not conflict with the purposes of including land within the Green Belt. Therefore, this element of the application proposals is deemed acceptable in principle.

Previously Developed Land (PDL)

The first consideration of this exception is whether the remainder of the site sought for development qualifies as 'previously developed land' (or PLD or brownfield land).

PDL is defined within the glossary of the NPPF as:

'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation

grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.'

The buildings sought for demolition, the adjacent highways maintenance depot and the associated land within the red edge of this application are deemed to fall within this exception.

The second part of the Green Belt assessment is therefore whether the development sought would have a greater impact on the openness of the Green Belt than the existing development.

Paragraph 001 (2019) of the Green Belt NPPG sets out what factors can be taken into account in the assessment of openness. Three factors are listed and include-

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

To assist is assessing openness in visual and spatial terms a comparison exercise between the existing and proposed development is required. The agent has provided some figures within their submission and the Officer undertaken measurements. A summary of these is set-out below:

			Building Height	
	Footprint (m2)	Floorspace (m2)	range (m)	Volume (m3)
Existing buildings				
(Excluding retained				
parts of B1 and B3)	2101 (agent - 2132)	3013	5.11-10.37	11,376
Proposed buildings				
(Excluding retained				12,532 (agent -
parts of B1 and B3)	2151 (agent - 2111)	3116 (agent - 3051)	4.7-8.48	12,709)
				10% increase
Percentage	2% increase (agent -	3% increase (agent -	General	(agent - 12%
differnece	1% decrease)	1% increase)	reduction	increase)

This shows that there is not a large variation between the Agent's and the Officer's calculated figures between the existing and proposed built form.

In general terms, it is deemed that the proposed development would comprise of a similar footprint and floor space to the development being replaced and would amount to only a 10-12% increase in volume, a figure not deemed significant.

None of the built form proposed would be taller than that being replaced. Indeed, the maximum height of the buildings proposed would be almost 2 metres lower than the tallest existing buildings. As such, the proposed development in terms of its height is not deemed to result in a greater impact upon openness to the Green Belt compared to the existing development.

Consideration also needs to be given to the spread of the proposed development on the site compared to the spread of the existing built form. This assists in assessing the impact of openness with regards to its spatial context. The existing built form is largely located to the north and west of

the site. The layout of the proposed development is largely reflective of this arrangement albeit extending built form further to the south. However, to counterbalance this impact, built form is not proposed to extent as far to the east as the existing built form. As such, it is not deemed that the proposed development would result in a greater impact upon openness in terms of the proposed spread of built form.

In consideration of the final aspect of openness, degree of activity, the proposed use is not deemed to result in any notable greater degree of activity than the existing use.

For the above reasons, it is not deemed that the development would have a greater impact upon the openness of the Green Belt than the existing development. The proposals are therefore deemed to represent appropriate development in the Green Belt and would adhere with the Green Belt policies of the development plan.

Other Development Plan considerations

Loss of Public House

Paragraph 84 of the NPPF refers to a prosperous rural economy. It states that planning policies and decisions should enable 'd) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.'

Paragraph 93 c) of the NPPF advises planning policies and decisions should 'guard against the unnecessary loss of valued facilities and services particularly where this would reduce the community's ability to meet its day-to-day needs.'

Draft Policy REC5 from the emerging Cheshire East Site Allocations and Development Plan Document (SADPD) specifically relates to Community Facilities.

This draft policy sets-out that development proposals should seek to retain, enhance and maintain community facilities that make a positive contribution to the social or cultural life of a community. The second criterion of the policy is that any community facility that makes a positive contribution to the social or cultural life of a community should be retained unless suitable alternative provision is made.

As the SADPD is yet to be adopted, the Council's Spatial Planning Team have advised that any policies within this document can only be afforded moderate weight at most at this moment in time. This is despite the interim findings of the Inspector not questioning any aspects of this particular draft policy.

It is therefore for the Local Planning Authority to firstly consider whether the loss of this facility is a material planning consideration and if so, how much weight to attach to it in the decision-making process.

The vast majority of the objections received to the planning application relate to the loss of the public house and the role it plays in the community. More specifically, amongst various reasons put forward by objectors as to the site's importance, it has been repeatedly commented upon that the Swan was an important facility in the community for social interaction. As such, it is deemed

that the loss of the public house use, due to the role it has played in the local community, is a material consideration in this case. Subsequently, thought needs to be given to the weight to afford to the loss of the public house use as part of the planning balance. To do this, further understanding of the business, the reasons for its closure and an understanding of any attempts for possible continued use under a new owner/operator are considered.

The application sets out that the business formally closed on the 4th August 2020.

The agent for the application advises that the location of the Swan and Premier Inn meant much of its business resulted from its strategic location on the highway network, which provided a link between the West Midlands and Manchester, and Manchester Airport. It is advised that a significant part of The Swan's business was overnight stays and parking for travellers using Manchester Airport. It is stated that the opening of the new A556 bypass in 2017 dramatically reduced passing traffic and changed the location of the pub and hotel from that of a strategic location, to a local B-road. Competition from more modern airport and city hotels was also impacting business.

In a subsequent letter received from the owners, financial details have been provided showing a steady decline in profits of the business from 2014 through to the 2019/2020 financial year when a loss was recorded. The profits appeared relatively healthy for the 2014/15, 2015/16 and 2016/17 financial years, but took a notable drop-off in the 2017/18 financial year and showed little sign of improvement after resulted in a loss in 2019/20. This would appear to substantiate the applicant's reasoning as to why the business closed.

The agent advises that these factors meant there was no business case to support Whitbread's continued presence at the site, or future investment - estimated in excess of £500k to bring the building up to a reasonable state. Despite various objectors suggesting otherwise, the reasons behind the closure of the public house are considered to have been substantiated.

If weight is to be given to the retention of the existing use, there has to a reasonable chance of that use continuing should permission be refused. A Marketing Statement was provided during the application process to address this point. It sets out the following key points:

- Gerald Eve were instructed to market for the site in January 2019
- The site was marketed for a continuous period of approximately 2 ½ years between March 2019 and September 2021 on the Estates Gazette website (within no minimum asking price) and Gerald Eve's website. A 6-page brochure was produced
- The story of the sale was also covered locally in an article on the Knutsford Guardian's website dated the 8th January 2019
- The initial results of the marketing generated approximately 100 initial enquiries and 56 requests for access to the specific marketing data
- Following an initial call for bids in July 2019, offers from 15 separate parties were received. The majority of these were from developers looking to redevelop the site for residential use
- Note: It has been advised that no offers were received from either pub or hotel operators or persons looking to continue the use within the 2 ½ year period
- 5 shortlisted parties were then invited to submit a best and final offer on the 4th December 2019. The applicant was chosen as the preferred purchaser in March 2020

- Following this selection, Gerald Eve continued to monitor interest in the site and whilst there
 have been at least 13 additional approaches, it has been advised that none of these have
 been either from pub or hotel operators or persons looking to continue the use
- Gerald Eve conclude that the marketing exercise has demonstrated that there is no viable interest in the site from either pub or restaurant operators despite it being marketed for approximately 2.5 years

This report demonstrates that marketing was undertaken for a considerable length of time with no offers coming forward to take the site on for its existing use which includes the public house. In addition, it has been demonstrated that the public house became unviable largely as a result of circumstances outside of the applicant's control, the creation of a new road which took away passing trade. The public house is not a designated or a nominated Asset of Community Value (ACV).

For these reasons, whilst the loss of this former community facility is regrettable, the weight afforded to its loss is limited at best. It is not the purpose of the planning system to perpetuate the continuation of a non-viable use in order to meet social objectives. It is also not the role of this application to consider alternative proposals for the site when no such proposals have been submitted for consideration/assessment.

Locational Sustainability

Policy SD2 of the CELPS refers to sustainable development principles. It is stated that one of these principles is that new development should provide access to a range of forms of key services and amenities. In order to assess this in more detail, a table is provided within the subtext of the policy which outlines recommended distances from application sites to amenities. An assessment of the scheme undertaken by the applicant using this table, is set out below.

It should be noted that the figures below are based on walking distances (not as the crow flies) but on real life distances.

Amenity open space (500m) – 100m (Fields off Chester Road)

The accessibility of the site shows that following services and amenities meet the minimum standard:

- Post Box (500m) 350m (Chapel Lane/Crescent Rd Junction)
- Convenience Store (500m) 250m (Hursts at BP Petrol Station)
- Bank or Cash Machine (1km) 240m (BP Petrol Station)

The following amenities/facilities are all over the distances suggested:

- Bus stop (500m) 1.9km (Chester Rd bus stop)
- Public right of way (500m) 570m (Mere Footpath 6)
- Railway station (2km where possible) 5.7km (Ashley Station)
- Children's Playground (500m) 4.5km (Tatton Park Playground)
- Outdoor Sports (500m) 1.7km (Rostherne Cricket Club)
- Supermarket (1km) 5.3km (Co-Op, Knutsford)
- Pharmacy (1km) 5.2km (Cohen's Chemist, Knutsford)
- Primary School (1km) 4.3km (High Legh Primary School)

- Secondary School (1km) 5.6km (Knutsford Academy)
- Medical Centre (1km) 5km (Manchester Rd Medical Centre)
- Leisure Facilities (1km) 5.3km (Knutsford Leisure Centre)
- Public house (1km) 2.4km (Kilton Inn)
- Child-care facility (nursery or creche) (1km) 2km (The Mere Day Nursery)
- Post Office (1km) 2.3km (Mere Post Office)
- Local meeting place/Community Centre (1km) 6.9km The Jubilee Centre, Bowden
- Public Park or Village Green (1km) 2.4km (Tatton Park)

To summarise the above, the scheme is within just 3 of the recommended distances of the public services listed. These findings suggest that the application site is locationally unsustainable meaning that the future occupiers of the site would be reliant on the use of a car to satisfy most of their day-to-day needs. Although this is indeed likely to be the case given the site's most recent use as a public house and hotel, it is not deemed that this harm would be any greater than the previous use.

Heritage

Policy SE7 of the CELPS refers to the Historic Environment. The crux of Policy SE7 is to ensure all new development avoids harm to heritage assets and makes a positive contribution to the character of Cheshire East's historic and built environment, including the setting of the assets and where appropriate, the wider historic environment.

There are no designated heritage assets on or within close proximity to the site. However, a number of local residents / interested parties have emphasised the age of part of the Swan Hotel building and the Milestone adjacent. Indeed, accompanying one of the objections is a commissioned short heritage assessment of the site.

This assessment concludes that the main part of the Swan itself, is of historic and architectural interest and should be classified and assessed as a 'non-designated heritage asset'. As part of the original application proposals, it was proposed that this building be demolished in its entirety along with its associated outbuildings. The Council's Heritage Officer went a step further, advising that they considered that a range of the buildings on-site (referred to a building's 1, 2 and 3 within the submission) represented 'non-designated heritage assets'. The applicant's Heritage consultant disagreed with this conclusion, setting out within their submitted Heritage Statement that they consider only Buildings 1 and 2 should be regarded as 'non-designated heritage assets'. The old Milestone on site was agreed by all as having historical value.

Despite the conflicting opinions, the applicant, following negotiations with the Council's Heritage Officer, agreed to the retention and conversion of Building 1 and Building 3 and subsequently, revised plans were submitted.

Paragraph 203 of the NPPF sets-out that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The Council's Heritage Officer, in response to the revisions, has advised that the repair of the Inn and conversion back to a dwelling with attention to repairing the historic fabric and improving the vernacular character would create a positive impact. In terms of the retention and conversion of

Building 3, the Council's Heritage Officer has advised that this is also welcomed. Due to the extent of alterations to Building 2 its loss, whilst regrettable, is accepted when considered in conjunction with the heritage benefits now achieved with the retention of buildings 1 and 3.

The Council's Heritage Officer subsequently withdraws their original objection, subject to a number of conditions in the event of approval. These include: the retention of Milestone, the submission/approval of any new or replacement facing or roofing materials, the submission/approval of new or replacement window and door details to buildings 1 and 3, that any fenestration should include reveals to match and the withdrawal of Permitted Development Rights for buildings 1 and 3.

Subject to these conditions, the application is deemed to now adhere with the requirements of Policy SE7 of the CELPS and the NPPF.

Design

Policy SE1 of the CELPS advises that the proposal should achieve a high standard of design and: wherever possible, enhance the built environment. It should also respect the pattern, character and form of the surroundings. Policy SD2 of the CELPS states that development should contribute positively to an area's character and identity, creating or reinforcing local distinctiveness in terms of; height, scale, form and grouping, choice of materials, external design features, massing of development, green infrastructure and relationship to neighbouring properties and streetscene. These policies are supported by the Cheshire East Design Guide SPD.

Context

The site is located towards the centre of the village of Bucklow Hill on the corner of the A5034 Chester Road and Cicely Mill Lane. It currently contains the Swan Hotel, which fronts Chester Road with a 70-bed Premier Inn Hotel to the rear of this. The two-storey Swan Hotel building shows signs of heavy modification and is of no particular architectural merit. The linear hotel wings are unattractive and sit in large areas of hard surfacing. There are also some single storey staff accommodation blocks to the eastern end of the site.

Layout

The original layout resulted in two initial design concerns. Firstly, the inward facing nature of the design and secondly, that the rear boundaries of the properties to the south of the site would back-on to the highway, potentially causing concerns in relation to fences, garden sheds etc being erected and therefore becoming visible within the streetscene.

In response, this was a matter originally discussed with the agent for the application at preapplication stage. As a result of those discussions, the scheme was revised so the most visible parts of the site within the streetscene, the area on the Chester Road / Mereside Road junction would be designed so they would indeed, be outward facing. This has now been achieved. The concept regarding the remainder of the site was around the creation of a central courtyard/farmyard design which responds to historic farmstead principles seen at the outer edges of Bucklow Hill. It provides a sense of enclosure, natural surveillance and encourages social interaction. In addition, the provision of gardens to the rear helps soften the edge of the site where it transitions into open

fields. Following further correspondence with the Council's Urban Design Officer, the Officer is now supportive of the current layout.

The Council's Urban Design Officer has also advised that the former problematic issue of the southern boundary to Cicely Mill Lane has been resolved with the retention of a landscape buffer on the boundary with Mereside Road that would fall outside of these curtilages. A Management Plan has also been submitted which highlights the extent of the land (outside of the curtilages) that would be subject to being managed by a private management company. An updated Landscaping plan would be conditioned to ensure the detail of this landscaping is acceptable.

In the event of approval, it is proposed that the requirement to provide a private Management Company to ensure this landscaping is maintained outside of residential curtilages in perpetuity is secured via a S106 Agreement.

Scale and Massing

The new build elements of the scheme are all two-storeys and this is considered appropriate and presents a varied roofline with the presence of garages. As a result, the scale and massing of these proposals gives rise to no concern.

Parking

Parking levels are considered to be appropriate for this location and the spaces are located incurtilage in the main, or within a parking court (north-west corner), all being close to the associated dwellings. It is felt that cars would not dominate the street scene. The parking court is small, utilises an appropriate material palette and is well-integrated with landscape elements reducing the impact of the parked cars to the street.

Mix

Policy SC4 of the CELPS sets out that new residential development should provide or contribute to a mix of housing tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities. The Policy also sets out how development should be able to meet and adapt to the long-term needs of the boroughs older residents.

The application proposes a mix of 3 to 5-bed properties and a mixture of detached and mews/terraced properties. It is considered that there is a sufficient mix and variation to create a mixed, balanced and inclusive community.

In response to how the development would be able to meet and adapt for the long-term needs of the borough's older residents, the agent has advised that this mix will offer something to older residents by comprising a mix to meet needs for larger properties or for those wanting to downsize. The mix of family homes will also free up smaller properties that may be suited to older people elsewhere. There is also scope for future adaptions if required.

Appearance

The architecture is essentially traditional in both style and detail and it clearly draws from the local vernacular without resorting to pastiche. A suitably limited materials palette is suggested. However, to ensure that quality materials are used in the event of approval it is recommended a

condition be imposed requiring the prior submission/approval of the specific detail of all facing, roofing and external hard surfacing materials.

Summary

The previous urban design concerns have been addressed and the revised proposals are now supported. As such, it is considered that the proposal would respect the local rural character and adhere to Policies SE1 and SD2 of the CELPS, the Cheshire East Design Guide SPD and the NPPF.

Amenity

Policy DC3 of the MBLP states that development should not significantly injure the amenities of amenities of adjoining or nearby residential property or sensitive uses due to (amongst other considerations): loss of privacy, sunlight and daylight, an overbearing impact and environmental considerations. Policy DC38 of the MBLP provides minimum separation distances.

Policy SE1 of the CELPS states that development should ensure an appropriate level of privacy for new and existing residential properties.

The closest neighbouring residential properties to the application site are the occupiers of Holly Tree Cottage to the north, Whitehouse Farm to the north-east, Aldrin and Willowdale to the south and Brook Lodge to the south-east.

Given how far away all of these residential properties are to the site, in excess of 65 metres, it is not deemed that the development would result in any unacceptable neighbouring impacts in terms of loss of privacy, light or an overbearing impact.

In relation to environmental matters, the Council's Environmental Protection Officer has reviewed the application proposals and advised that they have no objections, subject to a number of conditions including the implementation of electric vehicle charging infrastructure details, the submission/approval an updated Conceptual Model (contaminated land), the submission/approval of a verification report (contaminated land); the submission/approval of a soil verification report and; works should stop in the event that contamination is identified. A number of infomatives are also proposed including that the team would expect future reporting in relation to contaminated land to reflect the revised proposals.

Having regard to the future occupiers of the proposals themselves, subject to a number of openings being conditioned to be obscurely glazed to prevent loss of privacy, it is not deemed that the future occupiers of the proposed development's amenities would be harmful as a result of the layout and arrangement of the development proposed. Sufficient private amenity space for the future occupiers is being proposed.

As such, subject to the above conditions and informatives, it is considered that the development would adhere to Policies DC3 and DC38 of the MBLP and the amenity aspect of Policy SE1 of the CELPS.

Highways

Policy CO1 of the CELPS and saved Policy DC6 of the MBLP consider matters of highway safety.

The application is supported by an updated Transport Statement in conjunction with the revised layout, which has considered the following matters: Accessibility, trip generation and sustainable travel plan measures.

Traffic Impact

The Council's Highway's Officer has advised that given the previous use of the site, the proposed 17 residential units represents a significant reduction in traffic generation compared to the previous use of the site and is a highway benefit of the scheme.

Access and Visibility

The existing access is to be used to serve the main part of the development. The carriageway width is 4.8 metres with a 2-metre footway on the western side and 1.5 metre on the eastern side. The rear of the site is a shared surface arrangement serving four dwellings. This main access provides 2.4 metre x 43 metre splays which is deemed acceptable.

No access or visibility concerns are raised in relation to the 2nd access proposed onto Chester Road to serve plots 15-17.

Parking/Cycle parking

The level of parking for each unit is in compliance with CEC parking standards. In the event of approval, a condition requiring the submission/approval of cycle parking and storage within the curtilage of the dwellings is proposed.

Summary

This is a previously developed site being re-used for private residential use with the access arrangements largely remaining the same. The Council's Highway's Officer advises that the internal road layout is an acceptable standard to serve the units proposed and provides a sufficient level of parking. As such, no highway objections are raised

The proposals are therefore deemed to adhere with Policy DC6 of the MBLP.

Landscape

The crux of Policy SE4 (Landscape) of the CELPS is to conserve the landscape character and quality and where possible, enhance and effectively manage the historic, natural and man-made landscape features that contribute to local distinctiveness of both rural and urban landscapes.

The submission includes a Visual Impact and Settlement Character Appraisal Document and a Landscape and Visual Appraisal. This identifies that the application site lies within the boundary of a designated landscape the 'Rostherne/Tatton Local Landscape Designation Area' and offers baseline information on the application site and surrounding area, which is located within the area identified in the Cheshire East Landscape Character Assessment as LCT 5: Wooded Estates and Meres and specifically LCA 5d: Tatton and Rostherne and the wider landscape on the western side of the Chester Road falls within the LCT 7: Lower Wooded Farmland area and specifically LCA 7a: Arley.

The Visual Appraisal identifies a number of receptors, identifies as those using Public Rights of Way on Footpaths FP1 Rostherne, FP6 Mere and FP3 Mere, and Road Users on Cicely Lane, Mereside Road/Chester Road and Bucklowhill Lane/Chapel Lane. These indicate that there will be partial and oblique views that reduce as landscape proposals mature, as will the visual effects for road users. The Landscape Appraisal indicates that the proposals will, in the longer term, result in minor beneficial effects, although in the shorter term they can be expected to generate neutral landscape and visual effects. The Council's Landscape Officer broadly agrees with the appraisal.

The Council's Landscape Officer does not consider that the proposals will result in any significant landscape or visual impacts. Should this application be recommended for approval, the Officer recommends a condition requiring the submission/approval of a landscaping scheme for the site and an associated landscaping implementation condition. Subject to these conditions, it is considered that the proposals would adhere with Policy SE4 of the CELPS.

Trees & Hedgerows

Policy SE5 of the CELPS relates to trees, hedgerows and woodland. The crux of the policy is to protect trees that provide a significant contribution to the amenity, biodiversity, landscape or historic character of the surrounding area.

The application site boundary includes the former Swan Hotel which comprises of occasional established trees with groups of closely spaced semi-mature and early mature planting of lower quality trees. The site is not within a Conservation Area and no statutory protection applies to any of the tree cover on the site.

The application has been supported by an Arboricultural Implications Assessment (AIA) and Arboricultural Method Statement (AMS). The survey has identified 6 individual trees, 7 groups of trees and 3 hedgerows on the site comprising of 1 individual and 2 groups of moderate quality B Category trees, five individual and 4 groups of low-quality C Category trees and 1 poor quality U Category group unsuitable for retention irrespective of development. Of these, 4 individual (T2, T3, T5 & T6) and 4 groups (G1, G3, G5, G6) of low-quality trees and a small section of moderate quality group G7 will be removed for the access and a substation, all of Hedgerow H2 and part of H3 are proposed for removal to accommodate the proposal. The Council's Tree Officer has advised that none of the individual or groups of trees shown for removal are of any arboricultural significance which renders them worthy of formal protection.

The retention of moderate quality trees, boundary screening along Cicely Mill Lane and a wooded area to the eastern corner of the site will serve to maintain some of the existing screening which these trees collectively provide the site from the south and east. However, the Council's Tree Officer advises that opportunities exist to further strengthen boundary planting around the site.

The submitted AIA and AMS have appraised a layout which has now been superseded by a revised layout as indicated on the Landscape Proposals (M3113-PA-01-V6). The revised layout shows alterations in terms of position of plots to offsite tree T4. However, the Council's Tree Officer has advised that this can be addressed in an updated AIA and AMS should this application be approved.

The Council's Tree Officer advises that the revised layout does not appear to present any significant additional impacts in terms of further tree removals although the amendments to the layout and position of garden boundaries to plots 3-8 appear to have arisen in a reduction in the extent of the indicative new planting originally proposed on Landscape Proposal Plans (M3113-PA-01-V4).

Local Plan Policy SE 5 requires that all developments should ensure the sustainable management of trees, woodlands and hedgerows including the provision of new planting within new development to retain and improve canopy cover, enable climate adaptation resilience, and support biodiversity. Given the extent of tree removals proposed it is considered this planning application provides an opportunity to incorporate new planting in accordance with this policy which demonstrates adequate mitigation has been provided, and a commitment to strengthening and enhancing the existing boundary screening. It is recommended that if planning permission is granted a condition should be attached which requires the submission of a landscape scheme which addresses the requirements of this policy.

As such, subject to policies to conditions to ensure; remaining tree retention, the submission/approval of a tree protection plan, the submission/approval of an updated AMS and the submission/approval of a service/drainage layout, the proposal is deemed to adhere with Policy SE5 of the CELPS.

Nature Conservation

The application is supported by various ecology surveys. The key ecology considerations are broken down below.

Rostherne Mere SSSI Impact Zone

The proposed development falls within Natural England's SSSI impact zone. Natural England ask that for proposed developments in this location they are consulted on the potential risk from 'Any residential developments with a total net gain in residential units'.

Due to the site's proximity to a RAMSAR site (Rostherne Mere), the Council's Nature Conservation Officer undertook an Assessment of Likely Effects (ALSE) as part of the Habitat Regulations Assessment process which the Council's Officer does to assess the anticipated impact of the development upon a European designated site. The conclusion of the ALSE was that due to a risk of aquatic pollution, a significant effect is likely as a result of the proposals.

The next stage of the HRA process was to complete an *Appropriate Assessment* (AA), which can take into consideration proposals made in the submitted *Ecological Statement* (Rachel Hacking Ecology, 20/09/2021). The conclusion of the AA was that provided the mitigation measures were adhered to, a significant effect on the RAMSAR is not likely to occur.

As such, in the event of approval, the Council's Nature Conservation Officer recommends a condition be imposed requiring adherence to the mitigation measures proposed in the Ecological Statement.

Natural England have requested that the HRA is re-run following the submission of a Construction Environmental Management Plan (CEMP). In the event of approval, the requirement to provide a CEMP is required and a requirement that it should include the ecology elements included within the submitted Ecological Statement.

Bats

A daytime inspection and activity surveys were carried out late in the 2020 bat season. Some evidence of bats was recorded during the daytime survey. Due to this and the suitability of the building for roosting bats, the ecologist who undertook the survey has recommended that further bat activity surveys are undertaken in order to gather sufficient data to make a confident assessment of the likely presence of legally protected roosts on site.

The required surveys were carried out in optimum conditions during the 2021 bat season. No legally protected roosts were identified. The Council's Nature Conservation Officer advises that no further survey effort is required for bats for this application provided works commence before May 2022. Should the start of works be delayed beyond that date an update assessment may be required. A condition to this effect is proposed in the event of approval.

Breeding Birds

If planning consent is granted, a condition is requested to protect nesting/breeding birds.

Schedule 9 Species

Japanese knotweed is present on the proposed development 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 Japanese knotweed 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.

An informative to this effect will be put on the decision notice in the event of approval.

Ecological Enhancement

Policy SE3(5) of the CELPS requires all developments to aim to positively contribute to the conservation of biodiversity. This planning application provides an opportunity to incorporate features to increase the biodiversity value of the final development in accordance with this policy. The Council's Nature Conservation Officer therefore recommends that if planning permission is granted a condition should be attached which requires the submission of an ecological enhancement strategy.

Subject to the above conditions, it is considered that the proposal adheres with Policy SE3 of the CELPS and Policy NE11 of the MBLP.

Flooding and Drainage

The application site does not fall within a Flood Risk Zone 2 or 3, but within Flood Risk Zone 1 – the lowest flood risk category which covers all of England. However, due to the size of the application site, the application is required to be supported by a Flood Risk Assessment (FRA). This has been provided, as have various other drainage documentation, updated to reflect the current layout iteration.

The Council's Flood Risk Officer has reviewed the proposals and advised that they have no objections in principle, subject to a condition that the development be carried out in accordance with the submitted Flood Risk Assessment and a condition requiring the submission/approval of an overall detailed drainage strategy (which restricts the maximum discharge rate for this development) and associated management and maintenance plan.

In consideration of matters of drainage, United Utilities have not commented on the revised proposals. However, in response to the original layout, they raised no objections, subject to the following conditions: implementation of the submitted surface water drainage strategy and the submission/approval of a sustainable management and maintenance plan. It is considered that these are still relevant given that the drainage strategy has not significantly altered.

Subject to the suggested conditions, the application is considered to adhere with Policy SE13 of the CELPS.

Affordable Housing

Policy SC5 of the CELPS refers to Affordable Housing. It states that in residential developments, 30% affordable housing will be provided in developments of 15 or more dwellings (or 0.4 hectares) in Principal Towns and Key Service Centres or in developments of 11 dwellings or more (or that have a combined gross floorspace of more than 1000sqm) in Local Service Centres and all other locations.

The applicant has not proposed any affordable housing as part of the proposals. They advise that this is because the site qualifies for the Government's Vacant Building Credit which incentivises brownfield redevelopment and regeneration by reducing affordable housing requirements on qualifying sites.

Government guidance on this incentive is provided within the Planning Obligations NPPG. To be applicable, there are qualifying criteria. These are:

- 3. That the buildings on site must be vacant for at least 6 months; and
- 4. The buildings need to have been vacant for reasons other than the redevelopment of the site

The applicant has set out why they consider the proposals adhere with these requirements. More specifically:

- 3. That the buildings have been vacant since February 2020, a period in excess of 12 months; and
- 4. The reason for them becoming vacant was the impact upon trade of the opening of the new A556 link road between the M6 and M56

Where a vacant building is either demolished to be replaced by a new building or re-used, the developer is offered a financial credit equivalent to the existing gross floorspace of the relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought.

It has been calculated that the floorspace of the existing buildings sought to either be re-used or demolished is greater than the floorspace of the development proposed. As such, there is no affordable housing requirement. This conclusion is accepted by the Council's Affordable Housing Officer.

Education

The Council's Education Officer has advised that it is not necessary for the proposals to provide a financial contribution to either primary, secondary or special education needs at this time.

NHS

The proposals will not trigger the provision of a contribution towards health.

Public Open Space (POS) & Recreation and Outdoor Sport

Policy SE6 of the CELPS requires all developments to protect and enhance existing open spaces and recreation facilities, encourage improvements in their quality and provide adequate open space (to name a few). In order to assess the adequacy of the open space, a table (13.1) is provided within the subtext of Policy SE6 which sets out open space standards.

Being a major development, the provision of Public Open Space [play and amenity] and Recreation and Outdoor Sport is required in line with Policy SE6 of CELPS.

The Council's ANSA Green Space Officer advises that as this is not being provided on-site, a commuted sum in lieu of on-site provision will be required, for the provision of those facilities off site.

The POS commuted sum required will be £3,000 per family dwelling, a total of £51,000 and which will be used to make additions, improvements and amendments to the play and amenity facilities within High Legh. The commuted sum will be required on commencement of development and there will be a 15 year spend. The council regularly works with the local community of High Legh on improving these facilities, for which there is high demand.

The commuted sum for Recreation and Outdoor Sports will be £1,000 per family dwelling, a total of £17,000 and which will be used to make additions improvements and amendments in line with the Council's adopted Playing Pitch Strategy in the Knutsford analysis area, in which the application site sits. Again, the commuted sum will be required on commencement of development and will have a 15 year spend period.

This would be secured via a Section 106 Agreement in the event of approval and the applicant has agreed to the requirements.

Other matters

In response to points raised by objectors which have not already been addressed:

Criterion 6 from CELPS policy EG2 (Rural Economy) sets out that within locations such as the application proposals, developments that support the retention and delivery of community facilities such as shops and public houses, and villages will be supported, where they further adhere with various other requirements. Objectors have advised that the application proposals are contrary to this policy.

In response, Policy EG2 is silent on the loss of community services and does not provide any criteria against which to address a loss.

It is recognised that draft policy REC5 from the draft SADPD sets out that any community facility that makes a positive contribution to the social or cultural life of a community should be retained 'unless suitable alternative provision is made'. In response, the public house has been closed for almost 2 years so does not currently provide a positive contribution. Although the former public house appeared to be highly valued by the local community, the public house is not a formal Asset of Community Value. In addition, only moderate weight at most is to be afforded to emerging policies in the SADPD at this time. When this is considered in conjunction with the fact that the applicant has marketed the facility for 2 ½ years with no offers being received from any party who wishes to continue the use, it is not deemed necessary to insist that a replacement facility should be provided in this instance.

An objector has suggested that at no point was the public house was marketed publicly as a public house/restaurant. The objector has advised that the marketing specifically referred to the site as being potentially re-developed for 'housing, care or retirement living'. In response, the agent for the applicant has advised that the site was marketed with no minimum asking price and on conditional and unconditional basis, therefore operators interested in a continued public house/restaurant use would not be deterred from making an offer. 'Housing, care and retirement' were suggested as potentials to widen the marketing search, which the agent for the application sets out was clearly needed as no pub or hotel operator or other persons interested in continuing the existing use made an offer.

An objector has suggested that other rural public houses are thriving in Cheshire East therefore suggesting that it's difficult to believe that the use as a public house is not viable. In response, the applicant has provided financial justification to demonstrate the year-on-year decline of the business and has marketed the site for a lengthy period without another group or persons putting in an offer to continue the use. In such circumstances, it is deemed reasonable to consider alternative uses.

Heads of Terms

If the application is approved, a Section 106 Agreement will be required to secure the following:

- Contribution of £68,000 towards off-site Public Open Space (POS), Recreation and Outdoor Sports improvements (£51,000 towards off-site POS improvements & £17,000 towards off-site Recreation & Outdoor Sport improvements)
- Requirement to provide a private management plan to manage landscaping outside of domestic curtilages

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 total financial contribution of £68,000 is deemed necessary to ensure that the impact of the development upon nearby Public Open Space and Recreation and Outdoor Sports is mitigated.

The requirement to establish/hire a Management Company to manage the landscaping of the site outside of residential curtilages is required to ensure the development remains well screened from the most public vantage points in perpetuity.

The requirements are therefore considered to be necessary, fair and reasonable in relation to the development. The S106 recommendation is compliant with the CIL Regulations 2010.

Conclusions

The site lies entirely within the Cheshire Green Belt. Planning policy seeks to control new development within the Green Belt and does not support the construction of new buildings or uses within it, unless it is for one of the purposes set out in the policy. Those purposes include: the reuse of buildings provided they are permanent and substantial, and the development preserves the openness of the Green Belt and purposes of including land within it. In addition, it includes the redevelopment of previously developed land so long as the development does not have a greater impact on the openness of the Green Belt than the existing development.

The proposed development is deemed to fall within and adhere with the requirements of these Green Belt policy exceptions. As such, the proposals are deemed to represent appropriate development in the Green Belt.

Although the built form of the most historic elements of the on-site public house (The Swan) are to be retained as part of the development (as a conversion), the loss of the public house as a community facility is a material consideration. The applicant has submitted financial and marketing information to the Council which is deemed to effectively validate the reasons why the now former public house closed and demonstrates that the business was marketed for a sufficient period of time (2 ½ years) without any formal offers for the continuation of the use being received. As such, whilst the loss is regrettable, the weight afforded to its loss is limited at best. It is not the purpose of the planning system to perpetuate the continuation of a non-viable use in order to meet social objectives. It is also not the role of this application to consider alternative proposals for the site when no such proposals have been submitted for consideration/assessment at this time.

Although the location of the site is relatively isolated from larger communities and their associated public facilities, making it highly likely that the future occupiers would rely heavily of the use of private motor vehicles to travel to and from the site, this has historically been the case on this site given that the previous use was that of a public house and a hotel.

Planning benefits are derived from the re-use of two of the three most historical buildings on site. These are not formal heritage assets but have been identified as 'non-designated heritage assets' during the application process and as such, the retention of these, as well as the on-site milepost, as part of the development is welcomed.

No issues are deemed to be created by the application proposals with regards to design, amenity, highway safety, landscape, trees, ecology or flood risk and drainage, subject to a S106 Agreement to secure the management of the landscaping outside of the curtilages on site and conditions, where deemed necessary.

The application proposals will provide a commuted sum towards off-site Open Space in line with policy. This is proposed to be secured via S106 Agreement in the event of approval. No affordable housing is required as part of the development proposals when Vacant Building Credit is applied. The development does not trigger the requirement to provide health of education contributions due to the number of dwellings sought.

Subject to a S106 Agreement to ensure an on-site management company is provided to manage landscaping outside of curtilages in addition to securing the required commuted sums towards off-site open space improvements, along with planning conditions, the application is recommended for approval.

RECOMMENDATIONS

APPROVE subject to a \$106 Agreement to secure:

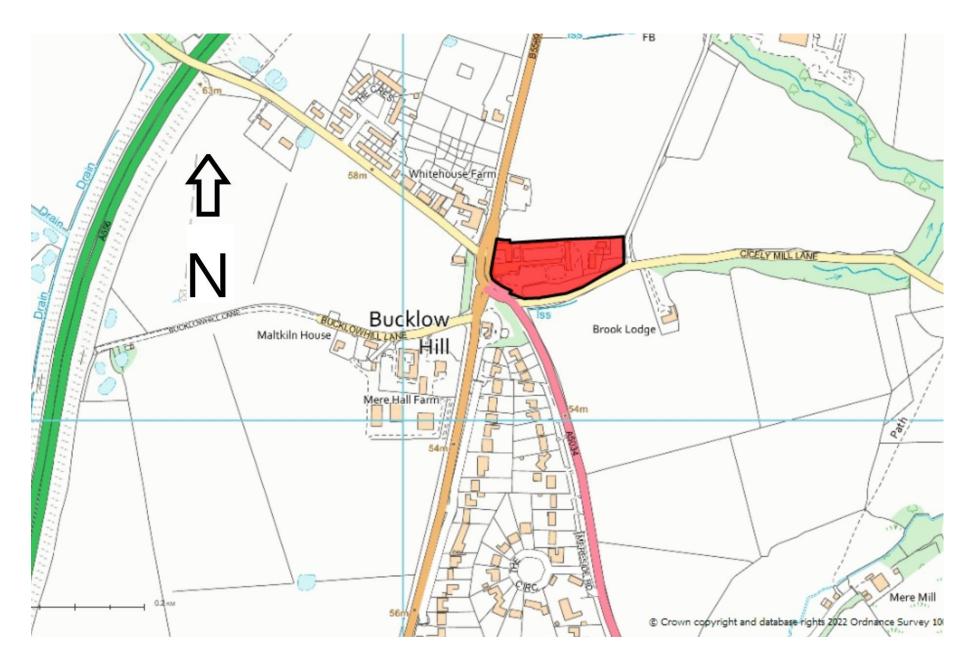
S106	Amount	Trigger
Public Open Space &	£51,000 towards off-site	Prior to commencement
Recreation and Outdoor	POS improvements	
Sports – Commuted		
Sum	£17,000 towards off-site	
	Recreation & Outdoor	
	Sport improvements	
Requirement to provide an on-site Management Company	Secure requirement to provide on-site Management Company to manage out of curtilage landscaping	Prior to occupation of any of the development

And the following conditions:

- **59. Time (3 years)**
- 60. Plans
- 61. Submission/approval of facing, roofing and external hard surfacing materials
- **62. Retention of Milestone**

- 63. Submission/approval of new or replacement window and door details to (Buildings 1 and 3)
- 64. Any new or replacement fenestration to Buildings 1 and 3 should include reveals to match
- 65. Removal of Permitted Development Rights (Part 1, Classes A-E and Part 2 Class A)
- **66.Obscure Glazing provision** (Plot 11 & 12 First-floor side bathroom window, Plot 13 & 14– Both first-floor, side bathroom windows and Plot 15 First-floor en-suite window on southern elevation)
- 67. Implementation of electric vehicle charging infrastructure details
- 68. Submission/approval an updated Conceptual Model (contaminated land)
- 69. Submission/approval of a verification report (contaminated land)
- 70. Submission/approval of a soil verification report
- 71. Works should stop in the event that contamination is identified
- 72. Submission/approval of cycle storage details
- 73. Submission/approval of updated Landscaping scheme (incl boundary treatment)
- 74. Landscaping Implementation
- 75. Submission/approval of levels details
- 76. Tree retention
- 77. Submission/approval of a Tree Protection Plan
- 78. Submission/approval of an updated Arboricultural Method Statement
- 79. Submission/approval of a service/drainage layout (trees)
- 80. Ecological Mitigation Implementation
- 81. Submission/approval of a Construction Environmental Management Plan (CMP)
- 82. Further Bat survey required if works do not start by May 2022
- 83. Nesting/breeding birds
- 84. Submission/approval of Ecological Enhancement Strategy
- 85. Implementation of FRA
- 86. Submission/approval of detailed overall drainage strategy
- 87. Submission/approval of a drainage management and maintenance plan

In order to give proper effect to the Committee's intent and without changing the substance of its decision, authority is delegated to the Head of Planning (Regulation) in consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice



Application No: 21/4669M

Location: Land West Of, ALDERLEY ROAD, WILMSLOW

Proposal: Approval of Reserved Matters (layout, landscaping,

appearance and scale) following Outline Approval 17/5837M - Outline permission for residential development, with all matters reserved except for means of access off Alderley Road,

together with associated infrastructure and open space

Applicant: Ms Siobhan Sweeney, Story Homes Limited

Expiry Date: 12-Aug-2022

SUMMARY

The principle of erecting up to 60 dwellings on this site has been approved by Cheshire East Council by Outline Planning Permission 17/5837M (which included matters of Access). This remans extant. This application considers the acceptability of the remaining reserved matters, namely: Layout, Scale, Appearance and Landscaping.

Following extensive negotiations and the receipt of various sets of revised and further plans, it is now deemed that the layout, scale and appearance of the application proposals is acceptable. It is considered that the scheme achieves the correct balance between respecting the specific design characteristics of Fulshaw Park and its gateway location as well as providing a good mix of properties in order to create a sustainable community. The provision of solar panels, water butts and the already required electric charging points ensure that the scheme can demonstrate strong green credentials.

The scheme is deemed to satisfy the requirements of the Council's Highway's Officer and would result in no notable concerns regarding neighbouring amenity or ecology subject to conditions.

Securing the relevant amount of affordable housing and mitigating the development's impact upon local education provision, health and flood risk were resolved or secured at outline stage.

With regards to landscape and open space, the technical detail of this part of the scheme is yet to be finalised/agreed.

Subject to the satisfactory receipt of outstanding consultee responses of these consultees, the application is recommended for approval.

RECOMMENDATION

APPROVE subject to satisfactory receipt of outstanding consultee responses and conditions

REASON FOR REFERRAL

This application is referred to Northern Planning Committee as it represents a residential development of between 20-199 dwellings. In this case, 54 dwellings are proposed.

SITE DESCRIPTION

The application site consists of a largely rectangular parcel of land located to the west of Alderley Road, Wilmslow. Alderley Road forms the eastern boundary of the site. Beyond the northern, western and part of the southern boundaries are dwellings accessed via Donkey Lane, Fulshaw Park and Fulshaw Park South.

The site rises in ground level from Alderley Road towards the residential properties beyond the application site to the west. A number of trees are located within the site, some of which are protected, and a hedge is located along the boundary with Alderley Road.

DETAILS OF PROPOSAL

Reserved Matters approval is sought for; Layout, Scale, Appearance and Landscaping following the approval of Outline permission ref: 17/5837M. The Outline permission granted approval for residential development, with all matters reserved expect for means of access off Alderley Road, together with associated infrastructure and open space.

The application proposes 54 dwellings, comprising of 38 market dwellings and 16 affordable dwellings (30%). Condition 16 on the outline permission restricted any reserved matters application to *'no more than 60 dwellings'*.

The proposed housing mix is as follows:

Detached

- 5-bed (x4)
 - *Lyme* house type 2.5-storey x4

- 4-bed (x13)
 - Capesthorne house type 2-storey x5
 - *Tabley* house type 2-storey x3
 - Gawsworh (Bay) house type 2.5-storey x4
 - Gawsworth house type 2.5-storey x1
- 3-bed (x15)
 - Dunham house type 2-storey, detached x9
 - Adlington house type 2-storey, detached x4
 - Walton house type Bungalow x2

Semi-detached

- 3-bed (x4)
 - Arley house type 2.5-storey x4
- 2-bed (x2)
 - Bollin house type 2-storey x2

Mews/Apartments (affordable units)

- 3-bed (x3)
 - Tatton house type 2-storey x3
- 2-bed (x7)
 - o Moreton house type 2-storey, x6
 - Bramall house type 2-storey, x1
- 1-bed (x6)
 - Bramall house type 2-storey x2
 - Mere house type 2-storey x4

RELEVANT HISTORY

22/1330M – Non-material Amendment to 17/5837M - Outline permission for residential development, with all matters reserved except for means of access off Alderley Road, together with associated infrastructure and open space) – Approved 5th July 2022

Note: Above permission granted approval for the further amendment to the Parameter's Plan approved by permission 17/5837M. This was in order to a) account for the construction of the footpath/cycleway improvement scheme on Alderley Road undertaken by Cheshire East Council so the scheme aligns and b) update the plan to show which trees are to be retained.

21/5744M – Advertisement Consent – Under consideration

21/3907M - Non-material amendment of 17/5837M - Outline permission for residential development, with all matters reserved expect for means of access off Alderley Road, together with associated infrastructure and open space) — Approved 26th July 2021

Note: Above permission granted approval to amend Condition 24 from 17/5837M. The condition required the submission/approval of a Design Principles Document that specified certain requirements. It was proposed that this condition wording be amended to simplify the condition. This was approved.

21/2927D - Discharge of Condition 24 on approval 17/5837M for Outline permission for residential development with all matters reserved expect for means of access off Alderley Road together with associated infrastructure and open space – Approved 8th August 2021

20/1435M - Non-material amendment to application 17/5837M - Outline permission for residential development, with all matters reserved expect for means of access off Alderley Road, together with associated infrastructure and open space) – Approved 28th April 2020

Notes: Above permission amended conditions 3 (approved plans) and 4 (submission/approval of a detailed drainage scheme). This allowed the detailed drainage plan, required by Condition 4, to no longer have to rely on an older outline drainage strategy, which was linked to the wider Royal London site, as set-out within the condition. It was proposed that the drainage for the application site come forward independently so the various parts of the Royal London site where not held-up by their conjoined drainage strategy. Condition 3 was updated to refer to an update Parameters Plan, removing any reference to the minimum development levels, influenced by the older drainage strategy, and the older outline drainage strategy itself.

17/5837M - Outline permission for residential development, with all matters reserved expect for means of access off Alderley Road, together with associated infrastructure and open space) – Approved 1st October 2018

17/4833S - EIA scoping opinion for residential development of up to 70 units – Approval required 11th December 2018

ADOPTED PLANNING POLICIES

The relevant aspects of the Cheshire East Council development plan to the application proposals include: the Cheshire East Local Plan Strategy (CELPS), the made Wilmslow Neighbourhood Plan (WNP) and the saved policies within the Macclesfield Borough Local Plan (MBLP).

Cheshire East Local Plan Strategy 2017 (CELPS)

LPS 54 - Royal London, including land west of Alderley Road, Wilmslow

MP 1 – Presumption in favour of sustainable development, PG 1 – Overall Development Strategy, PG 2 – Settlement hierarchy, PG 7 – Spatial Distribution of Development, SD 1 – Sustainable Development in Cheshire East, SD 2 – Sustainable Development Principles, IN 1 – Infrastructure, IN 2 – Developer contributions, SC 1 – Leisure and Recreation, SC 2 – Outdoor Sports Facilities, SC 3 – Health and Well-Being, SC 4 – Residential Mix, SC 5 – Affordable Homes, SE 1 – Design, SE 2 – Efficient Use of Land, SE 3 – Biodiversity and Geodiversity, SE 4 – The Landscape, SE 5 – Trees, Hedgerows and Woodland, SE 6 – Green Infrastructure, SE 12 – Pollution, Land Contamination and Land Instability, SE 13 – Flood Risk and Water Management, CO 1 – Sustainable Travel and Transport, CO 4 – Travel Plans and Transport Assessments

It should be noted that the Cheshire East Local Plan Strategy was formally adopted on 27th July 2017. There are policies within the legacy local plans that still apply and have not yet been replaced. These policies are set out below.

Wilmslow Neighbourhood Plan (October 2019) (WNP)

LPS1 – Sustainable Construction, LPS2 – Sustainable Spaces, LPS3 – Sustainable Transport, NE1 – Countryside around the Town, NE2 – River Valley Landscapes, NE3 – Green Links, NE4 – Countryside Access, NE5 – Biodiversity Conservation, TH1 – Gateways into Wilmslow, TA1 – Residential Parking Standards, TA2 – Congestion and Traffic Flow, TA4 – Access to Schools, TA5 – Cycling in Wilmslow, CR4 – Public Open Space, H2 – Residential Design, H3 – Housing Mix

Macclesfield Borough Local Plan Policy (MBLP)

NE3 – Protection of Local Landscapes, NE11 – Protection and enhancement of nature conservation interests, NE17 – Nature Conservation in Major Developments, RT5 – Open Space Standards, DC3 – Amenity, DC6 – Circulation and Access, DC8 – Landscaping, DC9 – Tree Protection, 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

Other Material Policy Considerations

National Planning Policy Framework 2021 (NPPF)

Of particular relevance are chapters in relation to; Achieving sustainable development, Decision making, Delivering a sufficient supply of homes, Building a strong, competitive economy, Ensuring the vitality of town centres, Promoting healthy and safe communities, Promoting sustainable transport, Making efficient use of land, Achieving well design places, Protecting Green Belt land, Meeting the challenge of climate change, flooding and coastal

change, Conserving and enhancing the natural environment and Conserving and enhancing the historic environment.

- National Planning Policy Guidance (NPPG)
- The Cheshire East Design Guide Supplementary Planning Document (SPD)
 Adopted
- Housing Supplementary Planning Document (SPD) Adopted
- The Three Wilmslow Parks Supplementary Planning Guidance (SPG) (2004)
 Adopted
- The Royal London Development Framework (2017) Approved Guidance
- Emerging Cheshire East Site Allocations and Development Policies Document ("SADPD")

The Revised Publication Draft SADPD was submitted to the Secretary of State on 29 April 2021. Following the examination hearings and report from the Inspector, Main Modifications were published for consultation between 19 April 2022 and 31 May 2022. The Council has recently published its report of consultation and the Inspector will take the representations into account in preparing his Examination report, which will be issued to the council in due course. The following policies are considered to carry moderate weight in the assessment of the application:

PG9 - Settlement Boundaries, GEN1 - Design principles, GEN5 - Aerodrome safeguarding, GEN6 - Airport public safety zone, ENV1 - Ecological network, ENV2 - Ecological implementation, ENV3 - Landscape character, ENV5 - Landscaping, ENV6 - Trees, hedgerows and woodland implementation, ENV7 - Climate Change, ENV12 - Air quality, ENV14 - Light pollution, ENV15 - New development and existing uses, ENV16 - Surface water management and flood risk, ENV17 - Protecting water resources, HER1 - Heritage assets, HER3 - Conservation Areas, RUR6 - Outdoor sport, leisure and recreation outside of settlement boundaries, HOU10 - Amenity, INF1 - Cycleways, bridleways and footpaths, INF3 - Highways safety and access, INF6 - Protection of existing and proposed infrastructure and INF9 - Utilities

CONSULTATIONS (External to Planning)

Head of Strategic Transport (CEC Highways) – No objections, subject to a condition requiring the submission/approval of a Construction Management Plan (CMP)

Environmental Protection (CEC) – No objections, subject to a number of conditions including implementation of submitted noise mitigation and the implementation of electric vehicle charging infrastructure. It is advised that conditions relating to dust management, a travel plan and contaminated land imposed as part of the outline permission be carried forward.

Lead Local Flood Risk Authority (CEC) – No objection in principle

Public Rights of Way (CEC) – No comments received at time of report (note: there are no PROW impacted by the proposed development)

Education (CEC) - No comments received at time of report (note: Education was considered as part of the Outline permission)

Housing (CEC) - No objections

ANSA Greenspace (CEC) – Unable to support the application proposals for various reasons including:

- Location of the proposed play area
- Lack of surveillance due to location of play area that can also lead to anti-social behaviour
- Concerns about the siting of the play area within a flood zone
- Proximity of site to a highway without a gate
- Lack of maintenance access
- How will the site be accessible all year round in all weather?
- Unsatisfactory access to the play area from the development site
- Insufficient detail provided for the play area itself, including specifications
- Concerns regarding the proposed surfacing material to be used in the play area
- A detailed management and maintenance plan is required for the open space and play area

NHS CCG - No comments received at time of report (note: Health was considered as part of the Outline permission)

Environment Agency - No comments received at time of report

United Utilities – Advise that they note the outstanding requirement for drainage details to be agreed as per Condition 4 on the outline and wish to be consulted on these when submitted. It is also advised that the revised layout overcomes initial concerns regarding access to public sewers being obstructed but wish to reiterate the point as an informative that UU will not allow building over or in close proximity to a water main.

Cadent Gas Ltd - Recommend the developer contact Cadent prior to the commencement of development in order to receive authorisation from the relevant network

Network Rail – 'No comments'

Ramblers Association – No comments received at time of report

Wilmslow Town Council – Object to the proposals for the following summarised reasons:

- Contrary Wilmslow Neighbourhood Plan Policy TH4 (Three Parks) as the elements of scale, massing and topography have not been adequately considered and incorporated
- Contrary to Wilmslow Neighbourhood Plan Policy TH1 (Gateways to Wilmslow) as it fails to deliver development of exceptional quality and architectural design required for such a key gateway
- Proposed tree lining along Alderley Road is inadequate
- Contrary to Wilmslow Neighbourhood Plan Policy TH3 (Heritage Assets) as proposal fails to demonstrate how it will lessen the impact on the setting of important heritage assets, in particular assets 15, 16 and 17 (Fulshaw Park, Chorlton House, Rostherne and Inglewood). Flats proposed on highest part of the site impacts these assets to a maximum. Any buildings in this part of the site should not exceed two-storey's in height
- Contrary to Wilmslow Neighbourhood Plan Policy H2 as it fails to respect the local character, the types of houses and their distribution within the wider area
- Surface water drainage should be dealt with within the defined site. Concerned that no SuD's plan accompanies the application
- Inadequate green infrastructure provision and the impact of on-going management is questionable
- Cannot see that the proposed development has demonstrated a net-gain in biodiversity (as per Wilmslow Neighbourhood Plan Policy NE5).
- Consider that the layout of the affordable homes within 3 areas is contrary to Wilmslow Neighbourhood Plan Policy SC5.
- Housing Mix Concerned that the affordable houses are the only small houses proposed on site

REPRESENTATIONS

In response to the re-consultation exercise inviting comments on the revised scheme, comments have been received from 17 residential addresses including 3 local interest/resident's groups. All consultation responses raise objections or concerns relating to the following matters:

Principle

No pressing need for the number of houses allocated to be built-out

Design & Heritage

• Design does not reflect its positions as a gateway site & fails to respond to the existing local character in scale, massing and design

- Scale Provision of 3-storey development adjacent to two-storey development; changes in levels will mean some units (e.g. 2.5-storey units) would appear considerably taller
- Overdevelopment of site / density too high contrary to Three Parks SPG
- Poor housing mix, lack of bungalows
- Impact of the development upon Fulshaw Park. The Three Parks SPG, which
 refers to Fulshaw Park, has been totally ignored. Larger individual houses with
 larger gardens. No semi-detached or terrace or anything above two-storey,
 insufficient landscaping
- Proximity of development to a Locally Listed Building (Chorlton House)
- Pressure for extensions within small rear gardens that would extend development even closer to the boundaries

Highways

- Insufficient parking provision, resulting in overspill
- Where will people park for the play area
- Increase in traffic as a result of the proposals

Amenity

- General proximity to neighbouring land and concerns that extensions built under permitted development rights would exacerbate the concern
- Garden depths of Fulshaw Park boundary loss of light as a result of boundary trees
- Loss of privacy for properties on Fulshaw Park and Broadacres, to the north of the site due to proximity and provision of 2.5 storey dwellings
- Concerns over proposals to plant a new tree on southern boundary due to loss of light
- Loss of privacy as a result of positioning of proposed play area to the south of the site
- Overbearing impact and overlooking (3, 4 & 5 Heathfield)

Flood Risk and Drainage

- Alderley Road notably susceptible to flooding
- The Alderley Road drainage solution (attenuation lake) is not working
- No surface water attenuation proposed as part of this development
- Any re-direction of surface water to the southern side of the site will worsen matters as its already boggy.
- Proposals will lead to an increase in flooding. Site already floods

Open Space

Play area in a poor position as drainage is bad

- How will play area and adjacent land be managed/maintained?
- Attraction of anti-social behaviour and youth congregation

Landscape

- Insufficient green infrastructure
- Future pressures to cut-back western boundary with Fulshaw Park due to short garden depths

Ecology

The application is not supported by a Biodiversity Gain Analysis

Affordable Housing

- Not 'pepper potted' throughout the site
- 'Affordable' housing in name only

Sustainability

Local schools and doctors are oversubscribed and pressures on dentists

Policies

- The following policies have been quoted by objectors that they consider the proposals be contrary to:
 - CELPS LPS54 (Strategic Site Allocation), SE3 (Biodiversity and Geodiversity), SE6 (Green Infrastructure), SD2 (Sustainable Development Principles), SE1 (Design)
 - MBLP DC3, DC38, DC41
 - WNP NE5 (Biodiversity Conservation), TH1, TH4
 - Three Parks SPG
 - Royal London Development Plan Key Principle 2 (Landscape) and 6 (Ecology)
 - Emerging SADPD ENV2

Other matters

- Northern boundary hedge is not within the ownership of the applicant.
- That the committee report relating to the outline permission did not refer to the Three Parks SPG
- Loss of view (note: not a material planning consideration)
- Concerns over maintenance of hedgerow near Post Box on the corner of Alderley Road and Fulshaw Park South

The following positive comments have also been received about the application proposals:

- Welcome the provision of a 'pocket park' (Design)
- Improved access to the proposed Play Area (Design / Open Space)

In response to the original consultation, objections were received from 21 addresses, including 3 local interest/resident's groups, raising the following concerns.

Procedural matters

- Planning permission has now expired
- Inaccuracies on plans along northern boundary missing trees, missing neighbouring dwelling (Orchard Villas)

Principle

- Housing targets have already been met
- Loss of Green Belt land

Design & Heritage

- Appearance Style not reflective of the surrounding area in this gateway location (Policy TH1 of Wilmslow NP), unimaginative. Contrary to Policy H2 of Wilmslow NP – fails to enhance and reinforce local character
- Contrary with the Three Wilmslow Parks SPG in terms of the space between the proposed houses
- Scale 3-storey properties are out of character, scale does not appear to have been designed in consideration of levels changes on site
- Mix No bungalows proposed which would free-up family homes; the form is not reflective of the local area which consists of large, detached dwellings; Concerned about the presence of semi-detached units (not in keeping)
- Density character is large dwellings on large plots, proposal does not reflect this
- Contrary to Neighbourhood Plan policy TH4 "All new development should reflect the existing form of Fulshaw Park." In addition, density is not commensurate with the local area
- Layout Provision of an unrelieved line of houses on western extremity of site too close to boundary; density too high; suggest a footpath/cycle link via to the north-western boundary into Fulshaw Park or The Stablings
- Heritage depreciate the value of local historical buildings

<u>Amenity</u>

 Loss of light and privacy due to proximity of properties that back onto the Rostherne / Heathfield area.

- Difference in levels in conjunction with the siting of 2.5-storey properties in particular, resulting in loss of privacy/overlooking and loss of light
- Lack of boundary treatment between Point A and B compounds problem
- Future occupiers poor light for those that back onto Fulshaw Park due to mature trees; small gardens
- Air and noise pollution as a result of increased traffic
- Impact of construction traffic noise and vibrations
- Creation of anti-social behaviour (dog fouling and drug dealing) as a result of providing public open space

Flood Risk & Drainage

- Site within a designated flood zone, concerned that proposals will lead to increased flooding
- More could be proposed with regards to Sustainable Urban Drainage (SuDs)
- No strategic drainage solutions proposed on Land to the West of Alderley Road which suffers from surface water flooding
- Photographic evidence that suggests the Drainage Solution to the East of Alderley Road is not working which in turn, is still resulting in the flooding of Alderley Road

<u>Highways</u>

- Impact upon traffic volumes
- Traffic 'hot spot'
- Road users will seek to utilise 'rat runs' as a result such as Fulshaw Park
- Suggest the provision of an extra car park at the top of Harrington House
- On-street parking will impact visibility from existing driveways and pedestrians
- No public parking for the play area/open space

Landscaping

- Existing trees and shrubs should be retained and any development should include a high proportion of soft landscaping
- Park area will be located on marsh as it currently drains poorly

Open Space

Only single access to proposed POS is through the housing development.
 Difficult to access for existing residents

Ecology

 No biodiversity net-gain analysis has been provided to ascertain whether any biodiversity off-setting will be required

- Loss of wildlife as a result of proposals
- Suggested mitigation deemed insufficient
- Suggest corridor to rear of site

Affordable housing

- Social housing should not be provided on this site, but elsewhere. Compromises the density of the site
- Insufficient information provided in relation to the Affordable housing mix
- Affordable housing is not 'Pepper Potted'
- Lack of justification as to how the provision meets the local affordable housing need

Other matters

- Breeches of existing covenants regarding the land being built upon
- Social housing should not be provided on this site, but elsewhere
- Loss of agricultural land
- Impact upon doctors, dentists and school places
- Impact upon house prices
- Land included within 'red dotted line' not in ownership of Story Homes
- Existing vegetation has been cut-back

Positive comments received include:

- Welcome the Landscape buffer along Alderley Road
- Welcome more homes into the area

OFFICER APPRAISAL

Procedural Matters

Several objector's have raised the question whether the outline permission to which this Reserved Matters application relates (17/5837M) has time expired. The only time limit condition attached to the outline permission was:

- 1. The development hereby approved shall commence before whichever is the later of the following dates:
 - (a) within three years of the date of this permission, or
 - (b) within two years of approval of the last of the reserved matters to be approved.

The 3 years expired on the 1st October 2021 meaning that 1(a) above became redundant, leaving just 1(b). Works therefore need to commence within 2 years of the approval of the last reserved matters. However, there is no further time limit condition which sets out when the Reserved Matters needs to be submitted by.

Upon closer review, Section 92 of the Town and Country Planning Act refers to Outline Planning Permissions. It states:

- '(2) Subject to the following provisions of this section, where outline planning permission is granted for development consisting in or including the carrying out of building or other operations, it shall be granted subject to conditions to the effect—
 - (a) that, in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and
 - (b) that, in the case of outline planning permission for the development of land in England, the development to which the permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved;
- (3) If outline planning permission is granted without the conditions required by subsection (2), it shall (subject to subsections (3A) to (3D)) be deemed to have been granted subject to those conditions.'

The condition required by (2) (a) above was omitted on the Outline permission. However, it automatically applies according to the Act. As such, an application for approval of the reserved matters <u>must be made</u> within 3 years of the expiration of the outline. Outline permission 17/5837M expired on the 1st October 2021. The application currently under consideration was received and registered by the Council on the 3rd September 2021, within the required window.

As such, the associated Outline permission is not deemed to have time expired.

Principle of development

This application shall consider the acceptability of the proposed development in the context of the reserved matters as the principle of erecting up to 60 dwellings on the site has been approved by the Council under the extant permission 17/5837M.

In this instance therefore, consideration of the Layout, Scale Appearance and Landscaping are the principal considerations, along with the consideration of any detail required to be submitted with the reserved matters as detailed by condition on the outline permission.

Design (Including Heritage)

The reserved matters sought for assessment relate to: Layout, Scale and Appearance, all of which are design considerations.

Policy context

There are numerous design policies within the development plan and within supplementary planning guidance that are relevant in the assessment of this scheme.

Within the adopted Cheshire East Local Plan Strategy (CELPS) are the following relevant, principal design policies: SE1 (Design), SD2 (Sustainable Development Principles) and SC4 (Residential Mix). In addition, the Strategic Allocation policy relating to this particular site (LPS54) includes design considerations. These policies were all adopted in 2017.

Within the Wilmslow Neighbourhood Plan (WNP), 'made' in 2019, are the following relevant design policies: LPS1 (Sustainable Construction), LPS2 (Sustainable Spaces), TH1 (Gateways into Wilmslow), TH4 (The Three Wilmslow Parks), H2 (Residential Design), H3 (Housing Mix).

In addition to the above is the following supplementary planning guidance; The Cheshire East Design Guide SPD, the recently adopted Cheshire East Housing SPD, The Three Wilmslow Parks SPG (2004) and the Royal London Development Framework (2017).

Design policies within the emerging SADPD, the NPPF and guidance within the NPPG are also material planning considerations.

It should be noted from the outset that given the number of relevant design policies that apply, there are instances where some conflict with one another. As such, consideration needs to be given to the weight afforded to the relevant policies that apply.

In addition to these policies, the Reserved Matters are controlled, to an extent, by the Parameters Plan approved as part of the Outline permission. This plan effectively sets a series of basic parameters that any future reserved matters application, such as the application proposals, would need to adhere too. It specified which part of the site where matters of 'Access' were approved, it identified that the extent of the land where the residential development would be located and the location and extent of the land that is allocated to be Public Open Space. In addition, it specified which trees would be retained, the location of existing and enhanced landscape buffers, an area of potential future residential development and the area that would form part of the outline drainage strategy for the site. A non-material amendment application subsequently tweaked this plan under 22/1330M. The plan was amended to account for the Cheshire East cycleway/footpath improvement works on Alderley Road and remove reference to x3 trees that were previously shown for retention. As such, the parameters plan that needs to be adhered to by this application is currently ALD-AHR-00-ZZ-DR-A-90-PL402 Rev 3.

Assessment

Layout

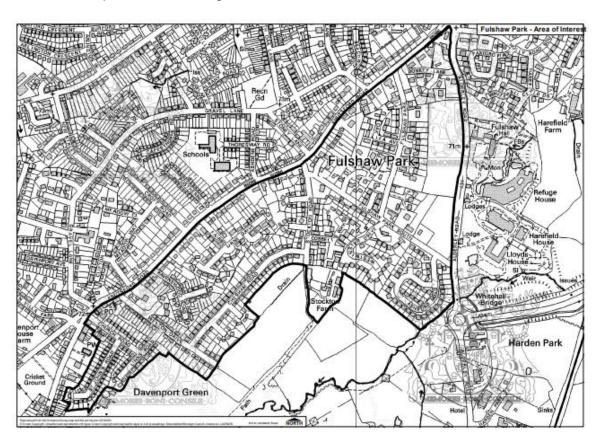
The application site is currently an open, largely rectangular shaped field located immediately adjacent to Alderley Road, Wilmslow. The plot narrows at its southern end when approaching the junction between Alderley Road and Fulshaw Park South. There are variations in levels on the site.

Surrounding the site is predominantly residential development (north, west and south), Alderley Road itself to the east, beyond which is the Royal London campus, which also falls within the Strategic Allocation for development under Policy LPS 54.

With regards to the existing surrounding character, the Landscape Character Assessment undertaken as part of the Neighbourhood Plan, identifies the area as 'Urban', outside of any defined character areas.

As demonstrated within the Neighbourhood Plan and the Three Parks SPG, the application site falls within Fulshaw Park, an identified area of specific characteristics. These characteristics are set-out within the Three Parks SPG.

Fulshaw Park covers a triangular area as set out below with the application site, currently shown undeveloped, to the far right-hand side:



The Three Parks SPG goes into great detail about the design characteristics of this area. The general character is set-out below.

Park is essentially a quiet residential area

- Has many mature trees and landscaping, creating green tunnels of foliage over the roads in places
- Dwellings are mostly 2-storey, detached houses. However, there are also examples
 of 3-storey dwellings, purpose-built apartments, detached bungalows, semidetached houses and apartments
- There are a mixture of periods and occur in groups with some having direct access onto the road and some being accessed via a cul-de-sac

The Three Parks SPG sets out that any proposed development should generally:

- Reflect the identified characteristics from density through to materials
- Proximity to highway
- Boundary treatments
- Medium-to-large detached, single-family dwellings. There are some semi-detached houses in the south which are modest. There are also bungalows in clusters.

The more up-to-date Neighbourhood Plan Policy TH4 sets out that any future development within the Fulshaw Park area should 'reflect the existing built form from Fulshaw Park which consists of medium to large detached single family dwellings and a small number of modest, semi-detached and bungalow properties in clusters.'

With regards to layout, the access details have already gained approval as part of the outline permission (17/5837M). The extent of the level of 'Access' approved is controlled by the approved parameters plan.

The proposed road layout, beyond the approved access arrangements, represents a series of cul-de-sacs which extend from a main 'T'- shaped road, that itself extends west from the access point with Alderley Road, then travels in a north-to-south direction.

Within the Three Parks SPG, specific reference is made to road layouts within Fulshaw Park. Other than Alderley Road to the immediate east of the site (which travels north-to-south and vice versa), the closest roads are Fulshaw Park which lies to the west. Fulshaw Park runs effectively parallel and follows a similar north-to-south axis as Alderley Road to the east as well as one of the principal roads proposed by the application layout.

The SPG goes on to state that all the main roads '...have cul-de-sacs leading off them with developments of varying numbers of houses..' In a similar vein, the road layout of the application proposals also propose this arrangement, reflecting the character of the layout of Fulshaw Park. The use of shared surfacing concept proposed away from the main routes is welcomed. For these reasons, the road layout of this application is deemed to be acceptable.

With regards to density, Policy LPS54 allocated 'around 75 [dwellings] on land West of Alderley Road'. The approved outline permission granted approval for no more than 60 dwellings. The application proposals seek permission for 54 dwellings. As such, below the

figure the Council has already accepted for this site and in particular, within this parcel of the site as controlled by the approved parameters plan.

Comparing the density visually on the proposed site plan, between the application site and the closest relatable developments to the west (Fulshaw Park) and the north, whereas these relatable plots generally comprise of dwellings with relatively large footprints on large plots, the application proposals comprise generally of buildings of large footprints but positioned within smaller plots. The applicant has consolidated much of the built form by revising the scheme during the application process in order to try and respect the surrounding built form's footprint as much as possible following officer advice. This has been achieved by introducing semi-detached units and the removal of a number of detached garages and garage blocks. In addition, the applicant is only seeking permission for 54 dwellings on site as opposed to the 60 permitted by the Outline permission. As such, the density is deemed acceptable.

With regards to the position of built form, it is noted that whilst some of the proposed dwellings are proposed to be constructed close to the edge of some of the internal roads, as revised, it is considered that a decent amount of green infrastructure is now achieved. The is particularly the case along the internal main road of the site that travels north to south. This offers a degree of relief from the built form. As such, no particular concerns are raised relating to the general position of the built form within the site from a design perspective.

In consideration of off-street parking provision, different solutions are proposed throughout the site. This includes frontage parking, parking down the side of properties and the provision of parking courtyards. Although frontage parking is not welcomed, it is not uncommon to Fulshaw Park. As such, the parking solutions are deemed acceptable from a design perspective.

There are no vehicular linkages through the site. The site would comprise of a single vehicular access in and out of the site. However, pedestrian/cycle access is proposed in 3 instances onto Alderley Road where bus services can be accessed (No.130 that travels from Macclesfield to Wythenshaw). In addition, pedestrian access is proposed to the south of the site so access is gained to the associated, proposed Public Open Space (POS), including the children's play area. Unfortunately, only a mown footpath can be provided from the residential part of the site down to the play area. This is due to the presence of a restrictive covenant preventing any built form between the site sought for housing and the play area.

It is proposed for there to be x2 pedestrian accesses to the POS and children's play area. One would be onto Fulshaw Park South, to the south of the site, and another onto Alderley Road to the east. It is deemed that these linkages act as suitable alternative for the occupiers of the residential part of the site to access the children's play area to the south in the winter months where the mown footpath is not suitable. Overall, the sites linkages are deemed acceptable.

In consideration of vistas, dwellings have been generally positioned so they are central to the end of a notable road therefore offering strong viewpoints/points of reference.

CELPS Policy LPS54 requires the incorporation of green infrastructure (GI) and the provision of POS at the southern end of the site, pedestrian and cycle links and high-quality landscaping including the retention and enhancement of features of amenity value such as tree and hedge lined frontages to Alderley Road. It is deemed that these requirements have been satisfactorily achieved.

For the above reasons, it is considered that the layout of the application proposals, as revised, reflect the general character of how Fulshaw Park is laid out that of straight main roads with cul-de-sacs leading off. The overall layout of the application proposals is considered to be acceptable for a combination of the above reasons.

Form & mix

With regards to form, as noted above, both the Three Parks SPG and Policy TH4 (The Three Wilmslow Parks) of the Neighbourhood Plan set out that any new residential development should reflect the existing built form of Fulshaw Park which comprises of medium-to-large detached, single, family dwellings and a small number of modest, semi-detached units and bungalow properties in clusters.

The application proposals seek a mixture of detached, semi-detached and mews/apartments style properties. The break-down of this mix based on the number provided is as follows:

- Detached 32 units (59.3%)
- Semi-detached 6 units (11.1%)
- Mews/apartments 16 units (29.6%)

This range is deemed to largely adhere with the character of Fulshaw Park insofar that the majority of the units, comprise of detached, medium-to-large properties. It is noted that the properties chosen to be positioned to the far west of the site extending in a linear north-south pattern to reflect the arrangement of properties beyond to the west are predominantly the larger, detached units to reflect the closest, relatable Fulshaw Park arrangement. This is welcomed.

The presence of a smaller percentage of semi-detached units is also deemed to be in line with the defined character of the area as referred to within the Three Parks SPG and Policy TH4 of the WNP.

The provision of Mews and apartments is not particularly characteristic of Fulshaw Park according to Policy TH4 of the WNP. However, it is noted that within the Three Parks SPG that there are examples of 'purpose-built apartments' and 'apartments formed by subdividing large detached houses.' Importantly, consideration needs to also be given the to the housing mix Policy of the CELPS (SC4). This sets out that new residential

developments should provide to a mix of housing tenures, types and sizes to help support the creation of a mixed, balanced and inclusive communities.

As such, there is a tension between the design policies in this instance with regards to housing mix. On one hand, the more localised policies suggests that the overwhelming form should be that of detached units, whereas the wider, Cheshire East Plan sets out that more of a mix should be achieved.

As such, the applicant has sought to attempt to address both policies as best they can. They have ensured that the majority of the site comprises of detached dwellings, but also introduced a small percentage of semi-detached, mews properties and apartments. Furthermore, a pair of detached bungalows are proposed adjacent to each other. Both Policy TH4 of the WNP and the Three Parks SPG refer to the presence of clusters of bungalows within Fulshaw Park. Although these are 1.5 storeys, the floor plans of these show the provision of two of the three bedrooms in each to be at ground floor level. This will assist in satisfying Policy SC4 of the CELPS criteria, supported by the Housing SPD that a form should be included that would be capable of meeting and adapting to the long-term needs of an ageing population.

It is deemed that as proposed, the built form of the dwellings proposed would largely respect the prevailing character with the provision of detached units, whilst also achieving a mix as per CELPS policy SC4. The form of the proposals is therefore deemed to be acceptable.

Scale

With regards to scale, the application proposals comprise of a mixture of one-and-a-half storey, two-storey or two-and-a-half storey development. A break-down of the scale is as follows:

- One-and-a-half storey: 2 units (3.7%). Max Height 6.4 metres
- Two-storey: 39 units (72.2%). Max Height range between 8.4 and 8.8 metres
- Two-and-a-half storey: 13 units (24.1%). Max Height range between 9.7 and 10.4 metres

Note: these max heights exclude chimneys and ground level changes.

The Three Parks SPG sets out that dwellings within Fulshaw Park are mostly 2-storey, but there are some examples of 3-storey dwellings, purpose-built apartments, semi-detached units and bungalows. Policy TH4 of the WNP, which specifically relates to the Three Wilmslow Parks does not specifically refer to scale when referring to Fulshaw Park. With regard to form, it sets out that the character is that of medium to large, detached and a small number of modest, semi-detached and bungalows in clusters.

As the vast majority of the development proposed would be two-storeys in scale, this would tie-in with the prevailing two-storey character. Whilst the development would comprise of

2 ½ storey development, this represents a low proportion of the scheme. In addition, dormers have been removed from the majority of these house types during the application process in order to reduce their mass and bulk. It should also be recognised that the presence of a few taller units adds a degree of interest to the streetscene and that 2 ½ storey units can be found immediately adjacent to the site beyond its northern boundary. The Parameter's Plan approved on the associated outline permission, which this development should adhere too, includes an annotation that the building heights are to be upto 2.5 storeys on the developable part of the site.

Consideration is also necessary as to how the variation of ground levels will impact the design. Within the submitted Finished Floor Levels Plan (FFL's), it is shown that the ground floor levels of the properties proposed will range between 71.8 and 74.5 AOD, a variation within the site of 2.7 metres. In general terms, the lower positioned development would be on the eastern, Alderley Road, side of the site and the higher positioned development towards to western boundary, with the highest part of the site being to the south-west corner. This variation in FFL's largely reflects where the existing site level changes occur at present albeit to a lesser degree.

As advised, the figures quoted in the above table do not account for changes in levels. In order to demonstrate how the differences in both ground levels, in conjunction with the varying heights will influence the design, a proposed spot levels plan and a series of streetscene plans have been provided. These demonstrate that the scheme achieves sufficient variation to create its own character as a result of the level changes that largely reflect the existing levels on site

With regards to footprint, the scale of the developments are not hugely dissimilar to the surrounding footprints. Overall, the scale of the development is deemed to be acceptable.

Appearance

The Three Parks SPG sets out some of the main appearance characteristics of dwellings found within Fulshaw Park. These include:

- Varied roof forms simple dual-pitched, gable-ended, simple hips to more complex forms of Victorian villas. Sometimes flat roofs to single-storey areas such as porches and garages
- Walls Victorian buildings either half-timbered or brick. Brick buildings have been rendered and have black timbers and either white render or white painted brick panels. Most post-Victorian housing is basically of brick construction though some have been rendered either fully or partially
- Built features Most of the properties on Fulshaw Park have at least one chimney of brick construction
- Windows Only a few houses on Fulshaw Park have dormer windows and these are mainly later additions. Usually are in the side elevations and provide light to first-floors. Dormers have not been inserted to make use of the loft space of 2storey dwellings

 Detailing – mock-tudor detailing has been picked up on newer developments further down Fulshaw Park South. Many dwellings incorporate tile-hung details or white, painted tounge-and-groove boarding. Some dwellings have more brick detailing such decorative band courses at first-floor level, window and door head cills and brick quoins

The application proposals seek the creation of 14 different house types/variations, a degree of variation that is welcomed. Noted, re-occurring characteristics of the proposed house types that tie-in with the above characteristics include:

- Dual-pitched roofs with a small amount of hipped and Mansard style roof styes
- Either exposed brick or render finishes
- Decorative brick such as brick band course (*Tatton, Arley*), quoins (*Dunham, Walton, Bollin, Tabley, Adlington, Moreton*)
- Chimneys (Dunham, Arley, Bollin, Capesthorne)
- Mock tudor painted timber beams (Arley, Tabley, Gawsworth, Capesworth)
- Within proposed Gawsworth house types x2, small dual-pitched dormer windows within the principal roof elevations are proposed (5 units in total)
- Either individual, dual-pitched canopy porches or front doors covered be elongated, horizontal lean-to features

As part of the application process, the applicant notably reduced the number of dormer windows proposed as it was acknowledged that these were not a characteristic of Fulshaw Park as specified within the Three Parks SPG. Now, only 5 dwellings are proposed with dormer windows. This limited number is deemed to add a degree of interest. In addition, the SPG does state that there are a few houses already with dormer windows in Fulshaw Park.

More flat-roofed features were added also during the application process in order to respect the local character as described by the Three Parks SPG. More specifically, flat-roofed single-storey outriggers have been added to the Tabley house type.

Concerns were raised about the degree of 'dead frontage' where blank elevations were highly visible within the streetscene. As such, the applicant has updated a number of the plots to either include additional openings or dummy openings. It is considered that these amendments overcome this concern.

For the above reasons, subject to a condition to ensure that the specific detail of the materials to be used on the facing walls and roofs of the buildings are to an acceptable standard, the appearance of the application properties is deemed to be acceptable.

Other design considerations

Green credentials

In consideration of sustainable development / green credentials, the outline planning permission conditioned the requirement to provide electric vehicle charging infrastructure. The detail of this has been advised as being acceptable by the Council's Environmental Protection Officer, subject to it being ensured it applies to each property with off-road parking.

Other than this, the scheme as originally proposed was lacking in this regard. As such, during the application process it was agreed that each dwelling be fitted with Solar PV panels and each dwelling be provided with a water butt for rainwater harvesting. This detail is shown on the submitted 'Green Credentials Layout' plan which would be secured by condition in the event of approval. These additions are welcomed and indeed represent a notable benefit of the scheme as a whole.

Heritage

Policy SE7 of the CELPS refers to matters of heritage. The crux of Policy SE7 is to conserve and enhance the character, quality and diversity of the historic environment of Cheshire East. Emerging Policy HER1 of the SADPD is also a material consideration. In consideration of designated heritage assets, the site lies on the opposite side of Alderley Road to Fulshaw Hall, which is a grade II listed building, and the grade II listed former stables and coach house (now a staff Restaurant to Royal London).

The Council's Heritage Officer, having considered the historic map evidence, advises that there is no designed or ownership relationship between the site of the listed buildings and the application site.

The listed Hall sits within a mature landscaped setting and is approached via a new entrance drive. The historic entrance lodge (South Lodge - curtilage listed) is now hidden in undergrowth. The gate lodge, stables / coach house and the Hall share this garden setting and the Council's Heritage Officer advises that the new development does not affect the setting of either building, either how they are appreciated or their significance.

Alderley Road is a generous width, with wide verges, and the application has preserved the character of the hedgerow which lies along the eastern boundary of the site. There are no impacts on designated heritage assets.

In consideration of non-designated heritage assets, the site also lies adjacent to two Locally Listed buildings. These are Chorlton House on Fulshaw Park and Rostherne, also on Fulshaw Park. Both of these are detached villas sit within large, landscaped grounds. They share boundaries with the application site. The Council's Heritage Officer has advised that these properties were laid out with views to the west and south, and positive views to the east (towards the application site), but these views appear to be contained to their large gardens and are deemed not to have a designed relationship with the application site. The gardens to each of these villas were planted with the mixed planting and large mature trees of their day. The Council's Heritage Officer advises that it is important that there is some recognition of the existing canopy but also provide

opportunities to supplement the boundaries if the trees are over-mature or if there have been losses.

Upon closer review, the Council's Landscape Officer has advised that there isn't scope to plant large trees within the small gardens along the western site boundary. As such, this suggestion cannot be carried forward. However, it is not considered that this lack of additional landscaping would result in harm to the setting of these assets to a level sufficient to warrant refusal of the application.

Parameters Plan

The proposed layout is considered to adhere with the requirements of the latest approved parameter's plan.

Original Urban Design Officer issues

The Council's Urban Design Officer raised a number of issues with the original scheme submitted for consideration and advises that these concerns remain as part of the revised scheme. The section below sets-out the main concerns raised and how the scheme, as revised, is deemed to overcome these concerns.

 Lack of information: More specifically a lack of detailed analysis of how the scale, massing and density of the scheme responds to the local context and setting of listed buildings. In addition, sought street hierarchy plans that highlight and match boundary treatments plans required within the design guide

Response: It is considered that a judgement of scale, massing and density can be made based on the information as submitted. The Council's Heritage Officer did not request the submission of any further information to assist their comments. The Council's Landscape Officer, as referred to later in this report has raised no objections in principle to the scheme, subject to conditions.

• Layout: Various concerns including:- position of Public Open Space and Children's Play area being remote from development and within the area of the highest flood risk; that the proposed affordable housing is clustered rather than 'pepper potted'; lack of external storage; that the density of the development proposed not reflective of local character; in terms of linkages, that connections could be improved by creating 'loop' routes / more to link the cul-de-sacs; that much of the proposed building line is too linear and should be more organic; that the position of the access be amended to avoid tree loss and finally the lack of private outdoor amenity space proposed for the affordable dwellings.

Response: Policy LPS54 of the CELPS sets out that 'A new public open space at the southern end of land west of Alderley Road' should be provided. The position of this POS was fixed by the Parameter's Plan approved as part of the outline planning permission. The position of the Children's Play area was also fixed by the

S106 Agreement associated with the outline approval to fall within the POS. As such, these elements cannot be re-visited as part of this application. Matters of flood risk are considered in the flood risk section of this report.

The affordable housing is located in three areas of the site, the far north, a small area centrally and the far south. As per Policy SC5 of the CELPS, supported by the recently adopted Housing SPD, affordable housing should be dispersed throughout the site. In this instance, the affordable housing is not all congregated together, but split up into 3 areas. This distribution is deemed to be acceptable. Furthermore, the Council's Housing Officer advises he has no objections to the position of the affordable housing within the site.

The amount of outdoor amenity space proposed for the affordable dwellings is deemed acceptable and commensurate with the size of the units. All affordable units have either a private or shared area of open space dedicated to that property.

An external storage layout plan has been provided as part of the revisions. This shows the position of external storage buildings (e.g. sheds) for all plots apart from plots 17-20 and 41-43 which include shared bin/cycle storage facilities. This plan also shows the bin storage positions of all plots. This plan is deemed to address this concern.

Matters in relation to density have already been addressed and are deemed acceptable for the reasons already set out. With regards to linkages, the applicant advises that due to 3 pedestrian/cycle links proposed along Alderley Road and the main access that these effectively act as a link and also enables more soft landscaping within the site. This is accepted.

With regards to the linear building line being overly formal, as set out within the report, it is considered that the road layout respects the road layout of the adjacent Fulshaw Park and is therefore deemed to be acceptable.

The position of the access cannot be amended as it is fixed by the outline permission.

 Scale: that a flat roofscape is proposed as the site being levelled, need to work with existing levels more

Response: As advised, there is a proposed variation in levels across the site and this largely reflects the levels on the site at present, albeit with the variation in levels proposed to be reduced. Nonetheless, as demonstrated by the proposed streetscene plans, it is deemed that the proposed levels add to the character of the proposed development.

 Appearance: That distinctive house types should be placed at junctions as a memorable locator and that a uniform approach should be taken to corner plots Response: It is deemed that distinctive house types have been placed at the main junctions that not only create attractive vista's looking along the highway, but also include double-fronted properties to add to the degree of interest. Where previously blank elevations fronted the streetscene, these have been updated to include windows or dummy openings in order to avoid dead frontages.

• Green credentials: Sustainable drainage solutions have not been provided and should be integral. Green possibilities re: green roads, rainwater buts, swales etc...

Response: This is deemed to now have been addressed with the revised submission. A 'green credentials' layout plan has been provided which sets out that each unit would include solar panels and a water butt. In addition, electric vehicle infrastructure is already secured for each dwelling with an off-road parking space by the outline permission.

 Landscaping/trees: Lack of green infrastructure, position of trees, potential loss of trees

Response: These matters are considered/addressed within the landscaping/tree section of this report based on the comments of the Council's Landscape and Tree Officer's.

Design conclusions

The proposed development, as revised, is deemed to be of an acceptable layout, form, scale and appearance and would therefore be acceptable when considered against the design policies of the development plan. It should be recognised that there is tension between the design policies applicable, but it is considered that the revised scheme has, as closely as possible, managed to achieve a scheme that adheres with them all, namely adhering with the local character as well as delivering a good mix of dwellings in order to create sustainable communities.

Landscaping

Matters of 'Landscape' are sought by this application. This includes the consideration of tree impacts.

Landscape

Policy SE4 of the CELPS refers to Landscape. The crux of the policy is to conserve the landscape character and quality and where possible, enhance and effectively manage the historic, natural and man-made landscape features that contribute to local distinctiveness of both rural and urban landscapes. Emerging Policy ENV5 of the SADPD is also a consideration.

As part of the outline approval (17/5837M), a number of landscape related conditions were imposed. These comprised of - that any future reserved matters be accompanied by finished floor levels (Condition 9); the submission/approval of boundary treatment prior to occupation (Condition 15) and that any landscaping plan approved as part of any future reserved matters application shall be implemented in accordance with various 'standard' requirements (Condition 23).

The Council's Landscape Officer has reviewed a revised set of information submitted during the application process.

In response to satisfying the condition requirements on the outline, the application is supported by a finished floor levels plan (Condition 9). This is deemed to be acceptable, and Condition 9 ensures that this detail is secured.

Condition 15 of the outline required the submission/approval of boundary treatment 'prior to the occupation' of any of the hereby approved development. As such, it is not necessary to assess this information at this stage. Nonetheless, the applicant has submitted this detail with a previous set of revised plans. However, the latest version of this plan has not been updated to reflect the latest set of revised plans. Furthermore, the previous version showed the provision of black and white Cheshire Railing detail. The Council's Landscape Officer advises that this detail should be updated when it comes to addressing this condition so it shows all-black estate railings with a straight top, not curved. As such, this condition on the Outline remains outstanding at this time. However, this detail does not need to be agreed at this stage. The submitted, outdated boundary plan will not form part of the approved plans list in the event of approval.

Condition 23 sets out that a landscaping plan, approved as part of any future reserved matters application, will be implemented in accordance with a set of standard requirements.

In response to the various landscaping detail submitted, the Council's Landscape Officer still seeks further amendments and clarification in relation to matters such as; planting details, ground levels, retaining wall details and hard surfacing.

There is insufficient time for this revised and further detail to be submitted and assessed prior to committee and as such, the acceptability of any further detail will be reported to committee in the form of a written update.

Subject to these conditions and the subsequent acceptability of the detail submitted, the proposals are deemed to adhere with the relevant landscape policies of the development plan.

Trees

Policy SE5 of the CELPS states that development which will result in the loss of, or threat to, the continued health and life expectancy of trees, hedgerows or woodlands, that

provide a significant contribution to the amenity, biodiversity, landscape character or historic character of the surrounding area, will not normally be permitted. Emerging Policy ENV6 of the SADPD is also a consideration.

As part of the outline approval to which this Reserved Matters application relates, the following conditions were either directly or indirectly tree related: Condition 3 (Approved plans – *Parameter Plan*) and Condition 7 (Reserved Matters to be accompanied by an updated Arboricultural Impact Assessment (AIA), Tree Protection Scheme and Method Statement).

In accordance with Condition 7, the application is supported by the abovementioned tree documentation, updated to reflect revisions provided during the application process. As such, this condition is satisfied.

Protected Trees

The Council's Tree Officer advises that all protected trees within the residential section of the site have, over time, died or been removed for other reasons. x4 trees remain on site that are subject to a Tree Preservation Order (TPO). These are located to the south of the proposed development beyond the land subject to the housing and are shown to be retained within the area designed as open space.

Impact on other trees

X6 trees and sections of hedgerow require removal to facilitate the development for various reasons. This includes x1 high value tree (T11 - Cat A), x4 moderate value trees (Cat B) and x1 tree in a poor condition (T3 - Cat U). The hedgerow removal includes x5 sections of moderate value (Cat B) hedgerow, totalling approximately 52 metres. These are proposed to facilitate vehicular and pedestrian access. It is advised that the remaining trees which form most of the site's tree cover will be retained as part of the development and protected during construction.

The Council's Tree Officer advises that the poor-quality tree (T3 - Sycamore) and one of the moderate value trees (T2 - Oak) require removal irrespective of the development proposal due to disease.

Two of the moderate trees (T7 – Plane and T8 – Oak) to the north of the proposed access and the high category tree (T11 – Plane) will require removal to either accommodate construction of the access or due to conflicts with the proposed surface water drainage. The remaining moderate category tree sought for removal T41 (Ash), is sought for removal to accommodate a retaining wall.

Impact of level changes

Changes in levels are proposed throughout the site. A Moderate Category Plane Tree (T4) will be subject to land level rises within the RPA which would not accord with best practice.

The reason for the changes in this location is to accommodate large diameter pipes for drainage reasons. The Council's Tree Officer is satisfied that alternative solutions to raising these levels are not available.

Changes in levels around the site access will broadly accord with best practice. A moderate (B) quality Sycamore (T1) is proposed for retention within the proposed pocket park. It is shown that levels will be raised around the stem base of this tree and that drainage is proposed to drain away any surface water within this space that may be created due to level changes.

Parameter Plan

In terms of how the application proposals align themselves with the Parameter's Plan, this plan has been varied since the determination of the original permission. Permission 22/1330M recently granted approval to amendments to the parameters plan for x3 trees originally required for retention to no longer be retained. The application proposals with regards to trees now broadly align with the updated Parameter's plan.

Tree conclusions

It is noted that approximately 105 new trees are proposed as part of the development. The Council's Tree Officer advises that this will go some way to ensuring that higher canopy tree cover along the Alderley Road boundary will be maintained and strengthened in the longer term. Whilst concerns in terms of the impacts to retained tree cover, the trees affected are not afforded any statutory protection and the Council's Tree Officer advises that these are not considered worthy of formal protection and the identified impacts to trees.

In the event of approval, the Council's Tree Officer recommends tree conditions be imposed. These include a) the submission/approval of an updated AMS which makes provision for hand excavation under arboricultural supervision where any excavation and all drainage (foul and surface water and sand silt land drainage systems) are proposed within the RPA of any tree shown for retention on the site and b) that the development be carried out in accordance with the submitted, updated AIA and Tree Protection Plan. The application proposals are therefore deemed to adhere with Policy SE5 of the CELPS and emerging Policy ENV5 of the SADPD.

Other Matters

Highways

A number of objections have been received in relation to highway matters.

Matters of 'Access' to the site have already been approved in the outline permission 17/5837M which includes any off-site impacts resulting from the scheme. This reserved matters application concerns the design of the internal infrastructure only.

Highway Design

There is a single access point to the site that connects to Alderley Road that has a ghost right turn lane. The internal roads are a mix of 5.5m and 4.8m carriageways and there are a number of private shared drives off the proposed adopted internal roads within the site. The road layout design is a standard format with linear roads although the design is largely dictated by the shape of the site and having the central single access point. The Council's Highway's Officer has advised that the proposed road design is acceptable and is suitable for adoption, turning heads are provided for refuse vehicles at the end of the cul-de-sacs.

Car Parking

There are mix of units proposed on the site ranging from 1 bed apartments to 5 bed houses totalling 54 units. Car parking has been provided mainly using driveways with some units having integral garages. Overall, the level of car parking provision across the development complies with CEC parking standards.

Neighbours have questioned the lack of parking available for the play area/open space to the south of the site for members of public which may seek to drive to the site from further afield. In response, given the small scale of the play area and space, it is deemed unlikely that members of public from beyond walking distance would regularly visit the site. However, for the occasional visitor, road-side parking is possible on nearby residential roads.

Accessibility

The internal roads are a mix of shared surface and roads with footways on both sides. The main access has a segregated footway on both sides and connects with the shared pedestrian/cycleway on the frontage along Alderley Road. The Council's Highway's Officer has advised that given that vehicles will be travelling at low speeds, it is not considered necessary to provide segregated paths internally. There are two additional footway connections to Alderley Road provided to the north and south of the site.

Highway Summary

The proposed internal road layout is acceptable in terms of meeting highway standards for adoption. There are a number of private drives that will not be adopted but are suitable to serve the small number of units proposed. The level of car parking provision conforms with CEC standards.

Subsequently, the Council's Highway's Officer raises no objections subject to a condition requiring the submission/approval of a Construction Management Plan (CMP). Although a cycle parking condition was also originally proposed, details of external storage for each property has now been provided.

Amenity

Policy DC3 of the MBLP states that development should not significantly injure the amenities of amenities of adjoining or nearby residential property or sensitive uses due to (amongst other considerations); loss of privacy, sunlight and daylight, an overbearing impact and environmental considerations. Policy DC38 provides the recommended separation standards. The CEC Design guide is a more up-to-date document and also provides separation standard guidance. Emerging Policy HOU10 from the SADPD is also a material planning consideration.

Policy SE1 of the CELPS states that development should ensure an appropriate level of privacy for new and existing residential properties.

Neighbouring amenity

The closest neighbouring dwellings to the application site comprise of the occupiers of the properties beyond the site to the north and those beyond the site to the west (and southwest). The impact of the proposed development upon the occupiers of all these neighbours are considered in detail below.

No.1 Orchard Villas (north):

This neighbouring property is the southern-most unit of a pair of semi-detached properties which were only relatively recently constructed. The side elevation of this property would lie parallel with the application site. The gap between the side wall of this property and the application site boundary is approximately 9.8 metres. This property is 2 ½ storeys tall. The main, two-storey side elevation of the properties proposed on the most north-eastern plot would oppose approximately half of the side elevation of No.1 Orchard Villas and would be approximately 13.5 metres away.

Within the side elevation of the closest proposed dwelling to this neighbouring property, no openings are proposed other than a solid door at ground floor level. As such, it is not deemed that the occupiers of No.1 Orchard Villas will be impacted by the development in terms of a loss of privacy.

Within the directly opposing part of the side elevation of No.1 Orchard Villa's are openings over two floors. These comprise of a utility room door at ground-floor level and a secondary bedroom window (with Juliet) and a small en-suite window at first floor.

As none of these neighbouring openings that would directly oppose the side elevation of the closest of the proposed windows represent sole windows to principle habitable rooms it is not deemed that the occupiers of No.1 Orchard Villas would be directly, unacceptably impacted by the proposed development with regards to a loss of light or an overbearing impact. It is also not deemed that the occupiers of this neighbouring property would be impacted by any openings on the front or rear on the closest neighbouring unit proposed to their property due to the off-set relationship.

The dwelling proposed on Plot 21 would be offset from the neighbouring dwelling itself and would lie parallel to the rear garden of No.1 Orchard Villas. It is measured that the two-storey rear wall of the dwelling proposed on plot 21 would be approximately 18.7 metres away from the rear garden of No.1 Orchard Villas. This is deemed far enough away not to cause concerns regarding overlooking/loss of privacy from this proposed dwelling into this neighbour's rear garden.

Broadacres (north):

Broadacres is a detached, 2 ½ storey dwelling located approximately 13 metres to the north of the site boundary (and to the rear of No.1 Orchard Villas). The principal elevation of Broadacres faces the application site. Directly opposing this elevation, the only elevated built form proposed is a single-storey, detached garage which would serve the dwelling proposed on plot 24. The remainder of the elevation of this neighbouring dwelling would front onto the front garden of the dwelling proposed on plot 24 and the side garden of the dwelling proposed on plot 23. The rear elevation of the proposed garage would be approximately 16.7 metres from the principal elevation of Broadacres. Given this distance and the single-storey nature of the proposed outbuilding it is not deemed that this, or any of the development proposed would result in any loss of amenity, light or an overbearing impact to Broadacres.

The two-storey rear elevation of the dwelling proposed on plot 23 would be approximately 10.9 metres from the boundary with Broadacres. Directly opposing the rear elevation of the dwelling proposed on plot 23 would be part of Broadacres driveway.

Within the side elevation of the dwelling proposed on plot 24, which also partly faces the garden of Broadacres, any first-floor window can be obscurely glazed, eliminating any overlooking/loss of privacy concerns onto the private amenity space of Broadacres.

Chestnut Cottage (north):

The rear elevation of No.3 Chestnut Cottage would be approximately 13.6 metres from the northern boundary of the site. However, the closest proposed dwelling (Plot 24) would be offset from this neighbour's rear elevation. At its closest point, the dwelling proposed on plot 24 would be approximately 18.4 metres away from Chestnut Cottage.

As advised above, subject to the obscuring of any first-floor window windows within the northern side elevation of plot 24, no loss of privacy concerns are raised. For a combination of the above reasons, it is not deemed that the occupiers of Chestnut cottage would be detrimentally impacted by the proposed development in terms of loss of privacy, light or an overbearing impact.

Neighbours beyond western boundary:

Chorlton House, Springfield, Barnfield, No's 3-6 Westgate, No's 3-5 Heathfield, Uplands Cottage and Rostherne all back onto the application site beyond the western boundary.

The impact of the proposed development upon the amenity of these neighbouring occupiers is also therefore a consideration.

All of these properties are in excess of the minimum separation standards away from any of the proposed dwellings. The closest of the relationships being that between No.3 Westgate and the dwellings proposed on plots 29 and 30. At this juncture, the two-storey development is at least approximately 32.7 metres apart. The policy minimum as set out within saved Policy DC38 of the MBLP is 25 metres in the case of 2-storey development or 32 metres in the case of 3-storey development. As such, at the proposed distances the development is not deemed to result in any notable amenity issues for the occupiers of the dwellings to the west of the site in terms of loss of privacy, light or visual intrusion.

A series of sections have been provided during the application process including a few that show the relationship of the closet dwellings to the properties on Fulshaw Park to the west. These demonstrate that these neighbouring properties are either located at a similar level as these neighbouring properties or at a lower level. As such, level differences do not alter the conclusions that the application proposals should not injure the amenity of the occupiers of the dwellings to the west with regards to loss of privacy, light and visual intrusion.

Beech House (south-west):

Beech House is a detached dwelling located approximately 10.3 metres from the south-western corner of the application site. The closest part of the development proposed to this neighbour would be the mews/apartments on plots 41-43. This proposed built-up form would be approximately 30.8 metres away from Beech House and would be notably offset from the dwelling itself. As such, Beech House itself is not deemed to be detrimentally impacted by the proposed development in terms of loss of privacy, light or visual intrusion. The first-floor windows within plots 41-43 would be positioned approximately 16.7 metres away from the garden of Beech House and they too, would be offset from this space. As such, it is not deemed that the development would create any concerns with regards to a loss of privacy for the private amenity space of Beech House.

Overall, it is not deemed that the proposed development would result in any unacceptable loss of neighbouring amenity.

Environmental amenity

In consideration of environmental amenity, Environmental Protection were consulted on the proposals at outline stage and as part of that approval, the following conditions were imposed: Travel plan to be submitted/approved prior to occupation (Condition 6), Submission/approval of a Construction Environmental Management Plan prior to commencement of development (Condition 10), Submission/approval of electric vehicle charging infrastructure prior to occupation (Condition 17), Submission/approval of a Phase II contaminated land report prior to commencement (Condition 18), submission/approval of a soil verification report prior to its importation (Condition 19), Works to stop if

contamination is identified (Condition 20) and that any future reserved matters be accompanied by an updated Noise Impact Assessment, including mitigation (Condition 22).

Of these conditions, which still apply, the only condition that required details to be submitted with the Reserved Matters application was Condition 22. This required the submission/approval of an updated Noise Impact Assessment (NIA). This accompanies the submission. This has been reviewed by the Council's Environmental Protection Officer who agrees with the findings. The proposed mitigation (inclusion of acoustically rated ventilator units and mechanically assisted ventilation) shall be secured by condition in the event of approval as this was not controlled by the original condition.

The application is also supported by electric vehicle charging infrastructure details as setout within the submitted Design & Access Statement. The Council's Environmental Protection Officer has advised that this detail is acceptable. However, as a plan detailing the location and type of infrastructure has not been provided, this condition remains outstanding at this time and will require subsequent approval. This is controlled by the outline approval.

No other comments are made by the Environmental Protection Team other than the acknowledgement that the conditions imposed on the outline still apply, unless altered by this permission.

Amenity of future occupiers

In consideration of the amenity of the future occupiers of the dwellings themselves, consideration needs to be given to the proximity/relationship of the proposed dwellings to the existing surrounding properties as well as their private amenity spaces. Consideration also needs to be given to the amount of private amenity space provided for each property. The relationships between the proposed properties themselves is a further matter.

The closest existing elevated built form to the application site is beyond the site to the north. Due to there being no windows within the side elevation of the closest dwelling proposed to the far north-east of the side, the future occupiers of this unit itself, would not be impacted in terms of loss of privacy, light or visual intrusion as a result of the application proposals. However, consideration needs to be given to whether the private amenity space of this unit would suffer from an unacceptable degree of overlooking from the occupiers of No.1 Orchard Villas.

The shared private amenity space would be 9.1 metres away from and would directly oppose the side elevation of No.1 Orchard Villas. Within the directly opposing side elevation part of Orchard Villas, at first-floor level is a double window to a bedroom suite and a window with a Juliet balcony to a dressing room. At second floor level is a double-window to another bedroom.

In response to this concern, the applicant has advised that landscaping could be proposed to shield this shared private garden from being overlooked by the occupiers of No.1

Orchard Villas. An indicative section has been provided to demonstrate this. In addition, an updated landscaping plan has been provided. These show the presence of a tree on the common boundary that would be retained in the event of approval. Whilst this mitigation would not completely screen the gardens of No's 17-20, it would provide a degree of screening. For this reason, along with the fact that the shared garden space is relatively large so a degree of relief can be achieved, it is not deemed that this relationship is sufficiently harmful to warrant refusal of the application.

Due to the off-set relationship between Broadacres and No.3 Chestnut Cottage to the north to the remainder of the proposed dwellings along the northern boundary, it is considered that these dwellings are either sufficiently offset from the closest gardens within the development or are a sufficient distance away not to cause concern.

Due to the distance of the dwellings beyond the site to the west and south-west from the development proposed, in conjunction with the levels details provided, it is not deemed that any of the dwellings proposed or their private amenity spaces would be impacted by the neighbouring units.

All 54 of the dwellings/apartments proposed would benefit either from a private or a shared private amenity space. There are no policy minimum standard and these spaces are deemed sufficient to allow the future occupiers to perform normal duties such as sit out, dry washing etc.

Within the site itself, minimum separation standards are generally met. However, there are various instances where they are not. However, the separation standards vary within adopted planning policy and there is an accepted degree of flexibility within development sites in order to achieve suitable design. There is also a degree of buyer beware. As such, subject to various openings being conditioned to be obscurely glazed, it is deemed that these relationships are acceptable in this instance.

Amenity conclusions

For the above reasons, subject to the above-mentioned conditions, it is considered that the development would adhere to the requirements Policy DC3 and DC38 of the MBLP and the amenity aspect of Policy SE1 of the CELPS and emerging Policy HOU10 of the SADPD.

Nature Conservation

Matters of ecology were considered at outline application stage. The Council's Ecologist raised no objections to the development, subject to conditions. These conditions were added to the outline permission and include the following requirements:

 Condition 11 (Reserved Matters to be accompanied by a detailed lighting scheme) (bats)

- Condition 12 (Reserved Matters to include details of how the existing hedgerows will be retained)
- Condition 13 (Reserved Matters should be supported by a strategy to enhance the biodiversity value of the site)
- Condition 14 (Prior to commencement of development a 10-year habitat management plan) shall be submitted and approved
- Condition 21 (Reserved Matters to be accompanied by an updated badger survey)

Condition 11

A lighting scheme has been submitted as required by this condition. The Council's Nature Conservation Officer advises that although there would be some localised light-spill onto vegetation along Alderley Road, this is not likely to have an adverse impact on bats due to the existing levels of artificial light associated with the road. This detail is therefore deemed to be acceptable. The implementation of this detail is controlled by this old condition.

Condition 12

Hedgerows are a priority habitat and hence a material consideration. Based upon the submitted Arboricultural Impact Assessment (AIA), the proposed development will result in the loss of a number of sections of existing hedgerow to facilitate access and drainage connections. A further section of hedgerow is also now lost on the northern corner of the site due to the construction of a shared private drive. The current landscape proposals include proposals for replacement native hedgerow planting, which the Council's Nature Conservation Officer advises is sufficient to compensate for that lost, if the loss is unavoidable which is deemed to be the case in order to deliver an acceptable scheme.

Condition 13

The Council's Nature Conservation Officer advises that an acceptable, revised, Biodiversity Enhancement Strategy, produced by Urban Green (May 22 version 04) has now been received to satisfy the requirements of this condition. In the event of approval, it is proposed to add a condition that this be implemented.

Condition 21

An 'other protected species' survey has been submitted as required by this condition. No evidence of activity was recorded during the submitted survey. Nothing further is required, and this condition is now deemed to be satisfied.

Bats

A number of trees are proposed for removal as part of the development. Further bat surveys of these trees has been undertaken. No evidence of roosting bats were recorded and the Council's Nature Conservation Officer advises that rooting bats are not reasonably likely to be present or affected by the proposed development.

Nesting birds

In the event of approval, a condition to protect nesting birds is recommended. This was not included on the outline permission.

Ecology conclusions

In the event of approval, it is proposed that the detail submitted to satisfy Condition 13 on the outline application be conditioned to be implemented and a condition imposed to protect nesting birds. Subject to these conditions, it is considered that the proposal would not result in any ecology concerns and the development would adhere with the ecology requirements of the development plan policies.

Flood Risk and Drainage

Flood Risk has been raised as a concern by a number of objectors as well as the Council's ANSA Greenspace Officer.

According to the Environment Agency maps, the site falls entirely within a Flood Zone 1, which represents the parts of the country subject to the very lowest flood risk with less than 0.1% chance of flooding.

Matters of flood risk have already been considered as part of the Outline Planning permission (17/5837M) for this site. As part of the outline assessment, a Flood Risk Assessment (FRA) accompanied the submission which was considered by both the Environment Agency and United Utilities.

It was concluded that there were no flood risk concerns, subject to conditions recommended by United Utilities that required the submission/approval of a detailed strategy for surface water drainage. This was added as Condition 4 to the decision notice. The Condition sets out that the strategy should be in accordance with the submitted FRA (and associated statement).

Since the determination of the outline permission, a revised, overall drainage solution for the wider Royal London site, across the road has been approved. Cheshire East Council's Strategic Planning Board granted planning permission (20/3107M) for drainage works in December 2020 to enable the independent delivery of residential planning permissions subject to this current application (Land to the West of Alderley Road) and the site also subject to housing (Land to the East of Alderley Road).

This is because prior to the approval of 20/3107M, the land subject to the current application had a drainage strategy intrinsically linked to a strategy approved on another residential scheme on 'Land to the East of Alderley Road' which meant that both sites could not be independently delivered.

The residential permission for 'Land to the West of Alderley Road' (17/5837M) has already been updated by a further permission (20/1435M) in order to ensure that its future drainage strategy is no longer linked to the older approved drainage details and as such, is free of the previously approved intrinsically linked strategy. This current application seeks to now provide its own drainage solution.

No formal drainage documentation accompanies the application proposals, just an indicative layout to assist the Council's Landscape Officer in their assessment of the scheme. However, Condition 4 on the outline, amended by permission 20/1435M, remains outstanding. This condition, as amended, still requires the submission/approval of an updated Flood Risk Assessment, Surface Water Drainage Strategy and an associated management and maintenance plan, prior to commencement of development.

As such, both the Council's Flood Risk Officer and United Utilities have advised that they have no objections at this stage.

The application is therefore considered to adhere with Policy SE13 of the CELPS and emerging Policy ENV16 of the SADPD.

Affordable housing

Policy SC5 of the CELPS sets out that in residential developments, affordable housing will be provided where 15 or more dwellings are proposed. In such circumstances, 30% of the development proposed should comprise of affordable dwellings.

As part of the outline planning permission to which this application relates (17/5837M), matters of affordable housing for this site were considered. As part of 17/5837M a S106 legal agreement accompanied the permission which secured the policy required 30% on-site provision. More specifically, it secured:

- 30% of the provision would be affordable
- That the split of the affordable housing provision would be 65% social rented and 35% intermediate housing

As part of the application proposals, a plan showing the layout of each tenure has been submitted. This has been reviewed by the Council's Housing Officer who raises no objections. The Officer also raises no objections to the spread/position of the affordable dwellings within the site. As such, the proposals are deemed acceptable with regards to affordable housing requirements.

Open Space

Matters in relation to Open Space were considered as part of the Outline application. As part of this, the Council's ANSA Greenspace Officer raised no objection to the scheme, subject to a financial contribution being agreed in respect of recreation open space, indoor recreation provision and the detailed layout going forward providing a LEAP and the required amount of open space within the site based on the number of units proposed.

The applicant agreed to this detail which was all subsequently included within a S106 Agreement that accompanied the permission.

As part of the S106 Agreement, the location of the play area within the site was fixed to be located within the far southern part of the site.

Condition 26 of the outline permission required details of the children's play area and how the wider open space will be laid out to accompany the reserved matters application.

The Council's ANSA Greenspace Officer objects to the application proposals for various reasons as summarised within the consultation section of this report. Many of these concerns relate to the location of the play area. More specifically concerns relating to its detachment from the proposed housing, its subsequent lack of surveillance and its position in an area that is claimed to flood.

In response, as advised, the location of the play area is fixed by the legal agreement and cannot now be altered by this application. As such, whilst these concerns are understandable, these concerns cannot be overcome at this stage.

The Council's ANSA Greenspace Officer also raises concerns about the fact that a mown path is proposed leading from the proposed housing through the Open Space to the play area. The Officer considers that such a proposal is unsuitable as it is not inclusive or accessible for all and during winter months may well be inaccessible due to bad weather. Again, this concern is agreed with. However, between the part of the site where the housing is proposed and the play area to the far south of the site, a third-party restrictive covenant exists which prohibits the erection of any built form. As such, it is not an option to lay a more formal path. Those persons with limited mobility and those wishing to access the play area during winter months can access this part of the site via the pavement on Alderley Road onto which pedestrian/cycle access is being created. This is deemed to be an acceptable alternative solution.

According to Environment Agency mapping, all of the application site falls within Flood Zone 1, land assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%). Furthermore, the Council's Flood Risk Officer, the Environment Agency and United Utilities have not raised any objections in principle to the scheme on flood risk grounds. A drainage scheme for the wider site is still to be agreed by condition and this detail will not be approved unless the detail is satisfactory.

In response to the more technical matters raised such as the surfacing material of the play area, the lack of gates, maintenance access for vehicles, more detail relating to the play area itself, including specifications and a management and maintenance plan, the applicant has subsequently provided updated details in an attempt to address these concerns. At the time of writing this report, the Council's ANSA Greenspace Officer had not provided updated comments on the acceptability of this further detail. A written update on the acceptability of this detail will be provided to committee.

Education and Health

How the proposals would impact local education and health provision/capacity were considered as part of the associated outline planning permission. As part of this outline, commuted sums were secured to compensate for both.

Other matters

The proposals have no direct impact upon Public Rights of Way's or Network Rail infrastructure.

Conclusions

The principle of erecting up to 60 dwellings on this site has been approved by Cheshire East Council by Outline Planning Permission 17/5837M (which included matters of Access). This remans extant. This application considers the acceptability of the remaining reserved matters, namely: Layout, Scale, Appearance and Landscaping.

Following extensive negotiations and the receipt of various sets of revised and further plans, it is now deemed that the layout, scale and appearance of the application proposals is acceptable. It is considered that the scheme achieves the correct balance between respecting the specific design characteristics of Fulshaw Park and its gateway location as well as providing a good mix of properties in order to create a sustainable community. The provision of solar panels, water buts and the already required electric charging points ensure that the scheme can demonstrate strong green credentials.

The scheme is deemed to satisfy the requirements of the Council's Highway's Officer and would result in no notable concerns regarding neighbouring amenity, or ecology subject to conditions.

Securing the relevant amount of affordable housing and mitigating the development's impact upon local education provision, health and flood risk were resolved or secured at outline stage.

With regards to landscape and Open Space, the technical detail of this part of the scheme is yet to be finalised/agreed.

Subject to the satisfactory receipt of outstanding consultee responses of these consultees, the application is recommended for approval.

RECOMMENDATION

APPROVE subject to the satisfactory receipt of outstanding consultee responses and the following conditions:

- 1. In accordance with Outline
- 2. Plans
- 3. Submission/approval of facing and roofing materials
- 4. Submission/approval of a Construction Management Plan
- 5. Implementation of Biodiversity Enhancement Strategy
- 6. Nesting birds
- 7. Implementation of Tree Protection Plan and AIA
- 8. Submission/approval of an updated AMS
- 9. Obscure glazing various
- 10. Implementation of Noise Mitigation
- 11. Submission/approval of a Landscape Management Plan
- 12. Submission/approval of details re: storage and re-use of soil

In order to give proper effect to the Committee's intent and without changing the substance of its decision, authority is delegated to the Head of Planning (Regulation) in consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice



Application No: 21/0289M

Location: FLORA GARDEN CENTRE, CHELFORD ROAD, HENBURY, SK11 9PG

Proposal: Redevelopment to provide a new, flexible commercial unit and 14 no.

residential dwellings with associated infrastructure and landscaping

Applicant: Mr Jamie Hall, Project Iris D Limited

Expiry Date: 17-Mar-2022

SUMMARY

The application proposes the re-development of previously developed land within the Green Belt containing a garden centre, tearoom / café and gift shop. The application seeks the demolition of the existing built form and the erection of x14 dwellings, including x4 affordable dwellings, and a small commercial unit that will consolidate much of the existing site's business in its place.

It is assessed that the scheme would not have a significant impact upon the openness of the Green Belt and as such, is deemed to represent appropriate development in the Green Belt and is subsequently deemed to be acceptable in principle.

Although the sustainability of the location of the site is not a merit of the proposals, it does lie within reasonable distance from a moderate proportion of public services and importantly, lies within close proximity to a regular bus service which links the site to various larger urban centres.

The provision of the commercial unit on site is deemed acceptable in this rural fringe location as the commercial use is already established and the proposals simply seek to consolidate their existing operations.

The development would be of a design that mimics a farmstead arrangement in this rural fringe location which works well. The development results in no issues in relation to amenity, highway safety, landscape, tree, ecology or flood risk and drainage concerns, subject to conditions where applicable.

Contributions are required to offset the impact of the development upon education and open space and a combination of on-site affordable housing and a commuted sum towards off-site affordable housing is proposed. These elements will be secured via a S106 Agreement in the event of approval.

For the above reasons, the application is recommended for approval, subject to a S106 Agreement and conditions.

RECOMMENDATION

APPROVE subject to a S106 Agreement to secure:

- Commuted sum of £32,685 towards secondary education
- Secure the provision of x4 on-site affordable dwellings and a commuted sum towards of 0.2 of an affordable dwelling off-site
- Commuted sum of £44,000 towards off-site Open Space provision (£33,000 Public Open Space and £11,000 Recreational Open Space)
- Requirement to establish a private management company in perpetuity for on-site open space

REASON FOR REFERRAL

This application has been referred to Northern Planning Committee as it involves residential development on a site that is over 1ha in size and therefore triggers one of the requirements within the Scheme of Delegation for applications to be referred to Northern Planning Committee.

DESCRIPTION OF SITE AND CONTEXT

This application relates to a site to the north of Chelford Road, Henbury, Macclesfield, covering an area approximately 1.2 hectares in size. Its currently in use as a garden centre and gift shop with tea rooms. The ground level of the site gradually slopes up from the highway to the rear of the site.

The site lies within the Green Belt and a Designated Local Landscape (DLL).

DETAILS OF PROPOSAL

Full planning permission is sought for the redevelopment of the 'Flora complex' to provide:

- 14 dwellings, comprising of:
 - X3 5-bed dwellings
 - X4 4-bed dwellings
 - X4 3-bed dwellings
 - X3 1-bed dwellings
- A commercial unit (approx.181sqm) to include:
 - Shop and communal dining space
 - An open-plan space to accommodate Flora to consolidate their existing retail operations
 - x2 food stalls (and associated storage)
 - Communal seating to be open to the public (e.g. like a café)
 - o WC's
 - Communal outdoor seating for all users
 - o 16 parking spaces

 A landscaped area incorporating an orchard, meadow and edible garden, all with a footpath running through

Revised plans/statements were received during the application process. The main changes relate to changes to the layout and in order to consolidate the development to a smaller area, a reduction in the scale of the commercial unit and the removal of a secondary access onto Pepper Street. The plans were further updated to incorporate additional parking in order to meet CEC parking standards.

RELEVANT HISTORY

11/3537M - Change of Use from Retail and Cafe to Offices Including External Alterations and Associated Car Parking – Approved 15th August 2012

Agent confirmed - not implemented.

10/2045M – Use of Whole Site as a Retail Garden Centre – Positive Certificate 7th October 2011

08/1581P - Change of Use from Retail and Cafe to Offices Including External Alterations and Associated Car Parking – Approved 1st October 2008

Agent confirmed - not implemented.

77673P - New Glasshouse; Re-siting Of Existing Glasshouse – Approved 18th May 1994

75081P - Single Storey Extension to Provide New Toilets – Approved 8th September 1993

73483P - Single Storey Extension to Link Horticultural Unit to Sales Area - Approved 24th March 1993

66444P - Proposed Glasshouse to Replace Existing Polytunnel – Approved 2nd April 1991

63660P – Proposed car park – Refused 27th June 1990

61544P – Proposed car park – Refused 31st January 1990

60126P – Non-Illuminated Entrance Sign – Approved 23rd November 1989

60125P – Sales kiosk – Approved 11th October 1989

56876P - Amended Elevations to Previously Approved Application No. 51836p — Approved 16th March 1989

51836P - Extension to Existing Shop Erection of Sol Span Horticultural Unit Widening of Existing Access – Approved 17th February 1988

ADOPTED PLANNING POLICIES

The relevant aspects of the Cheshire East Council Development Plan subject to this application are the Cheshire East Local Plan Strategy (CELPS) and the Macclesfield Borough Local Plan (MBLP). The relevant policies within these include:

<u>Cheshire East Local Plan Strategy</u> (CELPS)

PG1 - Overall Development Strategy, Policy PG2 - Settlement Hierarchy, PG3 – Green Belt, PG6 – Open Countryside, PG7 – Spatial Distribution of Development, 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, SE12 Pollution, Land Contamination and Land Instability, SE13 – Flood Risk Management, SC4 – Residential Mix, SC5 - Affordable Homes, IN1 - Infrastructure, IN2 - Developer Contributions, CO1 – Sustainable Travel and Transport and EG2 – Rural Economy

Macclesfield Borough Local Plan (MBLP)

NE1 – Areas of Special County Value, NE11 - Nature Conservation, Policy GC1 - Green belt (new buildings), H9 – Occupation of Affordable Housing, DC3 - Protection of the amenities of nearby residential properties, Policy DC6 - Circulation and Access, Policy - DC8 – Landscaping, Policy DC9 - Tree Protection, Policy DC38 - Guidelines for space, light and privacy for housing development and Policy

Other Material planning policy considerations

Emerging Cheshire East Site Allocations Development Plan Document (SADPD)

The Site allocations and Development Policies Document (SADPD) is at an advanced stage of preparation. The Plan was submitted for examination in April 2021, hearings took place in October and November 2021. Draft Main Modifications were consulted on during April and May 2022. Noting the relatively advanced stage of the SADPD it is considered that at least moderate weight should be applied to relevant policies, including the proposed modifications. Relevant policies include:

PG12 – Green Belt and safeguarded land boundaries, GEN1 - Design principles, ENV1 - Ecological network, ENV2 - Ecological implementation, ENV3 - Landscape character, ENV5 – Landscaping, ENV6 - Trees, hedgerows and woodland implementation, ENV7 - Climate Change, ENV12 - Air quality, ENV14 - Light pollution, ENV15 - New development and existing uses, ENV16 - Surface water management and flood risk, ENV17 - Protecting water resources, RUR6 - Outdoor sport, leisure and recreation outside of settlement boundaries, HOU10 – Amenity, INF1 - Cycleways, bridleways and footpaths, INF3 - Highways safety and access, INF6 - Protection of existing and proposed infrastructure, INF9 - Utilities

National Planning Policy Framework (NPPF) 2021 National Planning Policy Guidance (NPPG)

CONSULTATIONS (External to Planning)

Head of Strategic Transport (CEC Highways) – No objections

Environmental Protection (CEC) – No objections, subject to a number of conditions including; the provision of electric vehicle charging infrastructure, the submission/approval of a Residents Sustainable Travel Information Pack, the submission/approval of a Phase II contaminated land report; the submission/approval of a verification report; the submission/approval of a soil verification report and; works should stop in the event that contamination is identified; the submission/approval of a noise impact assessment/mitigation strategy for any plant and equipment (commercial unit); restriction over hours of use (commercial unit); restriction over the delivery hours (commercial unit); restriction over the use of the commercial unit, and the submission/approval of an odour abatement/control/mitigation statement in the event that the commercial building changed to a business whereby a odours arise. A number of informatives are also proposed.

Flood Risk Manager (CEC) – No objections, subject to a condition requiring the submission/approval of an overall drainage strategy and informatives

Housing Officer (CEC) – No objections, subject to the following being secured via a S106 Agreement: on-site affordable housing and the agreed contribution (£49,840) towards off-site affordable housing

Education Officer (CEC) – Require a contribution of £32,685 to offset the impact of the development upon local secondary schools

ANSA Greenspace (CEC) – Require a contribution of £44,000 to offset the impact of the development upon Public Open Space (£33,000) and Recreation Open Space (£11,000)

United Utilities – No objections, subject to a number of conditions including: the submission/approval of a surface and foul water drainage scheme, that foul and surface water be drained on separate systems, the submission/approval of a sustainable management and maintenance plan

Cadent Gas Ltd – No comments received

Henbury Parish Council – Raise the following concerns:

Highways – Breach of CEC Parking Provision standards, how deliveries can operate
effectively within such a small car park, traffic safety concerns regarding additional access
point

REPRESENTATIONS

In response to a re-consultation on the revised plans, letters of representation have been received from 2 addresses. These comments are summarised below:

- Revised scheme represents an improvement in terms of the removal of the access onto Pepper Street and a more compact commercial unit.
- Still have concerns about the design and scale of the proposed affordable housing (Design)
- Impact of the scale of the development sought with single-storey development being replaced by two-storey development (Design)

- Inconsistencies between plans e.g. with regards to the scale of the commercial unit (*Procedural*)
- Inadequate parking for the commercial unit (Highways)
- Increase in traffic likely to exacerbate nearby, existing busy junction (Highways)
- Impact on local services such as school places (Education)
- Flood risk and drainage
- Lack of green credentials

In response to the consultation based on the original proposals, letters of representation were received from 7 addresses. Objections to the scheme are raised for the following reasons:

- Procedural matters Little attention should be paid to nearby developments on Anderton's Lane and Rough Hey within Henbury as these were approved/allowed at a time of a different policy position; what is the nature of the proposed business use?; Lack of local engagement/consultation
- Green Belt Proposal will have a greater impact upon openness than existing development.
 Gardens have not been taken into account in assessing the impact upon Openness of the
 proposals upon the Green Belt (enclosed, domestic paraphernalia etc). Areas of
 hardstanding will spill into currently undeveloped areas of the site when added to the greater
 volume and height compared to existing structures, will have a greater impact upon
 openness; PDL excludes temporary buildings and as such, the glasshouses should be
 omitted from calculations/consideration
- Sustainability of the location local bus service does not run during unsociable hours
- Highways Impact upon local network due to increased traffic; Access onto Pepper St of concern, narrow (not wide enough for two cars to pass), sloping, no footpath, has poor visibility, no lighting and is part of National Cycle route - danger to cyclists, pedestrians and motorists and emergency services. Other access point is opposite a public house, raises concerns about safety and suitability of access; there have been historic planning permissions refused nearby for highway safety reasons
- Amenity Proposed use of Piling (vibration concerns); Impact of earthworks on stability of nearby properties; impact of any proposed business use on neighbouring amenity
- Trees Large Oak tree (T5) identified to be retained has been felled as have other mature trees in recent months
- Ecology Concerns as a result of above losses; contest that the proposals will have no threatening impact upon protected species
- Flood Risk & Drainage Flooding in wider parts of Henbury such as Dark Lane; no foul drainage details submitted with the application
- Utilities concerns that the site includes an electricity transformer and over-head cables that supplies the developed part of Henbury. Electricity North-West have not been consulted

• Education – lack of local school places

OFFICER APPRAISAL

Procedural matters

An Officer Site visit was undertaken on the 21st April 2021.

The scale of the proposed development falls short of it needing to be determined by planning committee and the application is not subject to a 'called in' request.

Principle of development

Whether or not Inappropriate development in the Green Belt

The site lies entirely within the Cheshire Green Belt.

Policy PG3 of the Cheshire East Local Plan Strategy (CELPS) seeks to control new development within the Green Belt and does not support the construction of new buildings within it, unless it is for one of the purposes set out in the policy.

These purposes include; buildings for agriculture or forestry, appropriate facilities for outdoor sport and outdoor recreation, for cemeteries and for other uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it; extensions or alterations to buildings provided that it does not result in a disproportionate additions over and above the size of the original dwelling; replacement buildings provided that the replacement is within the same use and not materially larger; limited infilling in villages, and limited affordable housing; limited infilling or the partial or complete redevelopment of previously developed sites provided they would not have a greater impact upon openness; mineral extraction, engineering operations, local transport infrastructure, the re-use of buildings provided that are permanent and substantial and development brought forward under a Community Right to Build Order.

The agent for the application considers that the proposals fall into the redevelopment of previously developed sites exception, detailed below.

"...the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development."

The NPPF's (2021) exception differs to that within Policy PG3 of the CELPS stating:

- "...the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
- not have a greater impact on the openness of the Green Belt than the existing development; or

- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable need within the area of the local planning authority.'

As the NPPF is a more up-to-date publication (2021 compared to 2017), the NPPF wording of the exception is principally to be used to assess the proposals at this time.

The first consideration of this exception is whether *all* of the site sought for development qualifies as 'previously developed land' (or PLD or brownfield land).

PDL is defined within the glossary of the NPPF as:

'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.'

The applicant has advised within their Planning Statement that 'we are satisfied that the land currently has permission for retail uses as a Garden Centre (use Class E)'.

In review of this point, although planning permission has been granted on two occasions for the conversion of two of the buildings on site to be used as offices – the main, larger building and the smaller building to the south of this (Tea Room) (11/3537M and 08/1581P), it did not appear from the site visit and indeed, the agent has subsequently confirmed, that these were never implemented. The have subsequently therefore, expired.

Between these permissions, a Certificate of Lawful Existing Use was granted for the 'Use of Whole Site as a Retail Garden Centre' (LPA ref: 10/2045M). No plans were referred to on the Decision Notice but submitted with the application and referred to within the Officer's delegated report for 10/2045M, was an updated Location Plan which it is reasonable to accept as the extent of the land subject to the positive Certificate as signified by the red edge.

This therefore suggests that the land subject to this application is indeed within the curtilage of the permitted 'Retail Garden Centre'.

As such, the full extent of the site sought for development has part of this application is accepted as falling within the PDL definition.

The next question is whether the structures sought for demolition are 'permanent' structures and not 'temporary buildings' as per the requirements of the NPPF, PDL definition, a point raised by an objector as part of the original consultation exercise. In response, there is no definition within the NPPF or the CELPS as to what constitutes a 'temporary' building, nor is there a definition of 'permanent' structures. Therefore, a degree of judgement is required. None of the buildings sought for demolition were subject to a condition that they were only permitted for a temporary period. There appears no reason to doubt that the main, larger building on site

and the building to the south, comprising of the Flora Flower and Gift Centre and Tea Room/Café respectively, are 'permanent' structures. The question therefore is whether the 3rd main building sought for demolition to be replaced, the glasshouse, used currently as the main garden centre element on site, is a 'permanent' structure.

The glasshouse has an 'L-shaped' footprint measuring approximately 270.2m2 and at its maximum height (on undulating ground), measures 4.1 metres. It comprises of a series of dual-pitched roofs. To the southern side and parts of the west and east, it has a buff stone dwarf wall. The remainder of the elevations are made up from metal framed glazing, including the roof and painted timber doors.

Planning history and a review of old arial imagery suggests that this structure has been in place for at least 13 years, and possibly much longer.

The Officer report for the Certificate of lawful use (10/2045M) established that the building was part of the wider 'retail garden centre' which sold plants and garden related products. For this reason, it is accepted that this building and the other land on site is not defined as 'agriculture'. Given the length of time that this building as stood and been functionally used and because visually, there appeared no good reason to consider the glasshouse to be a temporary structure based on its construction, it is concluded that the main glasshouse on site, currently used as a garden centre, is indeed a permanent structure for the benefit of this assessment.

Overall, for the above reasons, the land subject to the application is accepted as Previously Developed Land (PDL).

The second part of the Green Belt assessment is therefore whether the development sought would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable need within the area of the local planning authority.'

The second bullet exception applies a less ridged test than the first. As the proposal is for 11 dwellings or more in a defined 'Other Settlement and Rural Area', Policy SC5 of the CELPS dictates that there is a 30% affordable housing requirement. In the case of providing 14 homes, that would amount to 4.2 affordable dwellings being required/provided. Clearly part of an affordable housing cannot be provided on site. As such the requirement in such instances would either be for the number of on-site affordable to be rounded up to 5 or 4 on-site dwellings be provided and a contribution towards 0.2 of an affordable dwelling to account for the rest. Either option ensures the policy required minimum is achieved.

The Council's Affordable Housing Officer has confirmed that there is an identified local need for such housing in the area. As such, it is deemed that the second exception within this NPPF PDL Green Belt exception applies, and the openness test is whether the development proposed causes 'substantial harm' and not whether the development 'would have a greater impact upon openness'.

In consideration of openness, Paragraph 001 (2019) of the Green Belt NPPG sets out what factors can be taken into account in the assessment of openness. Three factors are listed and include-

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

To assist is assessing this a, comparison exercise between the existing and proposed development is required. The agent has provided some figures within their submission. For clarity, the Officer has also calculated the figures. A summary of both sets of calculations is setout below.

	Footprint (m2 -	Floor Space (m2 measured	
	measured externally)	internally)	Volume (m3)
Existing buildings (All)	1321 (Agent - 1292)	1282 (Agent - 1223)	5702 (Agent - 5413)
Proposed buildings (All)	1281 (Agent - 1116)	1739 (Agent - 1604)	6197 (Agent - 5619)
Percentage difference between			
Existing and Proposed dwellings			
(including outbuilding demolition &	3% reduction (Agent -	36% increase (Agent - 31%	9% increase (Agent - 4%
retention)	14% reduction)	increase)	increase)

This shows that there is not a hugely significant variation between the Agent's and the Officer's calculated figures between the existing and proposed built form.

In general terms, it is deemed that the proposed development would comprise of a similar or slightly smaller footprint to the development being replaced and would amount to only a 4-9% increase in volume, a figure not deemed significant. The 31-36% increase in floor space would be created through the introduction of two-storey development across the site (proposed dwellings) in the place of single-storey development, and as such, is tied in closely with proposed changes in heights.

The differences in the height of the development proposed is difficult to calculate. This is because of the varying existing levels and varying proposed levels. To assist in assessing these differences, the applicant has provided section plans. These show that although the land naturally rises in height from south to north from Chelford Road, the development proposed at the highest parts of the site to the north would be no taller than the existing development. This is because at the northern sections, it is proposed to excavate the land levels to accommodate the proposals.

As such, the additional floorspace that would be created as part of the proposed development would, due to the excavation proposed, not result in development that visually in openness terms, would be substantially harmful compared to the built form being replaced.

Another consideration is a comparison between the spread of the proposed development on the site compared to the spread of the existing built form. The proposals seek built form extending further into the Green Belt in numerous locations currently free from buildings, which in turn, has

an impact upon openness. More specifically, the two-storey dwellings proposed on plots 1-3, 5-7 and the proposed commercial unit.

However, unlike previous iterations of the proposal, this additional built form has been consolidated so it is grouped much closer together to either where (or close to where) the existing built form is located or nearby to neighbouring built form, with the majority of this located on areas of existing hardstanding.

Given that this proposed built form, not on the footprint of existing buildings, does not extend significantly beyond the extent of the existing built form into areas of greenfield Green Belt land, but towards other nearby built form such as the neighbouring residential dwellings to the east or the public house and its car park on the opposite side of Chelford Road to the south, it is not deemed that the spread of development would have a 'significant' impact upon openness, spatially.

Further to the above, the applicant has highlighted a notable reduction in the amount of hardstanding on site in the event of approval. They have specified within the submission that this would amount to a 47% reduction.

In addition to the residential and commercial parts of the site, the scheme also proposes the creation of a Meadow, Orchard and edible garden. This is proposed to the far north and west of the site and makes up a large portion of the overall land accepted as PDL. Within this part of the site, the submitted landscaping and external works plans show that the proposed edible garden would be rectangular in shape and it is advised within the updated Design and Access Statement that it would comprise of numerous '...raised and ground level beds...'. These would be surrounded by an area of loose gravel. Also, within this area would a couple of existing structures would be retained. Beyond this section, a mown footpath would be created extending from this space to the meadow and Orchard to the north.

Given the relatively minor nature of this element of the scheme, in conjunction with the overall reduction in hardstanding on the site, it is not considered that this part of the proposals would have a substantial impact upon the openness of the Green Belt. If anything, it is deemed that this element would represent a notable improvement to openness, primarily in spatial terms, and to a lesser extent, visual terms.

In consideration of the degree of activity / intensification of use aspect of openness, this is difficult to quantify in this instance. At present is a commercial use comprising of various elements. As proposed, the site would become predominantly residential use, with a degree of commercial use. There appears no reason to conclude one use would be substantially more intensive than the other given the amount of variables e.g. quiet times of the existing use compared to busy times, working from home etc. As such, it is not deemed that the proposed development would result in substantial harm to openness with regards to intensification of use.

Overall, it is not considered that the proposed development, as revised, would result in a 'substantial' impact upon the openness of the Green Belt and as such, would fall within the Previously Development Land (PDL) exception within Green Belt policy therefore represent appropriate development in the Green Belt.

Rural Economy

The application proposals include the erection of a commercial unit in a rural area. As such, Policy EG2 (Rural Economy) of the CELPS is a consideration.

Policy EG2 details that in rural locations (such as the application site), a number of types of development will be supported. Within the list relevant to the application proposals, includes development that:

- provides opportunities for local rural employment development that supports the vitality of rural settlements
- encourages the retention and expansion of existing businesses (Particularly through conversion of buildings)

The existing retail use of the site has been established through a historical planning permission. This encompassing retail use at present includes a garden centre, a shop and a tearoom.

The proposal seeks to consolidate some of these operations. It would include a retail function and a food/café element.

The principle of having retail on this site is already established by the extant use. The food offering is considered ancillary to the shop the same way a café within a shop would be. There is already a tearoom on site and this would be replaced as a result of the application proposals. As such, this element of the scheme would assist in the retention of part of the existing business on site and as such, would be deemed acceptable in principle in this location.

As such, the proposal is deemed to adhere with the requirements of EG2 of the CELPS.

Other Matters

Locational Sustainability

Policy SD2 of the CELPS refers to sustainable development principles. It is stated that one of these principles is that new development should provide access to a range of forms of key services and amenities. In order to assess this in more detail, a table is provided within the subtext of the policy which outlines recommended distances from application sites to amenities. An assessment of the scheme using this table is set out below.

It should be noted that the figures below are based on walking distances (not as the crow flies) but on real life distances.

The accessibility of the site shows that following services and amenities meet the minimum standard:

- Public right of way (500m) 290m Junction of Church Lane and Henbury Rise
- Outdoor Sports (500m) Pepper Street (5m) is on the National Cycling Network. Informal outdoor sports at Henbury Millennium Green 190m. Jasmine Park 1.4km
- Local meeting place/Community Centre (1km) 200m Henbury Church Hall
- Post Box (500m) 50m Pepper Street just off Chelford Road
- Bus stop (500m) 10m Chelford Road
- Public house (1km) Blacksmiths Tavern 15m

- Amenity open space (500m) 190m Millennium Green
- Convenience Store (500m) 50m Garage on Chelford Road
- Children's Playground (500m) 190m Millennium Green
- Public Park or Village Green (1km) 190m Millennium Green

The following amenities/facilities are all over the distances suggested:

- Bank or Cash Machine (1km) Tesco Broken Cross 1.5km
- Secondary School (1km) Fallibroome Academy 2.5km
- Primary School (1km) Whirley Primary School 1.2km walk and 2.2km drive. Broken Cross Primary and Nursery 1.8km.
- Leisure Facilities (1km) Macclesfield Leisure Centre 2.6km
- Pharmacy (1km) 1.9km Peak Pharmacy
- Supermarket (1km) 1.5km Tesco Broken Cross
- Medical Centre (1km) Macclesfield District Hospital 2.8km. Hope Cottage Surgery 3.8km
- Post Office (1km) Ivymeade Post Office 2.7km
- Railway station (2km where possible) 4.2km to Macclesfield Station
- Child-care facility (nursery or creche) (1km) Whirley Pre-School 1.2km

To summarise the above, the scheme is within approximately half of the recommended distances of the public services listed. However, importantly, this includes a bus stop. The bus stop is located with close proximity to the site, travelling in both directions (east and west), and this is served by the No.88 and the No.130 bus services. One of these services travels from the site westwards to either Altringham (No.88) or Wythenshawe Hospital (No.130), roughly every hour and stops at the following main destinations en-route: Alderley Edge, Wilmslow, Knutsford, Hale, Woodhouse Park and Newall Green. In the other direction, the service regularly takes the member of public into Macclesfield. Many of these locations include all the services listed in the sustainability checklist.

As a result, it is not considered that the refusal of this application on locational sustainability grounds could be sustained.

Design

Policy SE1 of the CELPS advises that the proposal should achieve a high standard of design and: wherever possible, enhance the built environment. It should also respect the pattern, character and form of the surroundings.

Policy SD2 of the CELPS states that development should contribute positively to an areas character and identity, creating or reinforcing local distinctiveness in terms of; height, scale, form and grouping, choice of materials, external design features, massing of development, green infrastructure and relationship to neighbouring properties and streetscene. These policies are supported by the Cheshire East Design Guide SPD. Emerging SADPD Policy GEN1 is also a consideration.

Layout

The submission includes a comprehensive analysis of the site and its context including an investigation into the predominant local typologies which has been used to inform the positioning of the blocks. The compact 'fold' courtyard is effective in both reducing the sprawl and providing a sense of enclosure. The commercial building is reminiscent of a barn and the whole layout is redolent of a farmstead.

Overall, the Council's Urban Design Consultant considers that the layout is successful in not only providing that enclosure with well-placed houses around a communal green, but also by incorporating the edible garden and community orchard on the sites boundaries resulting in softer edges and greater connection to the place.

Scale and Massing

The proposal comprises two-storey houses which are in-keeping, scale-wise, with those in the surrounding area and a single-storey commercial building to the street edge, which again sits well in the streetscape. It is advised that the built form is respectful of local typologies and the use of the topography and the subtle variations in house-types and ridge heights this is not considered to be problematic.

Appearance

Both the houses and the commercial block offers a clean and contemporary take on the local vernacular. Design features such as the brick detailing to the front facing chimneys, the timbered entrance porches and the generous fenestration result in a distinct and coherent place that incorporates a variety of house types. The vertically cedar-clad commercial building with the profiled metal roof maintains the farmstead aesthetic yet also looks sophisticated. This innovative yet restrained architecture is further supported by a carefully selected materials palette that seems appropriate for this location.

Parking

Parking has been well located so as to be close to homes but not dominating the street scene. With regard to materials, these spaces employ an attractive and contextually appropriate resin-bound gravel and are enhanced by some good quality landscaping.

The commercial building has a car park at the entrance comprising of interplanted paving system which is both permeable and attractive.

Public and Private Space

The proposed houses have private rear gardens which are all accessible with adequate space for both refuse/recycling and storage for bicycles etc. There are predominantly smaller but clearly defined private spaces to the frontages apart from plots 4 and 5 that would front/partially front the proposed communal green. The communal areas are sizable and with a mix of uses that enhance the environmental credentials of the development. Management of these spaces will need to be controlled.

Overall

The Council's Urban Design Consultant advises that this is a well thought out proposal that is a product of some excellent analysis and careful design. As a result, the impact of the new housing on the clearly sensitive setting, in design terms, is minimal. It is considered to be both from and of the place, and the raised design quality bar, required given the sites location within the Green Belt and a Designated Local Landscape, has been cleared.

As such, it is considered that the proposal would respect the local rural character and adhere to Policies SE1 and SD2 of the CELPS, the Cheshire East Design Guide SPD, emerging SADPD design policy GEN1 and the NPPF.

Amenity

Policy DC3 of the MBLP states that development should not significantly injure the amenities of amenities of adjoining or nearby residential property or sensitive uses due to (amongst other considerations): loss of privacy, sunlight and daylight, an overbearing impact and environmental considerations. Policy DC38 of the MBLP provides minimum separation distances.

Policy SE1 of the CELPS states that development should ensure an appropriate level of privacy for new and existing residential properties.

Emerging SADPD policies ENV7, ENV12, ENV14 and HOU10 are also a consideration.

Neighbouring amenity

The closest neighbouring residential properties to the application site are the occupiers of the group of cottages to the far south-eastern corner of the site on the junction between the A537 and Pepper Street comprising of Spinks Cottage, Spinks House/Spinks Farm, the x2 detached properties to the north (Henbury House and Hillside House) and the residential occupiers above the public house (Blacksmiths Arms) on the opposite side of the highway (A537) to the south.

The closest of the proposed development to the public house would be the mews properties proposed on the opposite side of Chelford Road, approximately 16.3 metres away. On the opposing part of the public house is the commercial use at ground floor and residential accommodation above. The main residential window that would oppose the proposed Mews dwellings would represent a lounge window. However, due to the intervening road and the fact that the lounge also benefits from an opening on another elevation, there are no significant neighbouring concerns in relation to loss of privacy, light or an overbearing impact upon the occupiers of the public house that would warrant refusal of the application.

In terms of the occupiers of Spink House/Farm, a semi-detached dwelling that fronts Chelford Road, at present, the rear elevation of this property lies parallel and just short distance away from the side/rear elevation of the tea shop / café. Partially within the place of the tearoom / café, the application proposes the erection of x4 mews properties that would be constructed at 90 degrees from Spink House/Farm's rear elevation, but also off-set from its rear elevation, so built form would no longer lie directly parallel to the rear of Spink House/Farm. In place of the built form to the rear of Spink House/Farm would be the rear garden of the dwelling proposed on plot 14. Subject to appropriate boundary treatment, this would represent an improvement to the amenity on this unit as its rear elevation would no longer directly oppose built form. Any possible overlooking concerns have been addressed through the submission of a section plan which demonstrates that through a combination of levels and boundary treatment, no such issues should occur.

Spinks Cottage is the adjoining property to Spink House/Farm and lies on the junction between Chelford Road and Pepper Street. The side/rear elevation of an outrigger to Spinks Cottage would be approximately 20 metres away from the rear elevations of the dwellings sought on plots 12-14. This gap would normally be sufficient in itself in order to avoid amenity concerns, but the application site is positioned at a higher ground level compared to Spink Cottage and would introduce two-storey development compared to the existing single-storey development. As such, consideration needs to be given as to whether the taller development in conjunction with the change in levels would result in any amenity concerns for the occupiers of Spink Cottage.

However, as demonstrated by the submitted section plans, due to a combination of levels and boundary treatments, no overlooking should occur. In addition, due to the set-back position of the built form from the common boundary and the west north-west position of the dwellings proposed on plots 10-14 compared to Spink Cottage, no concerns are raised in relation to an overbearing impact or loss of light.

In the event of approval, it is proposed that detailed spot levels and Finished Floor Level details be provided by condition for the whole site.

Also, in the event of approval it is proposed to remove Permitted Development Rights for Classes A (enlargement, improvement and alteration), B (additions to roofs) and E (buildings in curtilage) for the dwellings proposed on plots 9-14 so control over future development on these plots is retained in the interests on neighbouring amenity.

Of the proposed dwellings to the north, Henbury House would be closest to the development proposals. It would be approximately 18.9 metres away and would be offset from the side elevation of the dwelling proposed on plot 9 sufficiently so not to cause a loss of amenity in terms of privacy, light or an overbearing impact.

Environmental amenity

The Council's Environmental Protection Officer's who consider matters of environmental amenity have reviewed the proposals and raised no objections, subject to a number of conditions and informatives. More specifically, the following conditions are proposed: the provision of electric vehicle charging infrastructure, the submission/approval of a Residents Sustainable Travel Information Pack, the submission/approval of a Phase II contaminated land report; the submission/approval of a verification report; the submission/approval of a soil verification report and; works should stop in the event that contamination is identified; the submission/approval of a noise impact assessment/mitigation strategy for any plant and equipment (commercial unit); restriction over hours of use (commercial unit); restriction over the delivery hours (commercial unit); restriction over the use of the commercial unit, and the submission/approval of an odour abatement/control/mitigation statement in the event that the commercial building changed to a business whereby a odours arise. A number of informatives are also proposed.

Amenity of future occupiers

Having regard to the future occupiers of the proposals themselves, each of the proposed dwellings is deemed to have a garden of sufficient size, some of which would be terraced, in order to be used for normal functions. Although the gardens to the rear of the dwellings proposed on plots 1-3 would be small, there are no minimum garden standards in this part of Cheshire East.

In terms of the relationship between the proposed dwellings themselves, there is an uncomfortable relationship between the dwellings proposed on plots 1-3 and the side elevation of the dwelling on plot 14. The rear elevation of the dwellings proposed on plots 1-3 would be between approximately 5.4 metres (single-storey) and 6.4 metres (two-storey) away from the side elevation of the dwelling proposed on plot 14. Looking closer at the proposed plans of these dwellings (Plots 1-3), on the rear elevation would be a large ground-floor window to an open-plan living room kitchen which would also benefit from light from 2 other elevations (in terms of plots 1 and 2), or 1 elevation (in terms of plot 2). At first floor of each unit would be a bedroom window, which would also have light/outlook from an opening on the opposing elevation.

Within the side elevation of the dwelling proposed on plot 14, at first floor would be a window to an en-suite.

As such, none of the windows impacted would represent sole windows to principal habitable rooms, therefore allowing a degree of flexibility on separation standards. As such the dwelling-to-dwelling relationship is accepted, subject to the first floor en-suite window on Plot 14 being conditioned to be obscurely glazed.

Whilst it is accepted that the private amenity spaces for these units would be oppressive due to their confined nature, the space still offers a private outdoor area and there are no minimum standards to adhere too. In addition, the occupiers would have access to the nearby meadow & orchard also proposed by this application. To ensure control over retaining, within reason, the small amount of garden space for these dwellings, in the event of approval, it is proposed to remove permitted development rights for these plots for enlargements, improvements and alterations (Class A) and buildings within the curtilage (Class E).

Another area of consideration is a loss of amenity between gardens on plots 6-8 as a result of their proposed tiered design. However, a sectional plan has been provided that demonstrates that because of boundary treatments, any loss of privacy would not be significant. There will also be a degree of buyer beware in relation to these plots.

In the event of approval, it is proposed to add a condition to the side window to Bedroom 3 on Plot 8 in order to prevent any loss of privacy between this dwelling and the dwelling proposed on plot 10.

As such, subject to the above conditions and informatives, it is considered that the development would adhere to Policies DC3 and DC38 of the MBLP and the amenity aspect of Policy SE1 of the CELPS and emerging SADPD policies ENV7, ENV12, ENV14 and HOU10.

Highways

The site is currently a garden centre located along the A535 Chelford Road which acts as the main vehicle access and there is a secondary access from Pepper Street.

Access

Revised plans have been submitted in response to the previous highway comments on this site, the site now has a separate access to both the commercial and residential elements of the site from Chelford Road.

The commercial access has been located further west from the existing access point and provides adequate visibility in both directions. The new residential access that serves the 14 units is located at the existing site access point which also provides adequate visibility.

16 spaces being provided for the commercial unit which adheres with CEC parking standards. The parking for the residential elements is also acceptable.

The submitted plans indicate that cycle parking will be provided near to the commercial building and also the bin collection will take place from within the site.

The internal roads of the residential element are shared surface. The Council's Highways Officer advises that this is acceptable given the low number of properties that will be on the site and speeds will be low. Swept paths have been provided indicating that refuse vehicles ae able to turn within the site.

Development Impact

The existing use as a Garden Centre needs to be taken into account when assessing the impact of the site that in itself generated traffic movements. The Council's Highway's Officer advises that the proposed development of 14 dwellings and 181 sqm of commercial will not result in higher levels of traffic generation on the local road network and is acceptable.

Conclusion

The revised plans address previous highways concerns and the Council's Highways Officer raises no objections. As such, subject to a condition to ensure the access is provided, the proposals are deemed to adhere with Policy DC6 of the MBLP and emerging SADPD Policy INF3.

Landscape

The site lies within the Green Belt and a Designated Local Landscape (DLL) known as the Alderley Edge and West Macclesfield Wooded Estates (formerly known as the Bollin Valley ASCV). As such, paragraphs 3 and 4 of Policy SE4 of the CELPS are also relevant as they relate to designated landscapes. Emerging SADPD Policy ENV5 is also a consideration.

The application is supported by an updated Landscape and Visual Impact Assessment (LVIA) was submitted, revised to account for the amendments made during the course of the application. This indicates that it had been undertaken in accordance with the methodology and approach of the Guidelines for Landscape and Visual Impact Assessments, Third Edition, 2013.

This identifies the baseline landscape in terms of the National Character Area – NCA:61 Shropshire, Cheshire and Staffordshire Plain and the local character as identified in the Cheshire East Local Character Assessment, as LCT11 – Higher Wooded Farmland and specifically LCA 11b Gawsworth.

Policy SE4 of the CELPS (Landscape) identifies that in Local Landscape Designation Areas, Cheshire East will seek to conserve and enhance the quality of the landscape and to protect it from development which is likely to have an adverse effect on its character and appearance and setting, this policy also identifies that a full understanding of the context, characteristics and significance should be provided with reference to the Local Landscape Designation Study.

The site is currently used for commercial purposes and that the proposals include areas of open space, wildflower meadow, orchard and elements of green infrastructure and seek to retain much of the existing hedgerow. The Council's Landscape Officer does not consider that the proposals will result in any significant landscape or visual impacts. However, because the detail of the submitted landscaping plan to date lacks the necessary detail, recommends a condition in the event of approval requiring the submission of an updated Landscaping Plan and a subsequent landscaping implementation condition.

The hard boundary treatments proposed on the submitted external works plan is considered sympathetic and acceptable.

In order to ensure that the private, on-site open space and incidental areas of open space are effectively managed in perpetuity, it is proposed that a private management company be established and secured by way of a S106 in the event of approval. Subject to this and the above conditions, the proposals would adhere with Policy SE4 of the CELPS and emerging SADPD Policy ENV5.

Trees & Hedgerows

This amended layout has been supported by an updated Arboricultural Statement by Cheshire Woodlands - (CW/1037-AS-1) REVISED 12/5/2022.

Of the trees formally surveyed on the site the new layout indicates that 1 individual moderate quality B Category trees, 6 groups and 2 areas of low-quality C Category trees and 1 hedgerow will be removed to accommodate the development. This equates to just 1 additional tree being removed to that formally found acceptable with the last layout. The tree is a moderate quality roadside Oak and the Council's Tree Officer has advised that it is not considered to be of sufficient arboricultural significance to warrant formal protection and there are no objections to its removal. The Council's Tree Officer advises that the trees removal will be mitigated for by the increased area of open space adjacent to the roadside which is shown to benefit from new planting of semi mature and extra heavy standard trees.

The revised layout provides improvements in terms of the relationship with trees to the southwest corner of the site with no incursion indicated into the RPAs of trees T3, T4, T6 and T7.

A residential plot (Plot 9) is now shown to be positioned near off-site trees in group G4 which can be seen to overhang the boundary. However, pruning solutions exist to maintain appropriate clearance from the northern elevation. The Council's Tee Officer notes that the extent of new hard surfacing indicated on the Tree Protection Plan has been significantly reduced with increased areas of amenity grass.

The Council's Tree Officer therefore raises no objections to the proposed development, subject to a condition requiring that the proposed works proceed in accordance with the submitted Arboricultural Statement, Tree Protection Scheme and Arboricultural Method Statement.

Subject to these conditions, the proposal is deemed to adhere with Policy SE5 of the CELPS and emerging SADPD Policy ENV6.

Nature Conservation

The application is supported by an Extended Phase 1 Habitat Survey and a Daytime Bat Survey and a Biodiversity Impact Assessment. This has been reviewed by the Council's Nature Conservation Officer who has broken down the ecological considerations into various subheadings. This is detailed below.

Bats

The Council's Nature Conservation Officer advises that roosting bats are not reasonably likely to be present or affected by the proposed development.

The Officer advises that whilst the application site offers limited opportunities for roosting bats, bats are likely to commute and forage around the site to some extent. To avoid any adverse impacts on bats resulting from any lighting associated with the development, the Council's Nature Conservation Officer recommends that in the event of approval, an external lighting scheme be conditioned.

Biodiversity Net Gain

CELPS Policy SE3(5) requires all developments to aim to positively contribute to the conservation of biodiversity. In order to assess the biodiversity losses and gains resulting from the proposed development the applicant has undertaken a calculation using the Biodiversity Metric methodology. This calculation shows that the proposed development would result in a net gain for biodiversity. The Council's Nature Conservation Officer advises that he has made a number of revisions to the metric as submitted. However, the revised metric still shows the scheme delivering a net gain. The proposed development is therefore in accordance with Policy SE3 of the CELPS.

In the event of approval, the Council's Nature Conservation Officer recommends the submission of a habitat creation method statement and a 30-year habitat management plan.

Ecological enhancement

This planning application provides an opportunity to incorporate features to increase the biodiversity value of the final development in accordance with CELPS Policy SE3.

The Council's Nature Conservation Officer therefore recommends that the applicant submits an ecological enhancement strategy prior to the determination of the application or if planning permission is granted a condition should be attached which requires the submission of an ecological enhancement strategy. This has not been provided so shall be conditioned in the event of approval.

Nesting Birds

If planning consent is granted, the Council's Nature Conservation Officer recommends a condition to protect nesting/breeding birds.

Due to a lack of information in relation to external lighting or biodiversity net gain, it is considered that the proposal fails to adhere with Policy SE3 of the CELPS, Policy NE11 of the MBLP, emerging SADPD policies ENV1 and ENV2 and the NPPF.

Flooding and Drainage

The application site does not fall within a Flood Risk Zone 2 or 3 and is not of a scale which requires the submission of a Flood Risk Assessment.

Although the Council's Flood Risk Officer has not commented on the most recent proposed layout (which increased the on-site parking provision by 6 spaces), they did review the previous iteration and advised that they had no objections, subject to a condition requiring the submission/approval of an overall detailed drainage strategy / design limiting surface water run-off. In addition, informatives were proposed. There appears no reason to arrive at an alternative conclusion as a result of the proposed recent changes.

In consideration of matters of drainage, United Utilities raise no objections, subject to the following conditions: the prior submission/approval of a surface water and foul drainage scheme, that foul and surface water should be drained on separate systems and the prior submission/approval of a sustainable drainage management and maintenance plan.

Subject to the originally suggested conditions, the application is considered to adhere with Policy SE13 of the CELPS and emerging SADPD Policy ENV16.

Affordable Housing

Policy SC5 of the CELPS refers to Affordable Housing. It states that in residential developments, 30% affordable housing will be provided in developments of 15 or more dwellings (or 0.4 hectares) in Principal Towns and Key Service Centres or in developments of 11 dwellings or more (or that have a combined gross floorspace of more than 1000sqm) in Local Service Centres and all other locations.

This is a proposed development including 14 dwellings in a either a Local Service Centre or other location, therefore in order to meet the Council's Policy on Affordable Housing there is a requirement for 4.2 dwellings to be provided as affordable homes. This requirement would preferably be rounded-up to 5 on-site units. Alternatively, the applicant can provide 4 units on-site and provide a contribution towards the 0.2 provision to ensure the policy compliant 30% can be provided.

The normal required mix is a ratio of 65/35 between social rented and intermediate affordable housing. On this basis, 3 units should be provided as affordable rent and 2 units as intermediate tenure if all the required provision is on-site.

An Affordable Housing Statement was provided during the application process. This set out that the applicant's choice is to provide x4 on-site units and pay a contribution of 0.2 to ensure the

proposals adhere with Policy SC5 of the CELPS. The Council's Housing Officer advises that this approach would be acceptable.

The applicant has also indicated via subsequent correspondence a desire that x2 of these shall be social rent (1-bed) and x2 intermediate tenure (1 x1 bed and 1 x 3 bed). The Council's Housing Officer has advised that this split is acceptable.

The figure for the 0.2 has also been agreed between the applicant and the Council's Affordable Housing Officer as being £49,840.

Subject to the S106 Agreement to secure the above, the proposal is deemed acceptable with regards to Affordable Housing.

Education

The Council's Education Officer has advised that based on 11 dwellings (2bed+)

11 dwellings x 0.19 primary yield = 2 primary children

11 dwellings x 0.15 secondary yield = 2 secondary children

The development would not be expected to generate a SEN child.

The Council's Education Officer placed the forecast children expected from the proposed development against the most current forecasts and its showing that there would be an impact against secondary provision only.

Therefore, the education requirement would be £17,959 x2 x0.91 = £32,685

This would be secured via a Section 106 Agreement in the event of approval.

Open Space

The Council's ANSA Greenspace Officer has advised that the proposed open space appears for the use of future residents or commercial unit and no children's play is proposed. As such the development will be required to make com sum contributions as follows:

Public Open Space (POS) at a rate of £3,000 x 11 family dwelling = £33,000

This would be required prior to commencement of development.

The commuted sum would be used to makes additions improvements and enhancements to the facilities within the Millenium Green including but not limited to the children's play area, access, landscaping, interpretation and public art.

A commuted sum for Recreation Open Space (ROC) will also be required at a rate of £1,000 per family dwelling = £11,000

Required on commencement of development

This commuted sum would be used in line with the councils adopted Playing Pitch Strategy for sports provision in the west of Macclesfield.

Total: £44,000

The Council's ANSA Greenspace Officer advises that commuted sums for allotments and Green Infrastructure are not sought in recognition of the various elements provided on site.

This would be secured via a Section 106 Agreement in the event of approval.

Heads of Terms

If the application is approved, a Section 106 Agreement will be required to secure the following:

- Commuted sum of £32,685 towards secondary education
- Secure the provision of x4 on-site affordable dwellings and a commuted sum towards of 0.2 of an affordable dwelling off-site
- Commuted sum of £44,000 towards off-site Open Space provision (£33,000 Public Open Space and £11,000 Recreational Open Space)
- Requirement to establish a private management company to manage on-site open space in perpetuity

Levy (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.

A financial contribution of £32,685 is necessary to ensure that any impact upon local secondary school provision is mitigated.

The financial contribution of £44,000 is deemed necessary to ensure that sufficient open space provision is provided to serve the future residents.

The on-site affordable housing provision and commuted sum to cover the difference is deemed necessary in order to provide a policy stipulated level of provision of affordable homes.

The requirement to establish a private management company to manage the on-site Open Space in perpetuity is required in order to ensure these parts of the site are suitably maintained in the interests of character and appearance.

The requirements are therefore considered to be necessary, fair and reasonable in relation to the development. The S106 recommendation is compliant with the CIL Regulations 2010.

Conclusions

The application proposes the re-development of Previously Developed Land within the Green Belt containing a garden centre, tearoom / café and gift shop. The application seeks the demolition of the existing built form and the erection of x14 dwellings, including x4 affordable dwellings, and a small commercial unit that will consolidate much of the existing site's business in its place.

It is assessed that the scheme would not have a significant impact upon the Openness of the Green Belt and as such, is deemed to represent appropriate development in the Green Belt and is subsequently deemed to be acceptable in principle.

Although the sustainability of the location of the site is not a merit of the proposals, it does lie within reasonable distance from a moderate proportion of public services and importantly, lies within close proximity to a regular bus service which links the site to various larger urban centres.

The provision of the commercial unit on site is deemed acceptable in this rural fringe location as the commercial use is already established and the proposals simply seek to consolidate their existing operations.

The development would be of a design that mimics a farmstead arrangement in this rural fringe location which works well. The development results in no issues in relation to amenity, highway safety, landscape, tree, ecology or flood risk and drainage concerns, subject to conditions where applicable.

Contributions are required to offset the impact of the development upon education and open space and a combination of on-site affordable housing and a commuted sum towards off-site affordable housing is proposed. These elements will be secured via a S106 Agreement in the event of approval.

For the above reasons, the application is recommended for approval, subject to a S106 Agreement and conditions.

RECOMMENDATIONS

APPROVE subject to a S106 Agreement to secure the following:

S106	Amount	Trigger
Public Open Space & Recreation Open Space – Commuted Sum	£33,000 towards off- site POS improvements £11,000 towards off- site Recreation Open Space in West Macclesfield Total: £44,000	Prior to commencement

Education – Commuted Sum	£32,685 towards secondary education	Prior to occupation of first dwelling
Affordable Housing – On-site provision	On site provision of x4 affordable dwellings (x2 social rent x2 intermediate rent)	Provided no later than the occupation of 50% of the open market dwellings
Affordable Housing – Commuted Sum	Contribution of £49,840 towards off- site affordable housing provision	Provided no later than the occupation of 50% of the open market dwellings
Landscape/Open Space Management	Submission/approval of a management plan in perpetuity	Prior to occupation of any of the development hereby approved

And the following conditions:

- 1. Time (3 years)
- 2. Approved Plans
- 3. Submission/approval of facing, roofing and hard surfacing materials
- 4. Obscure glazing (First-floor en-suite Plot 14 & Bedroom 3 side elevation Plot 8)
- 5. Removal of Permitted Development Rights Classes A, B & E Part 1, schedule 2 for plots 9-14 and Classes A & E for plots 1-3
- 6. Implementation of Access
- 7. Provision of electric vehicle charging infrastructure
- 8. Submission/approval of a Residents Sustainable Travel Information Pack
- 9. Submission/approval of a Phase II contaminated land report
- 10. Submission/approval of a verification report
- 11. Submission/approval of a soil verification report
- 12. Works should stop in the event that contamination is identified
- 13. Submission/approval of a noise impact assessment/mitigation strategy for any plant and equipment (commercial unit)
- 14. Restriction over hours of use (commercial unit)
- 15. Restriction over the delivery hours (commercial unit)
- 16. Restriction over the use of the commercial unit
- 17. Submission/approval of an odour abatement/control/mitigation statement in the event that the commercial building changed to a business whereby odours arise
- 18. Submission/approval of revised Landscaping Scheme
- 19. Landscaping Implementation

- 20. Submission/approval of existing and proposed spot levels and FFL's
- 21. Works to proceed in accordance with the submitted Arboricultural Statement, Tree Protection Scheme and Arboricultural Method Statement
- 22. Submission/approval of external lighting scheme (Ecology)
- 23. Submission/approval of a habitat creation method statement
- 24. Submission/approval of a 30-year habitat management plan
- 25. Submission/approval of Ecological Enhancement Strategy
- 26. Nesting birds
- 27. Submission/approval of an overall drainage strategy (incl Surface and Foul water)
- 28. Foul and surface water be drained on separate systems
- 29. Submission/approval of a sustainable drainage management and maintenance plan

In order to give proper effect to the Committee's intent and without changing the substance of its decision, authority is delegated to the Head of Planning (Regulation) in consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice



Page 125 Agenda Item 8

Application No: 22/2715M

Location: LAND OFF BEGGARMANS LANE, KNUTSFORD

Proposal: Change of use of an agricultural field to a dog exercise area and creation

of associated enclosures, access and car parking

Applicant: Whirleymere Limited, C/O Wharfe Rural Planning

Expiry Date: 04-Oct-2022

SUMMARY

The application proposes the "Change of use of an agricultural field to a dog exercise area and creation of associated enclosures, access and car parking".

The application site is located in the Green Belt where there are stricter controls on development. In this case, it has not been demonstrated that the proposed development would meet any of the exceptions to inappropriate development in the Green Belt and therefore substantial weight is given to this harm. Additional harm is also found in relation to the adverse impact the development would have on openness.

The proposed development would also materially impact the residential amenity of the nearest properties to the site, due to the noise and associated increase in traffic movements for significant periods of time throughout each day the site is in operation representing other harm.

The impacts on highways, heritage, flood risk, public rights of ways, trees and nature conservation efforts are considered to be acceptable subject to conditions in the event of approval.

SUMMARY RECOMMENDATION

Refuse

REASON FOR REPORT

The application proposes the change of use of a site extending to approximately 2.4ha and therefore falls within the threshold of 2-4ha for the application to be determined by Northern Planning Committee.

The application was also called to Committee by Cllr Abel for the following reasons:

1. Highways – the proposed development would result in increased levels of traffic and associated on-street parking. This would be detrimental to the free flow of traffic along Beggarman's Lane, a highway safety issue, in what is a mature residential area.

- 2. Amenity the proposed level of activity caused by the development will result in unacceptable noise and disturbance of those living in the vicinity of the site, people of maturity who are predominantly living and working close to this site.
- 3. Green Belt the creation of a formal exercise area for dogs and built structures as part of the proposal will introduce activities which are not compatible with land being designated as part of the Green Belt or the purposes of including and within it.
- 4. The owner of the land has closed off the path that has been used for tens of years to walkers (especially dog walkers) This path was requested to become a Public right of way by Knutsford Town council for the benefit of local people living near by.

DESCRIPTION OF SITE AND CONTEXT

The application site comprises of two parcels of agricultural land (approx. 2.4ha) accessed from Beggarmans Lane, to the south of Knutsford. The site is located within the Green Belt.

Immediately to the north of the site is residential development where existing dwellings front directly toward the application site. To the east is a mix of agricultural land and a large dwellinghouse (Brackenwood) which are bound by mature trees and hedgerows. A Grade II listed building (Sandfield House) is also located some 140 metres away to the east of the application site. Directly to the south is Sandfield Wood, recorded as a priority deciduous woodland on the Priority Habitat Inventory. To the east is open agricultural land.

Due to the retrospective nature of the application, the site currently contains various enclosures and equipment associated with the dog exercise fields. Prior to this use, the site was an open agricultural field.

DESCRIPTION OF PROPOSAL

The application seeks retrospective planning permission for the "Change of use of an agricultural field to a dog exercise area and creation of associated enclosures, access and car parking".

The proposed dog exercise area comprises of three separate enclosures (Exercise Area 1, Exercise Area 2 and Dog Agility Area). Each area is defined by a 1.2m high stock proof fence with a gated opening to allow access for dogs and their owners.

A total of 10 parking spaces are proposed as part of the application in addition to alterations to the existing access and an access track to connect the car parking area to the access.

RELEVANT POLICIES

Cheshire East Local Plan Strategy (CELPS)

- MP 1 Presumption in Favour of Sustainable Development
- PG 2 Settlement Hierarchy
- PG 3 Green Belt
- PG 6 Open Countryside
- SD 1 Sustainable Development in Cheshire East
- SD 2 Sustainable Development Principles
- SE 1 Design
- SE 2 Efficient Use of Land
- SE 3 Biodiversity and Geodiversity

- SE 4 The Landscape
- SE 5 Trees, Hedgerows and Woodland
- SE 7 The Historic Environment
- SE 12 Pollution, Land Contamination and Land Instability
- SE 13 Flood Risk and Water Management

Appendix C Parking Standards

Saved Macclesfield Borough Local Plan Policies (MBLP)

- DC3 Amenity
- DC6 Circulation and Access
- DC8 Landscaping
- DC9 Tree Protection
- DC13 Noise
- DC14 Noise
- DC17 Water Resources
- DC20 Water Resources
- DC33 Outdoor Commercial Recreation
- GC1 Green Belt New Buildings
- **NE11 Nature Conservation**
- BE2 Preservation of Historic Fabric

Knutsford Neighbourhood Plan

- D2 Local Distinctiveness
- D3 Landscape in New Development
- E1 Connections to the Countryside
- E3 Habitat Protection and Biodiversity
- E5 Pollution
- HE2 Heritage Assets
- T4 Parking

Other Material Considerations

National Planning Policy Framework (2021)

RELEVANT PLANNING HISTORY

21/5417M - withdrawn - March 2022

Change of use of an agricultural field to a dog exercise area and creation of associated enclosures, access and car parking

CONSULTATION

Environmental Protection (CEC)

- Recommend refusal
- Close proximity to residential dwellings
- Noise from dogs, vehicular movements, dog owners
- Complaints of noise nuisance
- Physical controls to contain noise are not available
- Existing and proposed planting would not afford sufficient sound mitigation / attenuation
- Impact would be greatest at weekends
- Hours of proposed use are unreasonable
- Significant duration of noise (up to 10 hours per day)
- Reduction to maximum of 9 dogs is an improvement, but it may be the case that 1 dog alone may be noisy

- Significant increase in vehicle movements per hour / per day
- Expectation for owners to curb excessive barking is impossible to control or enforce
- Acknowledge that the site will not be used for commercial dog businesses
- Significant differences between the proposal and examples referenced in the submitted planning report

Flood Risk (CEC)

- No objection to the principle of the proposed development
- Information provided for the applicant / developer's attention

Highways (CEC)

- No objection
- Proposed parking, access and traffic generation considered acceptable subject to condition to secure appropriate visibility splays

Public Rights of Way (CEC)

- Development does not appear to affect a recorded public right of way
- The site is affected by a claimed footpath which the proposal would obstruct
- The developer should be aware of the potential consequences of this claim being proven

REPRESENTATIONS

The application was subject to over three weeks of public consultation. The full contents of all comments received can be viewed online. A summary of those comments is set out below.

Plumley with Toft and Bexton Parish Council

- Object
- Nuisance to local residents in terms of noise from vehicles and dogs
- Green Belt
- No facilities or toilets provided for users

Esther McVey MP

- Object
- Green Belt land with no exceptional circumstance being demonstrated
- Planning policy is clear that any development, without special circumstance, is not acceptable
- Particularly quiet area in terms of vehicle movements and background noise and therefore any additional noise and traffic generated is noticeable and will therefore disproportionally impact residents local to the site
- Understand the need for the facility and that there is no suggestion that it is not being
 well run by the current owners, albeit without permission in place. Given the need for
 such facilities, would be generally supportive of an application of this nature were it not
 on greenbelt and were it in a slightly busier location

Public comments from 91 addresses were received <u>supporting</u> the proposed development for the following reasons:

- Safe environment to exercise dogs
- Growing dog population
- Diversification of land should be supported
- Booking system prevents vehicle congestion
- Existing trees provide visual screening
- Noise not an issue due to the limit on dog numbers

- Will prevent future building on the land
- Local business
- Temporary use of land
- Not enough dog exercise facilities in the area
- Noise no different to the proposed public right of way on the site
- Existing noise from roads, businesses, school
- On-site parking will reduce impact on neighbours
- Objections from previous application have been addressed
- Disposal of waste is managed
- Will prevent trespassing though the site
- Never witnessed high levels of traffic of noise whilst visiting
- Noise from houses greater than from BarkRun

Public comments from 143 addresses were received <u>objecting</u> the proposed development for the following reasons:

- Inappropriate in the Green Belt
- Impact on openness
- Not suitable next to residential area
- Noise throughout the day (barking, vehicles, raised voices, whistles)
- Noise cannot be managed
- Trees and hedges do not block sound
- Excessive hours of operation
- Odour
- False information in application form
- Not supported by Knutsford Neighbourhood Plan
- Loss of agricultural land
- Loss and damage to hedgerow
- Protected tree impact
- Gives very little to local economy
- Additional traffic
- Poor highway access
- Mud transfer onto the highway
- Safety of pupils walking to / from Bexton Primary School
- Parking on the road
- Lack of information submitted
- Loss of a popular walking route through the site
- 'Stepping stone' to future development
- Unsuitable site for dog training
- History of dog attacks in the area
- Harmful to wildlife
- No facilities (toilet, shelter, storage) possible future development
- Better suited to an industrial estate
- Fencing not suitable for some dogs risk of escape
- Not needed as other dog exercise facilities are available
- Greater impact on weekends
- Site is subject to flooding
- Comments in support are from addresses outside of Knutsford
- Contamination
- Will have signage in the future
- Impact on natural drainage
- Other examples given are not comparable

Public comments from 2 addresses were received, making the following general observations:

- Comments in support are from outside of the local area
- At least 40 dog parks within 1 hour of Knutsford
- Does not change Green Belt status of the field
- Beggarmans Lane used as a 'rat run'

OFFICER APPRAISAL

Principle of Development - Green Belt

The application site is located within the Green Belt. Paragraph 149 of the NPPF states that the construction of new buildings and development in the Green Belt shall be regarded as inappropriate. Paragraphs 149 and 150 of the NPPF list a number of exceptions to this, which are reflected in policy PG 3 of the CELPS.

The most relevant exception to inappropriate development in this case would be:

b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it

The proposed use of the site would involve members of the public visiting with their dog(s) to exercise and train them in a secure purpose-built environment and would be open to all users wishing to make a booking. Accordingly, the proposed development would be considered an appropriate form of outdoor sport and recreation. As a matter of principle, similar uses have been accepted to form an outdoor sport and recreation use in the past.

However, for the development to fully comply with the above exception, it must be demonstrated that the proposed facilities would preserve openness and would not conflict with the purposes of including land within the Green Belt.

The proposed change of use would result in a notable increase in level of activity, including vehicle movements, than the former use as open agricultural land. Throughout the day for the majority of the week, vehicles would be entering and exiting the site on a half hourly basis in accordance with the available booking slots. Whilst it is acknowledged that the proposed maximum number of users of the site has been reduced as part of this application, the level of activity generated would still be significant over and above the former use of the agricultural land.

In addition to the change of use, the application also proposes associated operational development. This includes enclosure fencing, an access track, car parking spaces and other items intended to be positioned permanently on the site such as agility equipment and waste bins. These elements when combined would cumulatively result in a loss of openness, both spatially and visually, when compared to the former agricultural use of the land which would have been absent from such development.

Overall, the former agricultural field would be occupied much more intensively than its former use which would have involved minimal vehicle movements and no placement of physical structures in comparison. The development would therefore reduce openness spatially and would also have a pronounced visual impact on openness.

For the above reasons, the proposed development would fail to accord with any of the listed exceptions to inappropriate development in the Green Belt. Substantial weight is given to this harm. Further harm has also been identified by reason of the adverse impact on openness the development would have.

Amenity

Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. It also states that decisions should avoid noise giving rise to significant adverse impacts on health and the quality of life.

Saved policy DC3 is the overarching development plan consideration for assessing the amenity impact of development on residential properties in the vicinity of the site. Under this policy, development will not be supported if it would result in significant injury to nearby properties due to various factors including noise, fumes, loss of privacy, loss of light and traffic generation.

Saved policy DC13 states that noise generating developments which would cumulatively increase the ambient noise level to an unacceptable level, will not normally be permitted. Saved policy DC14 is also of relevance; it states that development may be permitted provided that the effects of noise can be mitigated by soundproofing measures.

Saved policy DC33 relates to proposals for outdoor commercial recreation. Criterion of this policy states that "The proposal should not result in significant adverse impact upon existing residential amenity".

Environmental Protection Officers raised concerns with the previously withdrawn application at the same site and have confirmed that many of the points raised remain relevant to this resubmission.

The application site is directly opposite to and in close proximity to established residential dwellings, being separated by Beggarmans Lane, a narrow road.

The use of the application site for a dog exercising area commenced in September 2021 following which, complaints of noise nuisance were lodged to the Public Protection & Regulatory Service from a number of nearby residents. The noise in question related to noise from vehicles when arriving at the site in vehicles and parking on either Beggarmans Lane or on the site, and also noise from the barking of dogs when unloaded from vehicles and also when in the exercise and agility areas. Complaints also included noise from the raised voices of dog owners as they call and instruct the dogs, and the chatting of dog owners together.

The general background noise level of the area is very low due to the semi-rural nature of the location. As such, noise from the potential barking of dogs, and vehicular movements will become more noticeable. There will be a variety of different behaviours from dog owners themselves and different degree of owner controls which may involve raised voices, shouting of instructions or use of whistles.

It is acknowledged that the previous intention to allow other commercial dog businesses to use the site for group and training sessions has been removed from this amended application.

Days of Use

The previously withdrawn application proposed opening times every day of the week (Monday to Sunday including Bank Holidays), therefore with no respite day for residents. This application proposes that the use of the exercise area by the public to exercise their dogs will now be restricted to Wednesday to Sunday. Monday and Tuesday have been chosen as respite / maintenance days and Bank Holiday use has been conceded.

Whilst two days of respite have been afforded, the applicant has failed to appreciate that those two days are generally when most residents will be at work and their children at school and that it is the weekend days on which most residents expect to be able to enjoy leisure time at their homes. In particular, Sundays are generally considered to be a more sensitive day when residents expect to be able to enjoy peace at their homes all day.

Weekend times are when the proposed dog exercise facility is considered to be at its busiest. This presents a conflict with the use and enjoyment of the nearby residents' homes as weekends are also the days when residents have typically completed a week of work and expect to be able to enjoy their leisure time at their homes and to enjoy 'family time' together. Sundays and Bank Holidays are generally considered to be even more 'sensitive days' when most residents expect to be able to enjoy a peaceful day in their homes.

It will also be the case that the general background noise level (primarily dictated by traffic noise) will be lower on a Sunday, making any other noise in the area more noticeable. This 'conflict' of the Bark Run facility being at its busiest at weekends, the background noise level being at its lowest on Sundays and the fact that most residents will wish to enjoy their homes and family time at weekends has high potential to materially affect the residential amenity of the occupiers of dwellings near to the site.

Hours of Use

In the previous application, proposed opening hours were 07:00 to 19:00 every day during the summer months. This conflicts with the fact that during the summer months, nearby residents will expect to be able to enjoy their garden / outdoor areas and will also wish to have house windows open for normal ventilation and cooling purposes. Accordingly, any externally created noise will be more invasive and noticeable.

A start time of 07:00 was considered by Environmental Protection to be a sensitive time, when many residents may still wish to sleep. The amended application now suggests a 09:00 start time. However, Environment Protection consider that a 09:00 start time and a 19:00 finish time at weekends is unreasonable.

In the current re-submission, the proposed opening hours during winter months have also been adjusted to a 09:00 start and to a 15:00 finish time. In practice, due to the shorter daylight hours in winter, it is considered that the proposed earlier termination time is 'practical' given the early hours of darkness during both morning and evening and therefore perhaps does not offer much of a concession. Environment Protection reaffirm that a 09:00 start time at weekends is unreasonable.

As proposed, the dog exercise facility will still result in 10 hours per day in the summer months and 6 hours per day in the winter months. These timeframes are considered to be significant durations of potential noise during the majority of daytime hours.

Number of Dogs / Users

Different dogs will respond differently to the dog exercise environment and when meeting other dogs. However, it is generally accepted that a number of dogs together can become boisterous as they play and possibly fight.

This re-submitted application has restricted the number of dogs simultaneously using the site to a maximum of 9. Whilst this is an improvement to the previous proposal, it remains the case that due to the different breeds, size, nature and characteristics of individual dogs it may be the case that one dog alone could be noisy whilst on the site, or conversely all 9 dogs could be noisy. Alternatively, all may be quiet throughout a chosen session.

Consequently, the amount of noise cannot be pre-empted and will always be variable and an unknown factor. In this instance, there is no planning mechanism available to control or mitigate this noise to make the proposal acceptable.

The only method of noise control contained within the application is restricted to an expectation that owners will curb 'excessive' barking from the dogs under their control. In practice, this will be problematical and impossible to enforce. There is no indication on the application that a site manager will be on the site at all times to oversee and manage activities and to control excessive noise.

Noise Mitigation / Attenuation

The proposal to exercise and train dogs is an outdoor use and therefore physical controls (such as buildings) are not available to contain noise. Wharfe Rural Planning have provided a detailed submission in support of the application which includes a number of statements (including in paragraphs 4.5 and 7.31) that existing and proposed trees and hedge planting will physically afford sound mitigation / attenuation to noise from the barking of dogs and noise in general from the site. Environmental Protection Officers have advised that this is an incorrect statement. Hedges and trees do not mitigate noise. Noise can only be effectively mitigated by solid barriers of a calculated mass, height and fabric.

Consequently, it remains the case that noise from the barking of dogs, noise from the behavioural noise of owners (raised voices / chatting / instruction to dogs etc) and vehicular noise from users of the site itself will be outdoors and will not be effectively controlled by the planting of hedgerows or the existence of trees.

Traffic

In terms of traffic noise as cars enter and leave the field after their allocated half hour or one hour session, Environmental Protection are of the opinion that as eight car parking spaces are to be provided and cars arrive / leave every 30 to 60 minutes then this could still potentially result in a significant number of vehicle movements per hour and per day. Whilst this may not result in a highway safety impact (see below), it would generate a level of constant activity that would disturb and adversely impact the amenities of the nearest residential properties.

Amenity Impact Summary

Environmental Protection Officers remain of the opinion that in spite of the proposed amendments to the original application, the Beggarmans Lane site is an inappropriate location for a commercial dog exercise and training field due to the close proximity and potential noise impact on the nearby residents. The proposed use will have high potential to materially affect the residential amenity of the nearest residents to the site. The Environmental Protection Service therefore recommend refusal of the application.

Highways, Parking and Access

Sustainable Travel – Having regard for the low volume of traffic movements expected to be associated with the proposal, there are not sufficient grounds for refusal based on sustainability.

Access – The proposal for access, including visibility splays is acceptable. In the event of approval, a condition is recommended to ensure that the proposed visibility splays are implemented.

Car Parking – The applicant has stated that the maximum number of dogs on-site at any time will be no more than nine, so potentially there could be nine customer cars on site; additionally, one space is required for staff. As revised, ten car parking spaces have been provided within the site to accommodate the maximum expected car parking demand associated with the proposal and all vehicles can safely enter and exit the site in a forward gear. This is acceptable.

Traffic Impact – The commuter peak hour and daily traffic generation associated with the proposal would not have a material impact on the safe operation of the adjacent or wider highway network.

Conclusion – The Head of Strategic Transport has no objection to the planning application.

Trees and Hedgerows

Access into the site from Beggarmans Lane will be via an existing field access gate which will be improved with a finished tarmac surface 10 metres into the site. Provision for a 2.4.x 40 metre visibility splay is currently impeded to the west by an existing Hawthorn hedge which will be reduced to a height of 1.05 metres. The impact of this will have a slight adverse visual impact within the immediate locale, opening up views into the site from the properties opposite on Beggarmans Lane. The application does however make provision for a new hedge to be planted behind the visibility splay which will be allowed to grow and replace the existing hedge.

Sandfield Wood located south of the site is identified in the habitat inventory as a priority habitat. Having regard to arboricultural matters, there is nothing in the submission to suggest there will be any significant impact on the woodland from the proposals.

An area of trees to the east of the site adjacent to the Beggarmans Lane frontage is protected by virtue of its inclusion within the Macclesfield Borough Council (Knutsford – Brackenwood, Toft Road) Tree Preservation Order 1988 (Area A2) and abuts the proposed informal area and access into the site. Details provided in the Design and Access Statement propose that these areas of hardstanding will be constructed with a cellular grid system. Such systems are considered acceptable in specific situations to minimise the impact on the rooting environment of trees.

Whilst an Arboricultural Statement and Method Statement have not been submitted in support of the application, given the current compacted nature of soils adjacent to the area of protected trees, the Forestry Officer is satisfied that such construction methods would be appropriate in minimising impact on trees subject to the submission of a detailed construction specification and method statement.

Accordingly, subject to conditions securing appropriate replacement planting and requiring the submission and approval of a detailed Construction Specification / Method Statement prior to

the commencement of the relevant parts of the development, the proposed development would have an acceptable relationship with existing trees and hedgerow.

Nature Conservation

Sandfield Wood

The area of woodland known as Sandfield Wood lies adjacent to the application site along its southern border. The woodland is recorded as priority deciduous woodland on the Priority Habitat Inventory.

As the proposals are to use the application site as a dog walking area, this has the potential to impact the woodland habitat from increased nutrient input from dog fouling. In the event of approval, the Nature Conservation Officer has advised that the applicant should submit a full method statement which sets out the management practices to ensure dog waste is appropriately managed, including details of where it will (and must not) be disposed of.

Subject to a condition securing the appropriate management plan details, the proposed development is considered to have an acceptable relationship with the adjacent priority woodland.

Hedgerow

The application proposes a section of hedgerow loss to facility the required visibility splays at the site's access. The Nature Conservation Officer therefore recommends a condition be attached in the event of approval to restrict the removal of any vegetation during bird nesting season, unless an appropriate survey has been carried out and submitted to the Council for approval prior to removal. Subject to this condition, protected species would be safeguarded.

In the event of approval, the proposed replacement hedgerow planting would be secured via an appropriately worded condition.

Flood Risk & Drainage

The Lead Local Flood Authority (LLFA) have reviewed the proposed development and raise no objections in principle.

The site possesses some low surface water risk (topographic low spots) and there is some additional high surface water risk in close proximity to the site boundary. Due to the scale and nature of the application and modest increase in building footprint, the LLFA do not object in principle subject to any displaced surface water being managed and retained on site, in order to not exacerbate any localised issues. A number of informatives have been recommended to be displayed on the decision notice for the applicant's attention in the event of approval.

Heritage

The proposed development would be located in a field which would be some distance from Sandfield House, a Grade II Listed building. On the basis of the sufficiently distant location, the proposed development (with the retention of hedges) would create a neutral impact on the setting of the listed building.

The Heritage Conservation Officer does note that if the proposal seeks to utilise the fields edged in blue in the future, this may then have an impact on the setting of the listed building.

However, as submitted the proposed development would have a neutral impact on the nearby listed building and would therefore preserve its significance.

Public Rights of Way

The proposed development does not appear to affect a recorded Public Right of Way (PRoW).

Whilst this application does not affect any Definitive Rights of Way; the site is affected by a claimed footpath which has been formally registered under Schedule 14 of the Wildlife and Countryside Act 1981.

The proposed development would obstruct the claimed route. The layout of the dog exercise fields has already been set out on the ground and the claimed route, that had been in use up to the time of the fencing, is now obstructed.

This application has not yet been investigated by the PRoW team and is currently on a waiting list, however if planning permission was granted this would bring this matter forward for immediate attention.

As the proposed development would directly affect the route, the developer should be aware of the potential consequences of this claim being proven and the public footpath shown to exist and factor in the possible impact on this development.

However, at the time of writing there are no reasons for refusal based upon adverse impact on any recorded Public Right of Way.

Other Considerations

Similar Examples

The submitted planning report in support of the application refers to two other examples of where similar dog exercise facilities have been approved in Cheshire East. However, there are fundamental differences between those schemes.

Application reference 20/0596M (Land off Spode Green Lane, Little Bollington) has significant differences to the proposed site at Beggarmans Lane. There were no close residential dwellings to the Little Bollington site and the field in question was surrounded by other agricultural fields which provided a significant separation distance to the limited number of nearest rural dwellings. The access to the field was along a track and only used by the dog business operatives. The general public and their dogs were not able to use the field, but rather the commercial operation was operated by dog handlers collecting dogs from residential homes via a dog bus and taking the dogs to the field and then walking the groups of dogs on the field for a set period of time. The dog handlers were responsible for controlling noise and could choose to not accept a known noisy / troublesome dog. The dog handlers were also responsible for collecting any waste left by the dogs. Dogs were not trained on the field or engaged in excitable activity such as dog agility but were just exercised. In addition, the background noise level was significantly higher; being affected by main arterial highways including the nearby motorway as the dominant 'general background' noise source. Furthermore, when the general background noise fell (distant traffic noise), any significant noise would become more noticeable at weekends and so the hours of use of the dog exercise were restricted by condition to Monday to Friday with no use at weekends.

One other application referred to is 21/5277N. This was subject to a different policy assessment with the proposal being located within the Open Countryside only, and not the Green Belt. This site also had a significantly lower number of nearby dwellinghouses and was located directly adjacent to the A51 which resulted in an existing impact of the noise environment at that location.

The application should be determined on its own merits with consideration given to the particular circumstances of the site, as set out in this report.

Best and Most Versatile (BMV) Agricultural Land

The application site is identified as having an agricultural land classification of Grade 3 (good to moderate quality). Whilst it has not been identified whether the site falls into Grade 3a (good) or 3b (moderate), the proposed used of the site is considered to be reversible. There would be no significant engineering operations or structures which would render the site unusable for agricultural purposes in the future. A refusal on this basis would not be sustained.

Very Special Circumstances

As identified earlier in this report, the proposal would result in an adverse impact on the Green Belt. Additional harm has also been identified in relation to loss of openness and adverse impact on residential amenity. Paragraph 147 of the NPPF states that development that is harmful to the Green Belt should not be approved except in very special circumstances.

'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

In this case, the development would generate some employment opportunity through the operation of the Bark Run business. Development which delivers employment and economic benefit is clearly given some positive weight. However, in this case the limited benefit would not outweigh the substantial Green Belt harm or the other harm resulting from the proposal.

Accordingly, it has not been demonstrated that very special circumstances exist to allow the application to be supported.

CONCLUSIONS AND RECOMMENDATION

The application site is in the Green Belt where there are stricter controls on development. In this case, it has not been demonstrated that the proposed development would meet any of the exceptions to inappropriate development in the Green Belt. Substantial weight is given to this harm. Additional harm is also found in relation to the adverse impact the development would have on openness.

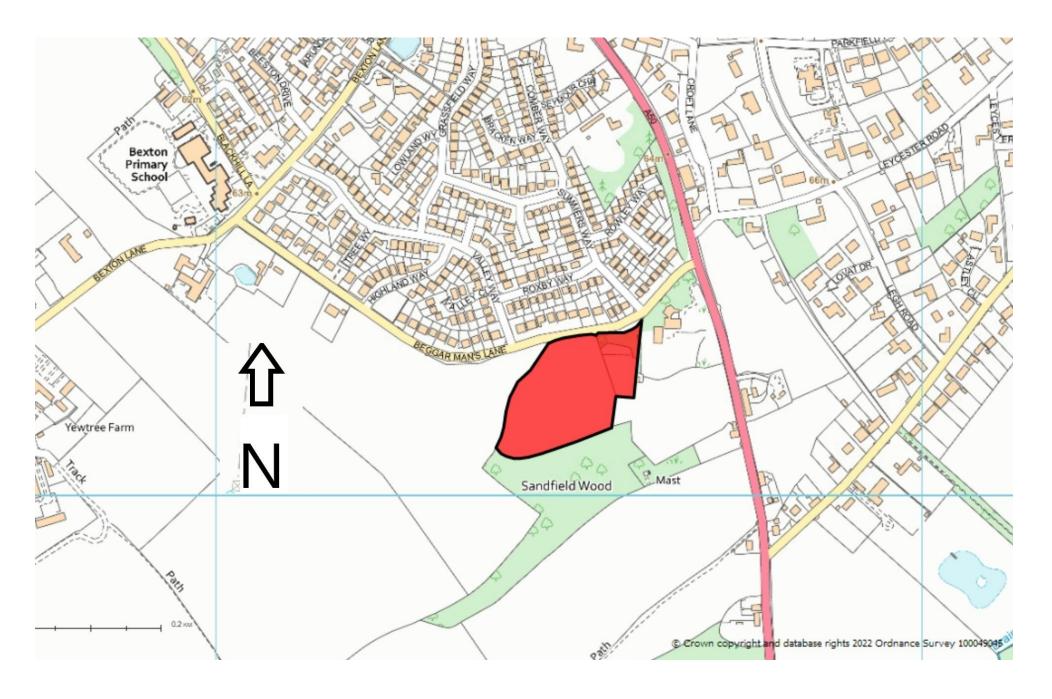
The proposed development would also materially impact the residential amenity of the nearest properties to the site, due to the noise and associated increase in traffic movements for significant periods of time throughout each day the site is in operation.

The impacts on highways, heritage, flood risk, public rights of ways, trees and nature conservation efforts are acceptable subject to conditions in the event of approval.

Recommendation: Refuse for the following reason(s)

- 1. The proposal represents an inappropriate form of development in the Green Belt to which substantial weight is given. Additional harm has also been identified in relation to the impact on openness that the development would result in. Very special circumstances have not been demonstrated to clearly outweigh the identified harm. Accordingly, the proposed development would conflict with Cheshire East Local Plan Strategy policy PG 3 and the provisions of chapter 13 of National Planning Policy Framework.
- 2. The proposed development would materially affect the residential amenity of the nearest residents to the site. The noise levels and traffic generated by the proposed use as a dog exercise and training facility would not be compatible with the nearest residential properties to the site. Accordingly, the proposed development would conflict with saved Macclesfield Borough Local Plan policies DC3, DC13, DC14 and DC33; Policy SD 1 of the Cheshire East Local Plan Strategy and paragraph 185 of the National Planning Policy Framework.

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



This page is intentionally left blank

Application No: 21/1706M

Location: 67, LONDON ROAD, ALDERLEY EDGE, SK9 7DY

Proposal: Change of Use from retail shop (A1) to mixed use comprising a retail shop

and café (A1/A3), extending out over private forecourt on the front elevation and rear extension for kitchen together with the erection of

extraction equipment to the rear of the building

Applicant: Mr Nurretin Karrakulak, Bramhall Gourmet Ltd

Expiry Date: 20-May-2021

SUMMARY

This application proposes erection of a ground floor extension to the rear of no.67 London Road and the associated amalgamation of internal floorspace and the installation of a fixed structure to accommodate external seating to the front. The site is located in a predominantly shopping area.

It is considered that the proposal is environmentally, socially and economically sustainable and accords with the development plan and the Framework. The site is located very sustainably within the village centre of Alderley Edge and the proposal represents an efficient use of land that will enhance the vitality and viability of Alderley Edge which is identified as a Local Service Centre.

It is considered that the proposal represents sustainable development and accords with the development plan policies outlined in the report and national planning policy and guidance.

SUMMARY RECOMMENDATION:

Approve subject to comments from Environmental Protection and conditions

REASON FOR REPORT

The application is to be presented at Northern Planning Committee because it has been 'called-in' to committee at the request of Cllr Craig Browne on the 20th April 2021 due to the following concerns:

[&]quot;- potential conflict with saved MBC policy BE3 owing to the impact on the Conservation Area

⁻ potential impact on residential amenity of neighbouring residents on The Avenue

(CELPS SE1)

- the absence of details and swept path analysis relating to refuse collection vehicles
- encroachment onto the public footpath on London Road and impact on adjacent tree
- compliance with the Alderley Edge Neighbourhood Plan (Shop Front Design Guide)."

DESCRIPTION OF SITE AND CONTEXT

The application site is located to the eastern side of London Road, Alderley Edge. The site is located within Alderley Edge Village Centre and is adjacent to a Predominantly Residential Area and a Conservation Area, as identified by the Local Plan.

The buildings are of a typical Victorian retail frontage. The unit sits centrally within the main retail frontage, which extends to the north and south along both sides of London Road. The character is a mix of traditional and contemporary. There is a traditional underpass access from London Road to the adjoining units.

The unit affords an expanse of quite dated, aluminium framed glazing. The upper floors are traditional in appearance, with original timber sash windows at first floor and the original timber formed dormer windows to the second.

The building consists of original local brickwork with stone mullions, plinths and quoins with a slate roof over. The rear elevation has been subject to many changes over several years, with the addition of poorly constructed outbuildings, the blocking up of original window openings and the replacement of some existing sash windows with deteriorating UPVC casements and solid fire doors. The unit is currently vacant.

Existing vehicles access the rear of the site from The Avenue, parallel to London Road (to the east). Large three storey residential properties set within generous mature gardens line The Avenue and Chapel Road, sharing a common boundary with the car park.

DETAILS OF PROPOSAL

Full planning permission is sought for the erection of an extension over a private forecourt on the front elevation and an extension for a kitchen together with the erection of extraction equipment to the rear of the building.

Due to the recent changes to the Town and Country Planning Use Classes Order, planning permission is no longer required for the change of use from retail to a mixed use of restaurant and retail as they now both fall under class E.

RELEVANT HISTORY

18/5001M

Erection of a ground floor extension to the rear of no.67 London Road and the associated amalgamation of internal floorspace and demolition of existing retail space to create a c.2,000 sq.ft unit (Class A1); reconfiguration of floorspace at first and second floor to create five two-bedroom apartments (Class C3); installation of a dormer window and all associated physical works and car parking. 65 and 67 London Rd - Refused 19 March 2019

POLICIES

Cheshire East Local Plan Strategy – adopted 27th July 2017

MP1 Presumption in Favour of Sustainable Development

PG1 Overall Development Strategy

PG2 Settlement Boundaries

PG7 Spatial distribution of development

SD1 Sustainable development in Cheshire East

SD2 Sustainable development principles

PG1 Overall development hierarchy

PG7 Spatial distribution

PG2 Settlement Hierarchy

SE1 Design

SE7 The Historic Environment

Appendix C – Parking Standards

It should be noted that the Cheshire East Local Plan Strategy was formally adopted on <u>27th July 2017</u>. There are however policies within the legacy local plans that still apply and have not yet been replaced. These policies are set out below.

Saved Macclesfield Borough Local Plan Policies

AEC1 – Shopping Area

AEC3 – Upper Floor Development

BE2 – Historic Fabric

DC2 - Extensions and Alterations

DC3 - Amenity

DC6 - Circulation and access

DC9 - Tree protection

DC14 - Noise

DC38 - Space light and privacy

Alderley Edge Neighbourhood Plan;

AE7: Encouraging Visitor Support for Local Businesses

AE8: Supporting a Vibrant Village Centre

AE12: Local and Historic Character

AE15: Promoting Accessibility to Public Transport

Other Material Considerations

National Planning Policy Framework (NPPF) National Planning Practice Framework (NPPG) Cheshire East Design Guide

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs 2, 4, 6, 8, 9, 11, 12 and 15.

CONSULTATIONS (External to Planning)

Highways: no objection

Environmental Protection: Require more information with regards noise and odour

VIEWS OF THE PARISH / TOWN COUNCIL

Alderley Edge Parish Council: "The Parish Council recommends refusal of this application. It is considered excessive extension on to the pathway on London road which could lead to passing issues – Macclesfield Borough development plan CO 1 supports the primacy of pedestrian access and movement. Front design not sensitive to existing shop front design codes of AENP retaining character features, it is lacking in any softening with landscaping. The siting and appropriateness of ducting at rear is questionable and is not sensitive development to adjoining land of heritage area. Refuse bins are sited to rear and access for collection in extremely limited— Macclesfield Borough Plan DC6 access is through narrow lane."

OTHER REPRESENTATIONS

Representations from 13no. properties have been received; below is a summary of the relevant comments:

- No other unit along London Road has a permanent structure to the front for dining. The permanence of the structure would cause a permanent restriction of the paved area.
- The noise and smells will cause a nuisance to the residents to the rear.
- No provision is made for refuse collection.
- The development to the rear would make it harder for vehicles to turn around in the alley to the rear.
- The alterations would be detrimental to the conservation area.

OFFICER APPRAISAL

Principle of Development

The site is located within the boundary with Alderley Edge village centre. Policy SD 1 states that development should wherever possible contribute to creating a strong, responsive and competitive economy, prioritise investment and growth within the Principal Towns Key and Local Service Centres, contribute to the creation of sustainable communities, ensure that development is accessible by public transport, walking and cycling, provide a locally distinct, high quality, sustainable, well designed and durable environment, support the achievement of vibrant and prosperous town and village centres, make efficient use of land, protect the best and most versatile agricultural land and make best use of previously developed land where possible and prioritise the most accessible and sustainable locations.

Policy PG 2 states in the Local Service Centres, small scale development to meet needs and priorities will be supported where they contribute to the creation and maintenance of sustainable communities. The proposal would contribute to the economic wellbeing of Alderley Edge reusing a currently vacant unit within the centre of the village. It would rationalise the space to the rear adding order and demarcation and thus the proposals comply with policy in principle.

Neighbourhood Plan Policy AEC1 prescribes that change of use from A1, A2, and A3 to non-shopping uses will not normally be allowed. The recent changes to the use class order mean that the proposed change from retail to retail/restaurant no longer requires permission as both uses are considered to be class E uses. The principle of the development is acceptable.

Heritage and Design Issues

Policies SE1 and SD2 seek to ensure that new development respects the character of the area and is of an appropriate design. This is consistent with the provisions of the NPPF and is supported through the Cheshire East Design Guide. The site is adjacent to the Alderley Edge Conservation area and thus policies BE2 (MBLP) and SE7 (CELPS) apply.

Several other properties along London Road contain awnings and external seating to the front elevation with Gusto, a few doors down from the application site containing a fixed structure to enclose the seating area, similar to the proposal. While this is the only fixed structure along London Road the other examples of external seating also display a sense of permanence with planters and awnings permanently in position.

The extension to the rear elevation would be single storey and would project no further than the existing two storey element. The extraction system would not be highly visible from outside the site.

The design proposal is simple in style to the rear and it is considered acceptable in this context to utilise the space to the rear of the retail frontage. It would be an efficient design solution and would improve the present run-down position that is in need of modernisation. It is not considered to be cramped or overdeveloped as it would reflect the urban context of the site and would comply with policies SE1, SD2 and the Cheshire East Design Guide.

The site itself is not within a conservation area but it does adjoin the conservation area along the eastern boundary of the site. A Heritage Statement has been submitted in support of the application and the Conservation Officer considers that there would be no impact on the setting of the Conservation Area. Therefore, the proposals comply with the requirements of Policies SE7 and BE2.

Amenity

CELPS Policy SE1 states that development should ensure an appropriate level of privacy for new and existing residential properties. MBLP Policy DC3 states that development proposals should not significantly injure the amenities of adjoining or nearby residential properties through loss of privacy, loss of sunlight/daylight, visual intrusion, noise and disturbance and traffic generation. MBLP Policy DC38 sets out guidelines of space between buildings.

Only a ground floor extension would be constructed to the building and by virtue of separation distance to surrounding residential properties, light exposure and privacy are not considered to be harmed.

Environmental Protection requested further information with regards to the impact on noise disturbance as well as an odour assessment. The submission statements conclude that, subject to mitigation, the impact of the noise and odour on residential properties would not be significant.

This needs to be assessed and verified by the Council's Environmental Protection service and will be included in an update.

Highways

As the proposed seating area is not contained within Highways land, no objections are raised by the Strategic Infrastructure Manager.

PLANNING BALANCE

While the objections are noted, the proposed scheme is considered to be acceptable.

The issues raised in representation have been duly considered and the proposals are considered to comply with National and Local Policy. The development will regenerate this section of the frontage, which assists in improving the vitality and viability of Alderley Edge as a Local Service Centre.

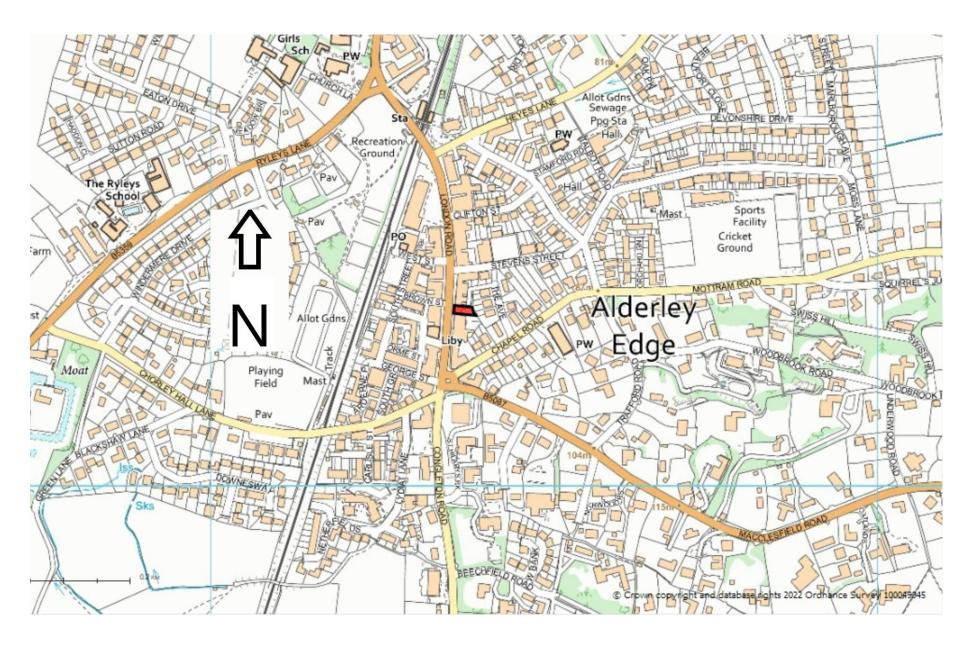
Policy MP1 of the CELPS states that "Planning applications that accord with the policies in the Development Plan (and, where relevant, with policies in Neighbourhood Plans) will be approved without delay, unless material considerations indicate otherwise."

Accordingly the application is recommended for approval subject to comments from Environmental Protection and conditions.

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

RECOMMENDATION:

- 1. A03FP Commencement of development (3 years)
- 2. A01AP Development in accord with approved plans
- 3. A06EX Materials as application
- 4. NPPF



This page is intentionally left blank



Working for a brighter future together

Northern Planning Committee

Date of Meeting: 14th September 2022

Report Title: Cheshire East Borough Council (Chelford – Ashcroft

Drive) Tree Preservation Order 2022

Portfolio Holder: Councillor Toni Fox - Planning

Senior Officer: David Malcolm- Head of Planning

1.0 Report Summary

1.1 To inform the committee about the background and issues surrounding the making of a Tree Preservation Order on 28th March on trees bordering a new development at Ashcroft Drive; to consider representations made to the Council with regard to the contents of the TPO and to determine whether to confirm or not to confirm the Order.

2.0 Recommendation

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

3.0 Reason for Recommendation

3.1 The removal of trees shown for retention on plans approved with new development could have a significant impact upon the amenity and landscape character of the area. The confirmation of this Tree Preservation Order will ensure that the Council maintains adequate control over a linear group of trees of amenity value.

4.0 Background

4.1 Introduction

4.2 The linear group of high amenity trees are located on the northeastern boundary of the former Chelford Agricultural Centre site off Dixon Drive, Chelford. Further to the approval of planning application 18/0171M for 89

- residential dwellings, David Wilson Homes has commenced development on site and properties are now becoming occupied by new homeowners.
- 4.3 The circumstances are that the Council has received enquiries regards the protection of the trees further to a future occupier expressing the intention to remove trees upon completion of sale of the property. The linear group of trees is approximately 70 metres in length and extends southeast from Dixon Drive along the rear residential boundaries of new properties on Ashcroft Drive adjacent to a footpath which connects to public right of way. The group of amenity trees are considered to contribute to the landscape character and sylvan setting of the area and provide screening and a buffer between the new estate a footpath and existing residential properties
- 4.5 An amenity evaluation has determined that while all the trees contribute to the visual amenity and landscape character of the area that there was a demonstrated risk of the trees being removed and therefore it was considered expedient to make an Order to protect the better-quality trees within the group which were considered capable of being a long term amenity feature.
- 4.6 Under powers delegated to the Head of Planning (Regeneration), a Tree Preservation Order was made on 28th March 2022.

Report Format

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

5.0 Consultation

- On making the TPO a planning authority must publish and serve copies on owners and occupiers of land directly affected by it. There is a 28 day period to object or make representations in respect of the Order. If no objections are made the planning authority may confirm the Order itself if they are satisfied that it is expedient in the interests of amenity to do so. Where objects or representations have been made, then the planning authority must take them into consideration before deciding whether to confirm the Order.
- 5.2 The Order was served on any property whose title deeds extended across the subject area on 28th March 2022. Copies of the Order were also sent to the local Ward Member, the developer, and a site notice was placed on the verge for the attention of residents.

6.0 Objections/representations

- 6.1 The Council has received one objection to the Tree Preservation Order from Barret and David Wilson Homes
- 6.2 Objection 1
- 6.3 With regards to the recent notice we have received regarding the Councils intention to put a TPO on trees within our development, in the interest of our future customers we have the following objections to make in relation to G1 that has been included within the TPO:
 - 1. G1 (oak and horse chestnut) stand in close proximity to the newly built dwelling and are likely to require repeated pruning to maintain a balanced relationship with the property.
 - 2. G1 stands on the end of the linear group of trees and does not form a principal part of the group, rather it is the end of this group feature.
 - 3. The amenity offered by G1 is limited by the location which is largely private other than the infrequently used footpath. The removal of G1 would not have a significant impact on the amenity of the wider area.

7.0 Appraisal and consideration of the objection

- 7.1 The below response has been provided to the issues which have been referred to;
- 7.2 With reference to objection 1, the referenced trees within group G1 of the Order stand to the northeast of the closest dwelling and do not impact on any primary aspect windows standing at approximately 10 metres from the closest elevation, with the main area of amenity space extending to the rear of the property to the southwest and away from the protected trees. The need to occasionally crown raise and reduce overhang branches is acknowledged, but such works are not considered likely to be detrimental to the long-term health and amenity of the trees and can be carried out in accordance with the requirements of BS 3998:2012 Tree Work Recommendations to ensure that trees are retained in the longer term.
- 7.3 With reference to objection 2; a gap is depicted between the groups due to a natural break in the overall linear group of trees along the north-eastern boundary of the site. Government Guidance advocates the use of the group category where an individual category would not be appropriate and given the space between 2 groups of trees, the trees within group G1 are not considered to be of lesser importance than those trees within group G2. The correct categorisation of the trees is therefore considered to have been applied.
- 7.5 With reference to objection 3, the trees within group G1 are located to the southwest side of a connecting footpath which joins PROW (public right of

Way) Chelford FP1. The trees are widely visible from the designated PROW, the railway, and the connecting footpath. The suggestion that the footpath is infrequently used is disputed given the directional signage noted during the site assessment at the north western end of the path as it is accessed off Dixon Drive which was titled 'Chelford Buzzy Bees Woodland Walk', an initiative supported by Manchester Airport Community Trust Fund.

8.0. Implications of Recommendation

8.1 Legal Implications

8.1.1 The validity of a TPO may be challenged in the High Court on the grounds that the TPO is not within the powers of the Act or that the requirements of the Act or Regulations have not been complied with in respect of the TPO. When a TPO is in place, the Council's consent is necessary for felling and other works, unless the works fall within certain exemptions e.g. to remove a risk of serious harm. It is an offence to cut down, top, lop, uproot, willfully damage or willfully destroy any tree to which the Order relates except with the written consent of the authority.

8.2 Finance Implications

- 8.2.1 No direct implication
- 8.3 Policy Implications
- 8.3.1 Cheshire East Local Plan SE5 Trees, hedgerows and woodland
- 8.4 Equality Implications
- 8.4.1 No direct implication
- 8.5 **Human Resource Implications**
- 8.5.1 No direct implication
- 8.6 Risk Management Implications
- 8.6.1 No direct implication
- 8.7 Rural Communities Implications
- 8.7.1 No direct implication
- 8.8 Implication for Children & Young People/Care for Children
- 8.8.1 No direct implication

- 8.9 Climate Change
- 8.91 The retention of mature trees where possible is in accordance with the Councils Climate Change Agenda
- 8.10 Public Health Implications
- 8.10.1No direct implication
- 8.11 Ward Members Affected
- 8.11.1 High Legh
- 9.0 Access to Information
- 9.1 The following document is appended to this report
 - Appendix 1 Provisional TPO document
 - Appendix 2 Amenity Evaluation Checklist
 - Appendix 3 Objection 1
 - Appendix 4 Objection 2
- 10.0 Contact Information
- **10.1** Any questions relating to this report should be directed to the following officer.
 - Name: Emma Hood
 - Job Title: Arboricultural Officer (Environmental Planning)
 - Email: emma.hood@cheshireeast.gov.uk



Town and Country Planning Act 1990 CHESHIRE EAST BOROUGH COUNCIL (CHELFORD – ASHCROFT DRIVE) TREE PRESERVATION ORDER 2022

The Cheshire East Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

Citation

This Order may be cited as CHESHIRE EAST BOROUGH COUNCIL (CHELFORD – ASHCROFT DRIVE) TREE PRESERVATION ORDER 2022

- 1.Interpretation
- 2.— (1) In this Order "the authority" means the Cheshire East Borough Council.
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

- 3.— (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a
tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning
permission to include appropriate provision for preservation and planting of trees), this Order
takes effect as from the time when the tree is planted.

Dated this	2014	day of	March	70,77
The Commo	on Seal of Che	shire Eas	t Borough	Council
was affixed	to this Order ir	the prese	ence of—	
		/	line	



Douc Grecon

Page 157 CONFIRMATION OF ORDER

This Order was confirmed by Cheshire East Borough Council without modification on the day of OR This Order was confirmed by the Cheshire East Borough Council subject to the modifications indicated by on the day of Signed on behalf of the Cheshire East Borough Council Authorised by the Council to sign in that behalf DECISION NOT TO CONFIRM ORDER A decision not to confirm this Order was taken by Cheshire East Borough Council on day of Signed on behalf of the Cheshire East Borough Council Authorised by the Council to sign in that behalf VARIATION OF ORDER This Order was varied by the Cheshire East Borough Council on the day of by a variation order under reference number a copy of which is attached Signed on behalf of the Cheshire East Borough Council Authorised by the Council to sign in that behalf REVOCATION OF ORDER This Order was revoked by the Cheshire East Borough Council on the day of Signed on behalf of the Cheshire East Borough Council Authorised by the Council to sign in that behalf

SCHEDULE Specification of trees

Trees specified individually

(encircled in black on the map)

Reference	on	Description	Situation	
Мар				

None

Trees specified by reference to an area

(within a dotted black line on the map)

Reference on	Description	Situation	
Мар			

None

Groups of trees

(within a broken black line on the map)

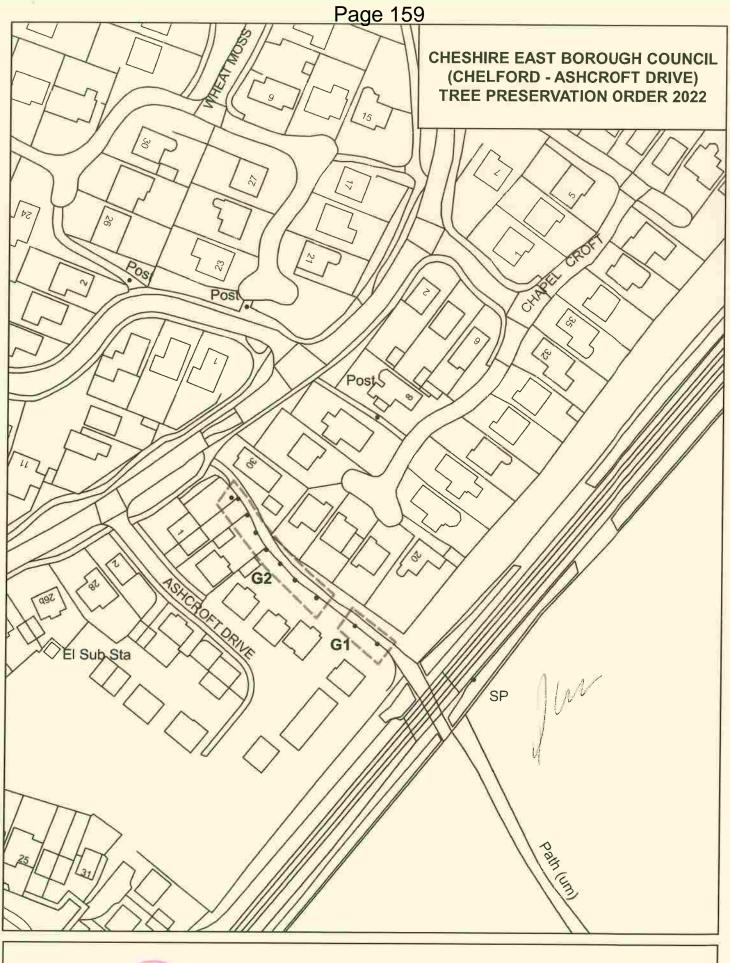
Reference on Map	Description	Situation
G1	1 Oak & 1 Horse chestnut	Standing to the south west side of the footpath between Ashcroft Drive and Chapel Croft Grid Ref: 381,562 – 375,110
G2	4 Lime, 2 Oak, 1 Horse chestnut and 1 Sycamore	Standing to the south west side of the footpath between Ashcroft Drive and Chapel Croft Grid Ref: 381,531– 375,137

Woodlands

(within a continuous black line on the map)

Reference on	Description	Situation
Мар		

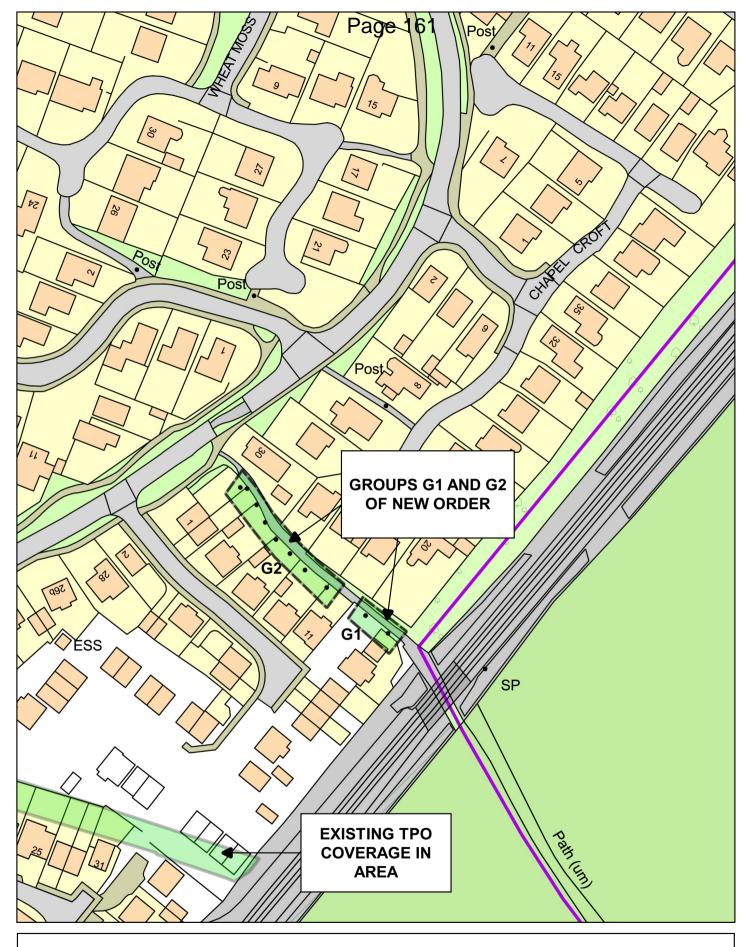
None







1:1250 at A4





LOCATION OF TREES PROTECTED BY NEW ORDER TO NORTH EAST OF PROPERTIES ON ASHCROFT DRIVE



© Crown copyright and database rights 2022 Ordnance Survey 100049045



HOOD, Emma

 From:
 10 May 2022 16:51

 To:
 HOOD, Emma

Subject: Chelford, Ashcroft Drive - Tree Preservation Order 2022

Follow Up Flag: Follow up Flag Status: Flagged

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

Good afternoon Emma,

I hope this email finds you well.

With regards to the recent notice we have received regarding the Councils intention to put a TPO on trees within our development, in the interest of our future customers we have the following objections to make in relation to G1 that has been included within the TPO:

- G1 (oak and horse chestnut) stand in close proximity to the newly built dwelling and are likely to require repeated pruning to maintain a balanced relationship with the property.
- G1 stands on the end of the linear group of trees and does not form a principal part of the group, rather it is
 the end of this group feature.
- The amenity offered by G1 is limited by the location which is largely private other than the infrequently used footpath. The removal of G1 would not have a significant impact on the amenity of the wider area.

I hope the Council will consider these matters before proceeding.

Many thanks,

Barratt & David Wilson Homes North West
(a trading name of BDWTrading Ltd)

303 Bridgewater Place | Birchwood | Warrington | WA3 6XF





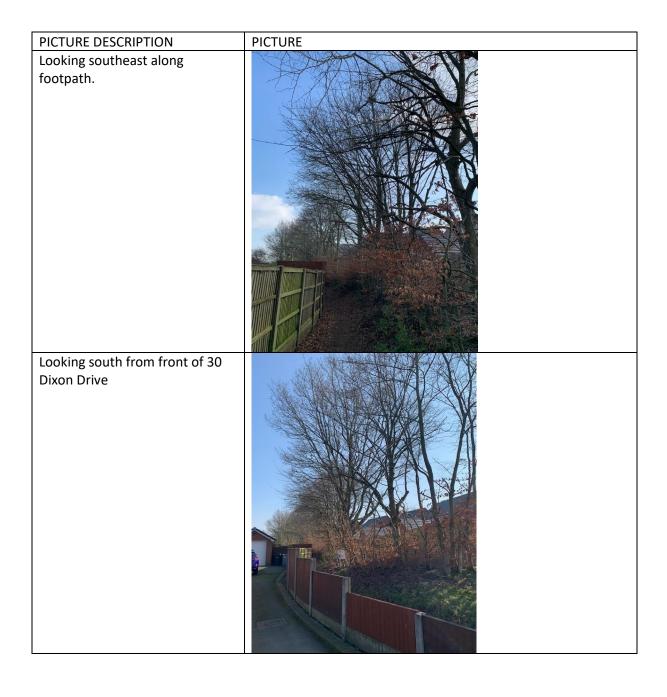
The sender of this e-mail is a member of the Barratt Developments PLC group of companies, the ultimate parent of which is Barratt Developments PLC (company number 00604574). Barratt Developments PLC is registered in England and Wales with its registered office at Barratt House, Cartwright Way, Forest Business Park, Bardon Hill, Coalville, Leicestershire LE67 1UF, together with its principal subsidiaries BDW Trading Limited (03018173), and Wilson Bowden Developments Limited (00948402). Barratt Homes, Barratt London and David Wilson Homes are trading names of BDW Trading Limited. This e-mail message is meant only for use by the intended addressee and may contain privileged and/or confidential information. If you have received this message in error please notify us and



<u>AEC – LANDSCAPE APPRAISAL</u>

PHOTOGRAPHS OF TREES, THE SITE AND SURROUNDINGS

REFERENCE:	09-010
SITE NAME:	Dixon Drive/Ashcroft drive, Chelford
DATE OF VISIT:	8 th March 2022
COMPLETED BY:	G. Newsome and E. Hood
NOTE:	
TREES PROPOSED	Two groups.
FOR FORMAL	
PROTECTION:	



Looking north west across railway line to end of linear group Looking north west along footpath from railway bridge Filtered views looking north east between properties Looking south from Dixon Drive Google street view of the linear group of trees prior to development of the site in 2009



Amenity Evaluation Checklist Completed by: E HOOD Date form Form status: Completed 22/03/2022 completed: Reference 09-010 **Attachments** Address ASHCROFT DRIVE Town CHELFORD Postcode SK11 9GF Ward: Chelford 1. BACKGROUND FILE CHECK: Any existing TPOs on or adjacent to the Yes site/land? Is the site within a conservation area? No Is the conservation area designated partly N/A because of the importance of trees? Is the site adjacent to a Conservation Area? No Are there any Listed Buildings on or adjacent No to the site? Local Plan land-use designation Are there currently and designated nature No conservation interests on or adjacent to the site? Relevant site planning history (incl. current 18/0171M - Demolition of all existing structures and buildings, applications) remediation of the site and the erection of a residential led mixed use development comprising 89 no residential dwellings (use class C3) and 140 sq m (1,500 sq ft) of business floorspace (use class B1) together with landscaping, access points from Dixon Drive, car parking, an acoustic fence and associated infrastructure. APPROVED - 5/6/2018 STATUTORY CONSULTEES Are there any Scheduled Ancient Monuments No on or adjacent to the site? Is the land currently safeguarded under the No Town & Country Planning (Aerodromes &



Does the Forestry Commission currently have an interest in the land?		
an interest in the land?	No	
Grant scheme		
Forestry Dedication Covenant		
Extant Felling Licence		
Are any of the trees situated on Crown Land?	No	
Are any of the trees situated on NHS land?	No	
Is the land owned by this Local Authority	No	
Is the land owned by another Local Authority	No	
2. MOTIVATION		
Development Control		
Application Ref		
Committee deadline		
Development Control Office comments		
Conservation Area Notification		
Application ref		
Date of registration		
Expiry date		
Emergency action (immediate threat to the trees)		
Strategic inspection		
Change to Local Plan land-use		
Change in TPO legislation		
Sale of Council owned land		
Reviewing existing TPO		
Hedgerow Regulations 1997		
3. SOURCE		
Source	Public	
4. LANDSCAPE APPRAISAL		
Site visit date	08/03/2022	
Inspecting Officer	G NEWSOME & E HOOD	
Site description		

The area under consideration is located to the south eastern edge of Chelford Village to the west of the railway line, and comprises of a linear group of early mature trees which border the south east side of the former Agricultural Market site on Dixon Drive, and a connecting footpath from Dixon Drive to PROW Chelford FP1. The linear group of trees which line the footpath now sit within a lapsed Beech hedgerow to the rear of residential garden boundaries of a new development, and make a contribution to the landscape character of the area and provide screening between properties and the footpath.

Description of surrounding landscape character

The trees are located to the east of Dixon Drive and to the north east boundary of the new development, to the south west of a footpath and residential properties on Chapel Croft to the north east. The railway line is located to south east beyond which is agricultural land.

Statement of where the trees are visible from

Dixon Drive, PROW Chelford FP1, Chapel Croft, Ashcroft Drive

annotate map

Photograph the trees, the site and surroundings

No picture inserted

annotate map

Landscape function

- ✓ Backdrop
- ✓ Glimpses between properties or through gateways
- ✓ Filtered views
- Screening/buffering

Visual prominence

- ✓ Neighbourhood, estate, locale
- ✓ Site and immediate surroundings

Species suitability for the site

Fairly suitable

Condition

Fair

Past work consistent with prudent arboricultural management?

Yes

Are past works likely to have compromised long term retention?

No

Will past work necessitate any particular future management requirements?

The relationship of trees with new residential dwellings to the south east of the group will arise in the need to maintain appropriate ground clearance and overhang of garden spaces

Tree size (at maturity)

	Medium (between 8m and 15m)
Presence of other trees	Low percentage tree cover
Define visual area/reference points	
BENEFITS	
Are the benefits current?	Yes
Assessment of future benefits (future growth potential; continuity/sustainability of tree cover; development)	The trees present both future and current growth potential
Assessment of importance as a wildlife habitat	The trees present likely nesting habitat for birds
Additional factors	✓ Screening/buffering (visual/noise)
5. EXEMPTIONS (TCPA 1990)	
Are any of the trees obviously dead, dying or dangerous	No
Are there any statutory obligations which might apply? (consider: Highways Act 1980, Electricity Act 1989, Civil Aviation Act 1982)	No
Is there any obvious evidence that the trees are currently causing any actionable nuisance?	No
Based on the trees in their current locations, is the likelihood of future actionable nuisance reasonably foreseeable?	No
Is there any Forestry Commission interest in the land?	No
6. EXEMPTIONS (MODEL ORDER):	
Are there any extant planning approvals on the site which might compromise retention of the trees?	No
Are there any lapsed planning approvals which might have compromised the trees?	No
Are any of the trees obviously cultivated for commercial fruit production?	No
Are any of the trees situated on or adjacent to	No

a statutory undertaker's operational land?	
Are any of the trees situated on or adjacent to land in which the Environment Agency has an interest?	No
7. COMPENSATION:	
Do any of trees currently show any obvious signs of causing damage?	
If Yes provide details	
Based on the trees in their current locations, is the risk of future damage reasonably foreseeable?	
If yes provide details	
Are there any reasonable steps that could be taken to avert the possibility of future damage or to mitigate its extent?	N/A
If yes provide details	
8. HEDGEROW TREES:	
Individual standard trees within a hedge	Yes
An old hedge which has become a line of trees of reasonable height	No
Are the "trees" subject to hedgerow management?	No
Assessment of past hedgerow management	Beech hedge within same boundary has been un maintained
Assessment of future management requirements	Reduction of the Beech stems (not proposed for protection) to a maintainable height would reduce collective dominance of the trees proposed for protection. The hedge stems presently express an etiolated form would benefit from phased reduction to be maintaind at a lower level boundary screen.
9. MANAGEMENT:	
Are the trees currently under good arboricultural or silvicultural management	Yes
Is an order justified?	Yes
Justification (if required)	To secure the long term retention and management in accordance with best practice of trees of amenity value
10. DESIGNATIONS:	
a. Individual	

Do the trees merit protection as individual specimens in their own right?	No
b. Group	
Does the overall impact and quality of the trees merit a group designation?	Yes
Would the trees reasonably be managed in the future as a group?	Yes
c. Area	
Area	
d. Woodland	
Woodland	
11. MAP INFORMATION:	
Identify the parcel of land on which the trees are situated. (Outline in red on the attached location plan)	
Identify all parcels of land which have a common boundary with the parcel concerned (Outline in green on the attached plan)	
Identify all parcels of land over which the physical presence of the trees is situated, or that they could reasonably be expected to cover during their lifetime (Cross hatch on the plan)	
12. LAND OWNERSHIP:	
Land ownership details (if known)	As stated on list of persons served with Order
Land Registry search required?	✓
13. SUPPLEMENTARY INFORMATION	ON:
Has a detailed on-site inspection been carried out?	Yes
Does the risk of felling justify making an order prior to carrying out a detailed on-site inspection	No
Provide details of trees to be excluded	Those trees which express declining vitality or have incurred root damage or contain defects which will limit their long term future growth potential. The lapsed Beech hedgerow has also

	to warrent protection.
Additional publicity required?	
Relevant Local Plan policies	Cheshire East Local Plan - Policy SE5 Trees, Hedgewrows and Woodlands
Statement of reasons for promoting this Order	In the interests of maintaining the amenity of the linear group of trees in that they are considered to be a long term amenity feature
	Since amenities are enjoyed by the public at large and without the protection an Order affords there is a risk of the amenity being destroyed
	The trees have been assessed in accordance with the Councils amenity evaluation checklist and it is considered expedient in the interests of amenity to make provision for the trees long term retention
	In the interests of securing the retention and enhancement of established tree cover in accordance with the strategic goals and priorties of the Cheshire East Council Environmental Strategy and Green Infrastructure Plan
14. SUMMARY:	
Would loss of the trees have a significant impact on the local environment?	Yes
Will a reasonable degree of public benefit accrue?	Yes
Is an Order in the interests of amenity?	Yes
Is an Order expedient in the circumstances?	Yes





Working for a brighter future together

Northern Planning Committee

Date of Meeting: 14th September 2022

Report Title: Cheshire East Borough Council (Wilmslow - Verge

opposite 136 – 156 Altrincham Road) Tree Preservation

Order 2022

Portfolio Holder: Councillor Toni Fox - Planning

Senior Officer: David Malcolm- Head of Planning

1.0 Report Summary

1.1 To inform the committee about the background and issues surrounding the making of a Tree Preservation Order on 28th March on a verge opposite 136 – 156 Altrincham Road; to consider representations made to the Council with regard to the contents of the TPO and to determine whether to confirm or not to confirm the Order.

2.0 Recommendation

2.1 The Head of Planning (Regeneration) recommend that the Northern Area Planning Committee confirm the Tree Preservation Order on the verge opposite 136 – 156 Altrincham Road with no modifications

3.0 Reason for Recommendation

3.1 Pruning works which do not accord with the requirements of best practice and/or loss of the trees could have a significant impact upon the amenity and landscape character of the area. The confirmation of this Tree Preservation Order will ensure that the Council maintains adequate control over a linear group of trees of amenity value.

4.0 Background

4.1 Introduction

4.2 The trees are located on a Cheshire East Highway maintained verge which provides separation between Altrincham Road (A538) and an access road

to the front of properties 136 - 156 Altrincham Road. The trees are a prominent and a valued feature in the locality and make an important contribution to the landscape character of the area.

- 4.3 The circumstances are that concerns had been raised over challenges to the Council regards ownership, responsibility and maintenance of the trees, and the impact this could have on the present amenity the trees afford the area. The verge on which the trees stand extends from the junction of Kings Road with the A538 by approximately 160 metres to the southeast and contains a linear group of amenity trees which contribute to the landscape character and sylvan setting of the area, and which provide screening and a buffer between a busy road and residential properties.
- 4.3 Highways presently maintain the land; however, some areas of the verge are known to be registered to a third party. Irrespective of this, Section 263 (1) of the Highways Act 1980 provides that, subject to certain exceptions referred to in Subsection (2), every highway maintainable at public expense, together with the materials and scrapings of it, is vested in the authority who are for the time being the highway authority for the highway. Case Law has established trees planted pre and post adoption are vested in the authority, and that includes all parts of the tree, above ground and the soil the roots occupy. The subsoil beneath the area in question including services, highway apparatus, and tree roots are therefore believed to be vested with the Highway Authority (*Hurst and Another v Hampshire CC* [1997] EWCA Cid J0619-4).
- 4.4 An ongoing dispute regarding ownership of the trees, responsibility for maintenance, and subsequent pruning works which took place which were not considered to accord with best practice contributed to concerns that the remaining trees may be at risk.
- 4.5 An amenity evaluation of the trees established that certain specific trees contributed significantly to the visual amenity and landscape character of the area and that there was a risk of these trees being removed or heavily pruned. Accordingly, it was deemed expedient to make an Order to secure the long term amenity of the area
- 4.6 Under powers delegated to the Head of Planning (Regeneration), a Tree Preservation Order was made on 28th March 2022.
- 4.7 The information contained in this report is divided into three sections:
 - Section 5 provides a summary of the TPO service and consultation process.
 - Section 6 provides a summary of the objections/representation made (see Appendix 3 & 4).
 - Section 7 provides the Councils appraisal and consideration of the objection.

5.0 Consultation

- On making the TPO a planning authority must publish and serve copies on owners and occupiers of land directly affected by it. There is a 28 day period to object or make representations in respect of the Order. If no objections are made the planning authority may confirm the Order itself if they are satisfied that it is expedient in the interests of amenity to do so. Where objects or representations have been made, then the planning authority must take them into consideration before deciding whether to confirm the Order.
- 5.2 The Order was served on Cheshire East Highways and any property whose title deeds extended across the subject area on 28th March 2022. Copies of the Order were also sent to Ward Members and Wilmslow Town Council and a site notice was placed on the verge for the attention of residents.

6.0 Objections/representations

- 6.1 The Council has received five objections to the Tree Preservation Order from residential properties which face south east across the access road towards the trees which have been protected.
- 6.2 Objection 1 Resident of Altrincham Road objects to the Order and its implementation for the reasons detailed below;
 - 1. If the Council had kept the trees in good order by pruning and maintaining frequently, they would not be in the mess they are today, they have been allowed to massively overgrow.
 - Amenity Evaluation Checklist, point 5: an error of your answer 'no' to the question 'is there any obvious evidence that the trees are causing an actionable nuisance'.
 - 3. Our property is being damaged (roofs full of moss, lichen and leaves) causing damage to roof and gutters of properties. I have had to replace the roof due to damage caused by the moss from the trees and restructure drainage due to fallen leaves
 - 4. Cars are being damaged by the sap falling from the trees and branches growing around power cables
 - 5. During bad weather/high winds the road becomes dangerous due to falling branches causing damage to vehicles and a danger to traffic on the main Altrincham Road because the Council have not kept up with pruning.
 - 6. The road is dangerous for members of the public and our children to play and cycle on, especially during bad weather
 - 7. According to the RICS some of the trees should be 30m from a house/structure for safety and to reduce risk of root damage, ground heave and subsidence, our houses are 10metres away
 - 8. Error in AEC point 12 land not owned by Cheshire East, I believe it is on the deeds of my house ownership.

- 9. Error in AEC point 10 b) the council barely look after the tree so with a TPO they no longer can
- 10. Trees are doing nothing to benefit residents and road users of Altrincham Road. Cheshire East do not want upkeep of the trees and requested the TPO to cut expenditure at cost of residents and our safety
- 6.3 Objection 2 Resident of Altrincham Road objects to the Order and its implementation for the reasons detailed below
 - 1. Branches have grown over telecoms cables causing issues with internet connection.
 - 2. Fallen leaves from branches hanging over drive have blocked gutters and drains leading to flooding during heavy rain
 - 3. Fallen branches in high winds have been a serious danger to ourselves, our children and vehicles
 - 4. Damage to vehicles parked in driveway from sap
 - 5. The TPO states that trees are expected to cause an actionable nuisance
 - 6. The trees do not sit on Council land which is contained within our freehold
 - 7. The Council have incorrectly answered the question as to whether the trees are causing a nuisance as answer is yes, they are and have caused a nuisance
- 6.4 Objection 3 Resident of Altrincham Road objects to the Order and its implementation for the reasons detailed below.
 - 1. Concerns of safety to residents from the worry of falling branches
 - 2. Leaf litter making paths and driveways slippery and affecting drainage
 - 3. Against the TPO as trees should be kept at safe and reasonable size
- 6.5 Objection 4 Resident of Altrincham Road objects to the Order and its implementation for the reasons detailed below.
 - 1. Damage to property from moss and lichen growth causing roof to leak arising in need to replace roof at cost of £5000
 - Catastrophic leak due to blockages in leaves in guttering causing internal damage costing £3000
 - 3. Being struck directly by falling dead wood while cleaning car
 - 4. Tree sap causing premature deterioration to sun roof and rubber seals of vehicles costing £4100
 - 5. Leaf fall is a problem causing cars to mount kerbs and is slippery in winter
 - 6. Land is not owned by Local Authority as appears on HM Land Registy documents for property
 - 7. Pruning works carried out were agreed and statutory pollard agreed by Highways, retracted by Chris Hudson but then agreed with Local Councillor and Cheshire East

- 8. Trees not suitable for site as suggested, mature Oaks should be a minimum of 30 metres from property, do not provide screening or noise barrier
- 9. Obvious evidence trees causing an actionable nuisance as submitted
- 10. Actionable nuisance is reasonably foreseeable
- 11. Trees are not managed and we believe there is no intention to manage them
- 6.6 Objection 5 Resident of Altrincham Road objects to the Order and its implementation for the reasons detailed below.
 - 1. Trees cannot be called an amenity, could fall on to properties or the A538 and they are too tall to be close to residential properties
 - 2. The trees have been neglected and have grown unchecked and are an actionable nuisance

7.0 Appraisal and consideration of the objections

- 7.1 Due to a number of points being consistently raised within the objections submitted, the response below has been provided to summarise the main issues which have been repeated:
- 7.2 Having sought clarification from Cheshire East Highways confirmation has been received that the trees are maintained in accordance with the Councils Highway Tree Maintenance and Inspection Policy .
 A tree safety survey was carried out on all trees on the verge in June 2020. Trees requiring maintenance or action were individually recorded with works recommendations made and implemented in accordance within recommended time scales.
- 7.3 The issue of what constitutes a 'well maintained' and 'overgrown' tree is subjective. Regular inspection and removal of dead wood are expected routine operations, in addition to crown raising to maintain statutory clearances, and/or reduction of occasional selected branches to clear structures, or to reduce loading. Works in excess of these types of operations are rarely considered necessary unless a significant risk has been identified.
- 7.3 An enquiry to Cheshire East Highways was made to determine the number and nature of customer reports and complaints received regarding trees opposite property numbers 136 to 156 Altrincham Road over the last three-year period (March 2019 March 2022). In that period five contacts were made in relation to trees in the above-mentioned area of which just two referenced concerns regarding the trees size and safety in terms of dead branches, with one of these reporting a branch failing onto a vehicle. A tree safety survey was subsequently carried out following this report to the Council, with works implemented to address issues identified in accordance with the Councils Tree Risk Management Strategy.

- 7.5 Leaf loss of mature trees cannot be avoided by pruning and tree owners do not have any legal obligation to cut or maintain trees for any other reason than safety. The shedding and natural shedding of twigs and small diameter dead wood of mature trees is also a natural process which often occurs during the winter. Trees containing large diameter dead branches would be identified through inspection procedures as part of the Council's Tree Risk Management Strategy and action taken accordingly where there was an imminent risk of harm. The maintenance of guttering and the roofing of individual properties is the responsibility of the homeowner. Leaf loss and honeydew from aphid infestations from trees is however a seasonal maintenance issue and rarely, if ever, considered a legal nuisance, however a TPO would not normally prevent selective pruning to reduce the severity of such matters or to clear BT cables if an application were submitted to the Council.
- 7.6 The pruning work carried out to the mature Oak located within the highway verge were considered as part of the TPO assessment did not accord with the industry standard as set out in the British Standard, BS3998:2012 Tree Work Recommendations and have had a detrimental impact on the appearance of a high quality and high amenity Oak. Irrespective of the specification that was agreed, works to this tree were not identified as necessary within the submitted Highway Tree Survey Report. Consequently the Tree Preservation Order is considered appropriate and necessary to ensure that all trees are maintained in accordance with best practice to maintain the high amenity value that the trees presently afford the area.
- 7.7 The Order was served in accordance with Government Guidance on those persons interested in the land affected by the Order. A Land Registry Search was also carried out to identify any Title of land on which the protected trees were located. Persons listed within the Title Absolute on the Proprietorship Register were sent a sealed copy of the TPO and Site Notices were displayed in accordance with Government Guidance.
 - Discussion of the intention to serve a TPO is not deemed appropriate in advance of service for obvious reasons as this can pre-empt the kind of works the Order is intended to control such as pruning and felling works.
- 7.8 Having regard to tree ownership; leasehold information relating to individual properties is not available to view on the Land Registry. The verge is however recorded as being within the boundary of Cheshire East Highways land which they presently maintain. Section 263 (1) of the Highways Act 1980 provides that, subject to certain exceptions referred to in Subsection (2), every highway maintainable at public expense, together with the materials and scrapings of it, is vested in the authority who are for the time being the highway authority for the highway. Case Law has established trees planted pre and post adoption are vested in the authority, and that includes all parts of the tree, above ground and the soil the roots occupy. The subsoil beneath the area in question including

services, highway apparatus, and tree roots are therefore believed to be vested with the Highway Authority (*Hurst and Another v Hampshire CC* [1997] EWCA Cid J0619-4).

7.9 An actionable nuisance is defined in law as where the nuisance is causing actual or imminent damage. This ordinarily applies where tree roots are demonstrated as contributing to subsidence issues, or where tree branches are physically touching a property. Cheshire East Highways Claims Team have confirmed that in respect of trees on Altrincham Road no claims tree/property related have been received.

No actionable nuisance has been identified, however where sufficient evidence is presented that damage has occurred, or trees exhibited signs of declining health or condition, the appropriate consent to reduce or remove the risk can be given

8.0. Implications and Recommendation

8.1 The service of the TPO is therefore considered necessary as without the protection the Order affords there is a risk of the amenity of the group of trees being destroyed.

9.0 Legal Implications

9.1 The validity of a TPO may be challenged in the High Court on the grounds that the TPO is not within the powers of the Act or that the requirements of the Act or Regulations have not been complied with in respect of the TPO. When a TPO is in place, the Council's consent is necessary for felling and other works, unless the works fall within certain exemptions e.g. to remove a risk of serious harm. It is an offence to cut down, top, lop, uproot, willfully damage or willfully destroy any tree to which the Order relates except with the written consent of the authority.

10.0 Finance Implications

10.1 None

11.0 Policy Implications

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

12. Equality Implications

12.1 No direct implication

13. Human Resource Implications

13.1 No direct implication

14. Risk Management Implications

- 14.1 No direct implication
- 15. Rural Communities Implications
- 15.1 No direct implication
- 16 Implication for Children & Young People/Care for Children
- 16.1 No direct implication
- 17. Climate Change
- 17.1 The retention of mature trees where possible is in accordance with the Councils Climate Change Agenda
- 18. Public Health Implications
- 18.1 No direct implication
- 19. Ward Members Affected
- 19.1 High Legh
- 20. Access to Information
- 20.1 The following document is appended to this report
 - Appendix 1 Provisional TPO document
 - Appendix 2 Amenity Evaluation Checklist
 - Appendix 3 Landscape Appraisal
 - Appendix 4 TPO location Plan
 - Appendix 5 Objection 1 5

21. Contact Information

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

Name: Emma Hood

Job Title: Arboricultural Officer (Environmental Planning)

Email: emma.hood@cheshireeast.gov.uk

Town and Country Planning Act 1990 CHESHIRE EAST BOROUGH COUNCIL (WILMSLOW – VERGE OPPOSITE 136-156 ALTRINCHAM ROAD) TREE PRESERVATION ORDER 2022

The Cheshire East Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

Citation

This Order may be cited as CHESHIRE EAST BOROUGH COUNCIL (WILMSLOW – VERGE OPPOSITE 136-156 ALTRINCHAM ROAD) TREE PRESERVATION ORDER 2022

- 1.Interpretation
- 2.— (1) In this Order "the authority" means the Cheshire East Borough Council.
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

- 3.— (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

			and the second second second second	
Dated this	28 m	day of	March	2022
The Commo	on Seal of C	heshire Eas	st Borough (Council
was affixed	to this Orde	r in t <mark>he pres</mark>	ence of—	
			flo	u



CONFIRMATION OF ORDER

This Order was confirmed by Cheshire East Borough Council without modification on the day of OR This Order was confirmed by the Cheshire East Borough Council subject to the modifications indicated by on the day of Signed on behalf of the Cheshire East Borough Council Authorised by the Council to sign in that behalf DECISION NOT TO CONFIRM ORDER A decision not to confirm this Order was taken by Cheshire East Borough Council on day of Signed on behalf of the Cheshire East Borough Council Authorised by the Council to sign in that behalf] VARIATION OF ORDER This Order was varied by the Cheshire East Borough Council on the day of by a variation order under reference number a copy of which is attached Signed on behalf of the Cheshire East Borough Council Authorised by the Council to sign in that behalf REVOCATION OF ORDER This Order was revoked by the Cheshire East Borough Council on the day of Signed on behalf of the Cheshire East Borough Council

Authorised by the Council to sign in that behalf

......

SCHEDULE

Specification of trees

Trees specified individually

(encircled in black on the map)

Reference Map	on	Description	Situation
T1		Oak	Standing on the verge to the
			south west of 154 & 156 Altrincham Road
			Grid Ref: 383,342 - 381,536

Trees specified by reference to an area

(within a dotted black line on the map)

Reference on Map	Description	Situation	
14			

None

Groups of trees

(within a broken black line on the map)

Reference on Map	Description	Situation
G1	1 Lime & 4 Oak	Standing on the verge to the south west of 136 & 138 Altrincham Road Grid Ref: 383,395 – 381,477
G2	1 Lime & 4 Oak	Standing on the verge to the south west of 142 to 152 Altrincham Road Grid Ref: 383,368–381,511

Woodlands

(within a continuous black line on the map)

Reference on	Description	Situation	-
Мар			

None

Page 189 CHESHIRE EAST BOROUGH COUNCIL (WILMSLOW - VERGE OPPOSITE 136 - 156 ALTRINCHAM ROAD) **TREE PRESERVATION ORDER 2022** Lindow Court Car Park





Amenity Evaluation Checklist Completed by: **G** Newsome Date form Form status: Completed 18/03/2022 completed: Reference 49-189 Attachments Address 136 - 168 Altrincham Road. Town Wilmslow Postcode SK9 5NQ Ward: Wilmslow West and Chorley 1. BACKGROUND FILE CHECK: Any existing TPOs on or adjacent to the Yes site/land? Is the site within a conservation area? No Is the conservation area designated partly N/A because of the importance of trees? Is the site adjacent to a Conservation Area? No Are there any Listed Buildings on or adjacent No to the site? Local Plan land-use designation Mainly residential. Are there currently and designated nature Lindow Common - SSSI, Priority Habitat Inventory (Deciduous conservation interests on or adjacent to the Woodland), Local Nature Reserve. site? Relevant site planning history (incl. current Planning history apparent to properties adjacent to the strip of applications) land where trees are located. **STATUTORY CONSULTEES** Are there any Scheduled Ancient Monuments No on or adjacent to the site? Is the land currently safeguarded under the Yes Town & Country Planning (Aerodromes & Technical Sites) Direction 1992? Does the Forestry Commission currently have No an interest in the land? Grant scheme



Forestry Dedication Covenant	
Extant Felling Licence	
Are any of the trees situated on Crown Land?	No
Are any of the trees situated on NHS land?	No
Is the land owned by this Local Authority	Yes
Is the land owned by another Local Authority	No
2. MOTIVATION	
Development Control	
Application Ref	
Committee deadline	
Development Control Office comments	
Conservation Area Notification	
Application ref	
Date of registration	
Expiry date	
Emergency action (immediate threat to the trees)	✓
Strategic inspection	☑
Change to Local Plan land-use	
Change in TPO legislation	
Sale of Council owned land	
Reviewing existing TPO	
Hedgerow Regulations 1997	
3. SOURCE	
Source	Public
4. LANDSCAPE APPRAISAL	
Site visit date	08/03/2022
Inspecting Officer	G Newsome - E Hood
	The site is located within an area partially owned and maintained by Cheshire East Council. It comprises of maintained verge with several trees planted as screening and noise reduction to the adjacent properties. There is evidence that one of the trees has been subject to significant pruning recently with no obvious reasons presented.

character	The site is located on the fringe of Pownall Park, a mainly residential area 1.4 kilometres north west of Wilmslow town centre. It is adajacent to Altrincham Road, an arterial route linking Wilmslow and surrounding large towns to Manchester Airport. Opposite is Lindow Common, a local nature reserve signified by population of Silver Birch and low shrub layers.
Statement of where the trees are visible from	Altrincham Road - Greaves Road - Racecourse Road - Kings Road.
	annotate map
Photograph the trees, the site and surroundings	No picture inserted annotate map
Landscape function	 ✓ Road frontage (classified) ✓ Screening/buffering
Visual prominence	✓ Neighbourhood, estate, locale✓ Site and immediate surroundings
Species suitability for the site	Fairly suitable
Condition	Good
Past work consistent with prudent arboricultural management?	Yes
Are past works likely to have compromised long term retention?	No
Will past work necessitate any particular future management requirements?	With the exception of one Oak tree, trees appear to be of good vitality and present no evidence of features likely to affect the long term physiology or stability of the trees.
	The relationship of trees and proximity to the A538 will arise in the need to maintain appropriate clearance over the public highway.
Tree size (at maturity)	Large (more than 15m)
Presence of other trees	High percentage tree cover

BENEFITS	
Are the benefits current?	Yes
Assessment of future benefits (future growth potential; continuity/sustainability of tree cover; development)	The trees represent both current and future growth potential and can be managed appropriately in their present condition.
Assessment of importance as a wildlife habitat	May present features suitable for nesti ng and roosti ng birds.
Additional factors	 ✓ Part of deliberate composition (avenue/focal point) ✓ Screening/buffering (visual/noise)
5. EXEMPTIONS (TCPA 1990)	
Are any of the trees obviously dead, dying or dangerous	No
Are there any statutory obligations which might apply? (consider: Highways Act 1980, Electricity Act 1989, Civil Aviation Act 1982)	Yes
Is there any obvious evidence that the trees are currently causing any actionable nuisance?	No
Based on the trees in their current locations, is the likelihood of future actionable nuisance reasonably foreseeable?	Yes
Is there any Forestry Commission interest in the land?	No
6. EXEMPTIONS (MODEL ORDER):	
Are there any extant planning approvals on the site which might compromise retention of the trees?	No
Are there any lapsed planning approvals which might have compromised the trees?	No
Are any of the trees obviously cultivated for commercial fruit production?	No
Are any of the trees situated on or adjacent to a statutory undertaker's operational land?	No
Are any of the trees situated on or adjacent to land in which the Environment Agency has an interest?	No
7. COMPENSATION:	

Do any of trees currently show any obvious signs of causing damage?	
If Yes provide details	N/A
Based on the trees in their current locations, is the risk of future damage reasonably foreseeable?	
If yes provide details	N/A
Are there any reasonable steps that could be taken to avert the possibility of future damage or to mitigate its extent?	N/A
If yes provide details	
8. HEDGEROW TREES:	
Individual standard trees within a hedge	No
An old hedge which has become a line of trees of reasonable height	No
Are the "trees" subject to hedgerow management?	No
Assessment of past hedgerow management	N/A
Assessment of future management requirements	N/A
9. MANAGEMENT:	
Are the trees currently under good arboricultural or silvicultural management	Yes
Is an order justified?	Yes
Justification (if required)	To ensure the long term retention of amenity trees which are at risk of unrestricted works.
10. DESIGNATIONS:	
a. Individual	
Do the trees merit protection as individual specimens in their own right?	Yes
b. Group	
Does the overall impact and quality of the trees merit a group designation?	Yes
Would the trees reasonably be managed in the future as a group?	Yes
c. Area	

	ago loo
Area	
d. Woodland	
Woodland	
Wooding.	
11. MAP INFORMATION:	
Identify the parcel of land on which the trees	
are situated.	
(Outline in red on the attached location plan)	
Identify all parcels of land which have a	
common boundary with the parcel concerned	
(Outline in green on the attached plan)	
Identify all parcels of land over which the	
physical presence of the trees is situated, or	
that they could reasonably be expected to	
cover during their lifetime (Cross hatch on the plan)	
12. LAND OWNERSHIP:	
Land ownership details (if known)	
Land Ownership details (if known)	Partially owned by Cheshire East Council.
	See list of persons served with TPO
	see list of persons served with TPO
Land Registry search required?	
13. SUPPLEMENTARY INFORMATIO	ON:
Has a detailed on-site inspection been carried out?	Yes
Does the risk of felling justify making an order	No
prior to carrying out a detailed on-site	
inspection	
Provide details of trees to be excluded	
Additional publicity required?	
Relevant Local Plan policies	Chashira Fast Lasal Blan
	Cheshire East Local Plan
	Policy SE5 Trees, hedgerows & Woodlands
	Policy SE 3 Biodiversity and Geodiversity

Statement of reasons for promoting this Order

Page 197

In the interests of maintaining the area in which thetrees stand, in that they are considered a long term amenity feature.

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

The trees have been assessed in accordance with the CouncilsAmenity Evaluati on Checklist and it is considered expedient in the interests of amenity to make provision for the trees long term protecti on.

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

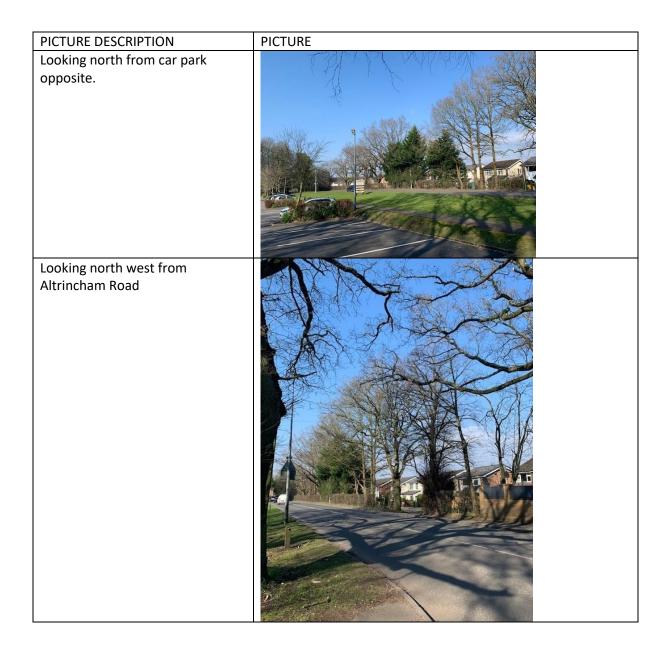
14. SUMMARY:	
Would loss of the trees have a significant impact on the local environment?	Yes
Will a reasonable degree of public benefit accrue?	Yes
Is an Order in the interests of amenity?	Yes
Is an Order expedient in the circumstances?	Yes



<u>AEC – LANDSCAPE APPRAISAL</u>

PHOTOGRAPHS OF TREES, THE SITE AND SURROUNDINGS

REFERENCE:	49-189
SITE NAME:	Cheshire East Borough Council (Wilmslow - Verge opposite 136 - 156 Altrincham Road) TPO 2022 (Working title)
DATE OF VISIT:	8 th March 2022
COMPLETED BY:	G. Newsome
NOTE:	
TREES PROPOSED	Two groups. One individual tree.
FOR FORMAL	
PROTECTION:	



Looking south east at entire group from Altrincham Road (lower section adjacent to properties) Looking north west at entire group from Altrincham Road (lower section adjacent to properties)

Looking north at G1 from Altrincham Road.



Looking north at T1 from Altrincham Road.

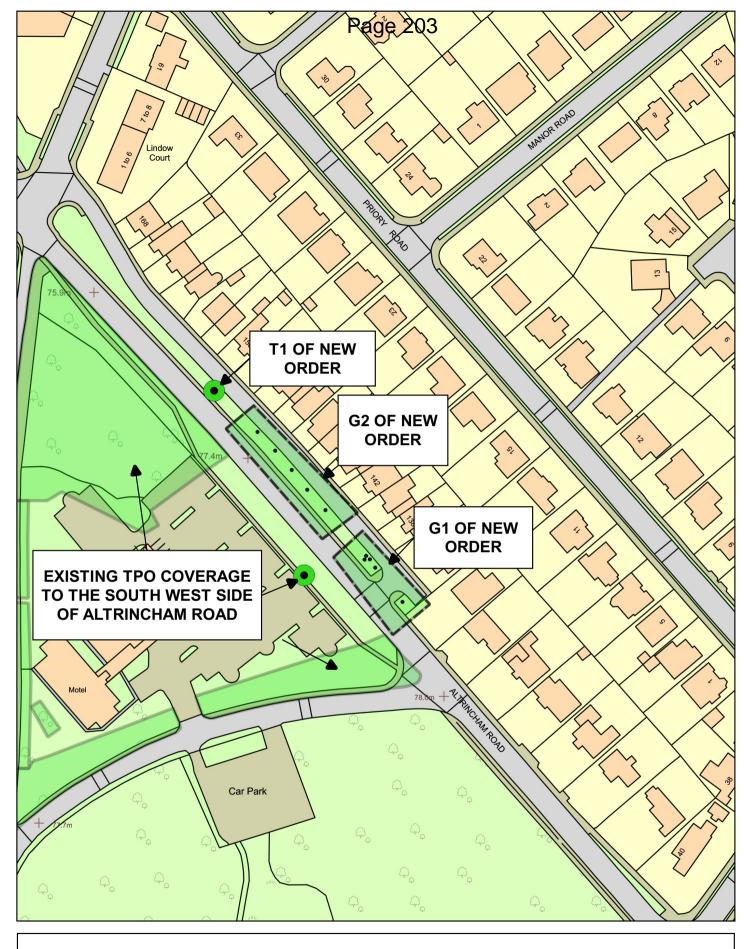


Looking south-east at G1 from Altrincham Road. (lower section adjacent to properties)



Looking south-east at Oak tree within G2 subject to heavy pruning practices.







LOCATION OF TREES PROTECTED BY NEW ORDER OPPOSITE 136 - 156 ALTRINCHAM ROAD, WILMSLOW





OBJECTION 1

6 MAY 2022

Wilmslow Cheshire SK9 5NQ

4th May 2022

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

Ref: TPO order 2022, verge opposite 136-156 Altrincham Road, Wilmslow

Dear Ms Hood,

This is notification of my strong objection to the above order.

(1) First of all, if the council had kept the trees in good order by pruning and maintaining frequently, then the trees would not be in the mess they are today. The trees I assume were originally planted to provide screening/buffering (visual/noise) and yet they are now way above the height of the properties they are supposed to screen. * See your own pictures Looking north at G1 and T1 – any benefit would be from the branches and leaves of the tree and yet, as you can clearly see they have been allowed to massively overgrow.

Amenity Evaluation Checklist, point 5: an error of your answer 'no' to the question 'is there any obvious evidence that the trees are currently causing any actionable nuisance'...

- * Due to the overgrown state of the trees, our properties are now being damaged (Our roofs are full of moss, lichen and leaves) therefore causing damage to the roof and gutters of the properties. I myself have had to replace the roof due to the damage caused by the moss from the trees and restructure some of the drainage system at the front of the property due to fallen leaves.
- Due to the overgrown state of the trees and no ongoing maintenance by the council, cars are being damaged by the sap falling from the trees and branches growing around power cables.
- * During bad weather and high winds the road becomes dangerous due to falling branches on either side of the road causing damage to resident's vehicles and a danger to traffic on the main Altrincham Road, simply because the council have not kept up with regular pruning.
- (2) Our children play out and cycle on this road and it is becoming dangerous for them and members of the public using the road, especially during times of bad weather, because the council have not

kept up with regular pruning. Although duly noted that the council suddenly appeared 2021 after many complaints but still left branches overhanging over the road!

- (3) According to the RICS some of these particular trees should be 30m from a house/structure for safety and to reduce the risk of root damage, ground heave and subsidence. Our houses are approximately 10m away. Again, the council have allowed these trees to overgrow and they will continue to grow and cause damage as per your amenity evaluation checklist, point 5 and because they are so overgrown, us as residents are not seeing any benefit as the bulk of the tree is too high.
- (4) Error in Amenity Evaluation Checklist, point 12 the land is not owned by Cheshire East Council as I believe it is on the deeds of my house ownership. Please see HMRC land registry records.
- (5) Error in Amenity Evaluation Checklist, point 10, b the council barely look after the trees at the moment so with a TPO order they no longer can, therefore more safety issues, damage and nuisance to residents and members of the public wishing to use the road.

Overall, the trees in question are barely doing anything to benefit the residents of Altrincham road or the main road users. Cheshire East Council do not want the cost of the upkeep of these trees and therefore request the said TPO in order to cut ongoing expenditure at the cost of us residents, our safety and the safety of our homes.

I am not a tree surgeon but I suspect that due to the height of the trees, they are no longer any benefit to us residents and without further works being carried out sooner rather than later, they will continue to cause damage and they are on an incline embankment so a serious accident is just waiting to happen should this TPO order take effect.

Regards,

(Home owner & resident of Altrincham road)

OBJECTION 2

vviimsiow, Cheshire, SK9 5NQ

06/05/2022

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

RE: Cheshire East Borough Council (Wilmslow – Verge Opposite 136-156 Altrincham Road) Tree Preservation Order 2022

Dear Ms Hood,

Regarding the provisional Tree Preservation Order in force, I would like to make a number of objections. These are all a result of the trees not being maintained and growing out of control.

- Branches have grown over our telephone line causing issues with the internet connection
- Fallen leaves as a result of branches hanging over our drive have blocked our gutters and drains leading to flooding during heavy rain
- Fallen branches during heavy winds have been a serious a danger to ourselves, our children and our vehicles
- Damage to our vehicles parked in our driveway as a result of tree sap caused by branches overhanging our drive
- The TPO itself states that the trees are expected to cause an actionable nuisance

I would also like to highlight a number of errors in the TPO Schedule:

- The trees do not sit on council land, the land is contained within our freehold
- The council have incorrectly answered the question as to whether the trees are causing a nuisance the answer is yes, they are causing and have caused a nuisance

Yours sincerely,

9 MAY 2012

OBJECTION 3

6 MAY 2022

Wilmstow Cheshire Sky snQ

5th May 2022

Arboricultural Officer
Environmental Planning/
Cheshine East Council
PO BOX 506
Municipal Buildings
Earle Street
Crewe
CWI 9HP

Dear Sir/Madam

Re: Tree Preservation order made against Wilmstow - verge opposite 136-156 Alterincham Road

As the homeowner of 148 Altricham Road I am writing to object to the tree preservation order, my reasons are as follows

- Firstly sofely to residents. I have a 7 month daughter who will grow up in this beautiful area but the risk of falling branches from the trees is a worry. This has been highlighted recently by a reighbour receiving car domage.
- . The was arrant of leaves shed by the trees makes paths and driveways very stirpery not to mention affecting the drainage.
- . I am against the TPO but believe the trees should be rept at a Safe and reasonable size. I would also not be in favour of complety removing.

Thank you for considering my letter of objection and hope to hear from you soon.

Yours faithfully

OBJECTION 4

TREE PRESERVATION ORDER: VERGE OPPOSITE 136-156 ALTRINCHAM ROAD, WILMSLOW, SK9-5NQ

Objections to the above proposal.

Date 25-04-2022

2 9 APR 2022

Wilmslow Cheshire SK9-5NQ

Dear Emma.

I trust you are well.

It has been brought to our attention that Cheshire East Council have placed a Tree preservation order on a group of trees {T1, G1 & G2} standing on the verge of land opposite houses 136-156 Altrincham Road, Wilmslow, SK9-5NQ.

Under the legislation covering TPO's we would like to exercise our rights to raise legitimate objections to the confirmation of the above TPO for the reasons as set out below, and trust that they will be heard and sensibly acted upon.

We have lived at the above address for nearly 9 years and over the last 3 years have had a catalogue of damage to our property caused as a direct result of the aforementioned group of trees and in particular the one opposite our home being left without any sort of sensible management programme in place. If I could respectfully ask you to read the below objections in the hope that you will better understand the situation

Recently we have had to spend £5000 to have our house roof renewed as a direct result of moss and lichen growths a result of the height/size of the trees blocking sunlight for most of the day, and which has grown beneath the roof tiles causing them to fail and the roof to leak internally.

In late 2019 we had a catastrophic leak into the front bedroom of our home as result of masses of leaves which had gathered in the rain water gulley and caused rain water to cascade into the cavity of the wall and soak through to the bedroom, this cost nearly £3000 to rectify.

In 2020 I was struck by falling dead wood from the tree whilst cleaning one of our cars following a period of blustery weather, we are now so worried that this could happen again only striking one of our children that we will not allow them to play out at the front of our home. We are currently waiting to take one of our vehicles to the manufacturer to have the sun roof and window rubber seals exchanged as a result of tree sap causing premature deterioration and resulting in the seals becoming ineffective during wet condition and allowing moisture to penetrate inside the vehicle, at a cost of £4100

We have also had to have a roof light window fitted to the front of our home to try and allow more natural light into our home, as we found that even in the summer time we had to have the lights on in house during daylight hours due to the amount of light being blocked by the height of the trees.

The leaf fall from these trees each autumn is a massive problem as they disguise where the kerb is, so cars often mount the kerb whilst trying to park, causing a real danger to passing children during their walk to and from school, also it is like walking on ice during the wet months as the road & footpath is covered in a green slippy slime – these issues have been raised by one of the street cleaning operatives whom was tasked with clearing them one year, this is documented on the council system.

I would also like to point out some inaccuracies and object to the incorrect information contained within the Amenity evaluation checklist (ref 49-189) being used as a basis to confirm the TPO.

<u>Under section 1: Statutory consultees:</u> there is a question "Is this land owned by this authority" and is marked "yes" – this is incorrect, the verge of land along with the road and pavement between the houses and the verge in question is land that is owned by the home owner/ free holder of the property it fronts and is clearly documented on HM land registry and my property deeds (see enclosed copies of HM land registry document) Therefore as this land is owned by ourselves we do not consent to the TPO on any tree on our land. We also have had written confirmation from Cheshire east Council that this land is merely maintained by the council and IS NOT OWNED by the council.

<u>Under section 4: Landscape appraisal:</u> Under "site description" which amongst other things states that "one of the trees has been subject to significant pruning recently with no obvious reasons presented" — the tree is question was surveyed by an independent arboriculturist (as it sits on land we own) who stated that the trees were dangerously overgrown and badly weighted towards the properties in front of it (our home and no. 152 being directly in the fall zone should the tree have fallen. It was stated that the lack of maintenance of the tree left it in need of a statutory pollard and this was deemed acceptable by Cheshire East Highways (Steven Bettany) but later retracted by Chris Hudson of trees at Cheshire East. Following months of discussions with our councillor and Cheshire East it was agreed that the pruning could be done.

Also, under the same section there is a statement "species suitability for the site" which is answered "fairly suitable" - following discussions with The Association of British Insurers (ABI), The Royal Institute of Chartered Surveyors (RICS) and The Royal Horticultural Society (RHS) it has been clearly documented that a mature oak tree should be a minimum of 30 meters from a building to prevent the possibility of subsidence, ground heave and damage from the tree falling, the trees under T1, G1 & G2 are all mature and sit between 11-13 meters from the properties, therefore we would suggest that they are not fairly suitable (at their current height/size), they would be completely unsuitable for the site at their current height/size. We also object to the TPO being confirmed based on 'Amenity' grounds as there is no legal definition of amenity as per legislation and the trees in their current state actually make the road look unkempt and scruffy, if they were properly maintained and had a tree management programme in place instead they would have a better 'Amenity' value, rather than being left to out grow their situation and cause an ongoing statutory and actionable nuisance, something which negate the risk of further damage to the residents whom live below them. For the avoidance of doubt, we certainly do not want the trees to be removed entirely, more that they be pruned to a more suitable size so that the current damage, nuisance and potential risk is mitigated somewhat, and that they become more in keeping with the small strip of land on which they sit and with the homes below them. This would maintain the road frontage. Sadly, the trees do not provide any sort of screening from the pub and hotel directly opposite or the patrons cars who's headlights continually shine through our lounge window every night, nor do they act as any sort of noise barrier from the pub noise late of an evening or from passing Road traffic either.

<u>Under section 5: Exemptions (TCPA 1990):</u> There is a question "Is there any obvious evidence that the trees are currently causing any actionable nuisance" and is answered "No". I'm sure now you have the background information on the problems/damage the trees are currently causing, you can see that this statement is absolutely incorrect and they are currently causing a statutory actionable nuisance. There is also another statement directly below the one mentioned previously which reads "Based on the trees in their current locations, is the likelihood of future actionable nuisance reasonably foreseeable" and thankfully this is answered "Yes" so one could only assume that the problems the trees are currently causing and which the council were unaware of at the time the Amenity Checklist was compiled, are in fact the actionable nuisance which could be reasonably foreseen during the amenity checklist compilation. Still under the same section heading, another statement "Based on the trees in their current locations, is the risk of future damage reasonably foreseeable?" This question hasn't been answered but again, you are now aware of the issues we have had, we are also not alone with the damage issues, other neighbours have had damage to their properties/vehicles.

<u>Under section 4 – management</u>; there is a question " Are the trees currently under good arboricultural or silvicultural management" and is answered "yes" – it was confirmed to us in writing that Cheshire East Council will only maintain the trees (T1, G1 & G2) if they are dead, diseased or decayed and stated that they were not, so therefore there is no maintenance programme in place on these trees, no intention to put one in place nor has there been for over 10 years. The only time the trees have been attended to was following a visit by a council official regarding the refuge collectors vehicle & taller vehicle being struck by very low hanging thick branches and a crown lift was performed but this was 3 years after the council became aware of the issues.

This concludes our objections and we hope that you will take a sympathetic view of our situation, and would like to thank you for taking the time to read through our letter and the problems we are having.

Wishing you all the best, and we look forward to hearing back from you soon.

Kindest regards



OBJECTION 5

25 APR 2022

Wilmson SK9 5NQ

22/4/2022

ne: Tree Preservation Onder on trees opposite no. 136-156 Albringham Road.

For the attention of Emma Good, Arboricultural Officer.

I wish to place on second my objection to the placing of a Tree Preservation Order on all the trees marked on your diagram.

Peason:

Then trees can no longs be called an amenity. If any of them loses a branch on to this street, or on to the A538 on their other side, it will cause some trouble. If one tree falls towards the hours, not impossible in our terbulent winter weather, it will cause great damage as far as the frontage of any house opposite. It should be noted these trees are now too tall to be so close to residential properties, on one side, and a main road on the other.

The trees have been neglected and have grown unchecked for many years. They are, in my opinion an actionable missance.

I therefore recommend that the confirmation of the Tree Preservation Order is not granted.

