

## **Northern Planning Committee 13<sup>th</sup> March 2019**

### **UPDATE TO AGENDA**

#### **APPLICATION No.**

**18/5811M** – A new intake structure on the west bank roughly 20m upstream of the weir, 3.5m wide and protected by a coarse screen of 150mm aperture. 30m of 1500mm dia. buried low pressure pipeline. An Archimedes Screw turbine set onto concrete foundations within a 3m-wide channel constructed from sheet steel piles. A control building above the turbine 4m x 5.5m in plan enclosing the gearbox, generator and control equipment. A short tailrace channel delivering the flow back into the downstream weirpool. A buried electrical cable running 1000m to the switchroom at the Siemens factory in Congleton. Upgrading of the existing 'angler's footpath' with a post-and-beam raised boardwalk (1.2m width). The armoured power cable running across to Havannah Lane will be fixed beneath the boardwalk. 250m of temporary access track coming from the north, off the A536 through an adjacent field and down to the plateau above the intake and turbine locations, providing construction access to the hydro works whilst avoiding the more sensitive areas of the woodland.

#### **LOCATION**

Weir, Havannah Lane, Havannah, Congleton

#### **UPDATE PREPARED**

7th March 2019

#### **CONSULTATIONS (External to Planning)**

**Head of Strategic Infrastructure (HSI)** – No objections, subject to a condition preventing the use of the proposed temporary access track being implemented until the Congleton Link Road works at the eastern end completed and a condition requiring the removal of the track upon completion of the works.

#### **APPRAISAL**

Since the drafting of the Committee report, the applicant has submitted further tree information, a revised parking arrangement location and advised that in the event of approval, they would be willing to enter into a S106 Agreement in order to secure the community funding element of the proposals.

#### **Principle of development**

##### **Wider social, environmental and economic benefits**

The applicant has advised that they would be willing to enter into a S106 legal agreement in order to secure the community funding benefits in the event of

approval. This is acknowledged, and increases the weight afforded to this planning benefit.

### Trees

The applicant has submitted further information in order to address the Council's Arboricultural concerns with regards to the veteran tree.

Para 6.18 of the revised Arboricultural Report states that there will be 0.5 metres of excavation at a distance of 10-15 metres from the stem of the Veteran tree, and a 4.5 metre stand off from the trunk and outside the canopy spread with the track surface above existing ground level.

Paragraph 175 of the revised NPPF now places greater protection and safeguards for Veteran trees with current standing advice recommending an RPA of 15 metres stem diameter, with buffer zones 5 metres from the edge of the canopy if the area is larger than 15x the stem diameter. It is important to note that the NPPF refers to the loss or deterioration of habitat when describing veteran trees and the 15 x requirement as a buffer. This is an important distinction when comparing non-Veteran trees as it enables the protection of the tree within its setting and any biological communities associated and interacting with the Veteran tree

The statement that the RPA section requiring excavation is only small (approx. 2 %) does not take account of the fact that BS5837:2012 states that the default position is that structures should be located outside the RPA of retained trees (and this should be particularly so with regard to Veteran trees). Where permanent surfacing within the RPA is unavoidable any new permanent hard surfacing should not exceed 20% of any existing unsurfaced ground within the RPA. The Council's Tree Officer advises that to say that only 2% is affected does not take account of the remaining section of the proposed track within the RPA which is not to be excavated.

The Report states that there is unlikely to be any major roots that will be affected, citing the presence of other mature trees and the distance from the tree as a factor. Given the current safeguards for protection of Veteran trees in national policy, the Council's Tree Officer advises that there is no conclusive evidence in this application that the rooting environment of the tree (and its associated habitat referred to above) will not be impacted by the proposed track. As such, the Tree Officer's position on the impact of the Veteran Tree remains unchanged and this, along with the tree loss would still result in the proposals being contrary to proposals and the development is deemed contrary to Policy SE5 of the CELPS and Policy DC9 of the Macclesfield Borough Local Plan, in addition to Policy SE8 of the CELPS.

### Principle conclusions

Policy SE8 of the CELPS supports community-led renewable energy initiatives such as that proposed, irrespective of its location, as the benefits of such schemes are recognised. In this case, the environmental benefits are the CO2

savings (around 200 tones per year) that would be created as a result of the development, there would also be benefits to the Grade II listed building through the proposed removal of tree samplings from the brick structure, the social benefits in terms of assisting in the creation sustainable communities and the economic benefits in terms of any profits being spent on local community projects.

However, Policy SE8 of the CELPS also states that consideration also needs to be given to anticipated adverse impacts such as; the impact upon the surrounding landscape, including matters of heritage, ecology and trees; the impact upon residential amenity and the impact in this case, upon Jodrell Bank.

In response, adverse impacts are identified in relation to; Open Countryside, ecology and trees. No significant residential amenity or Jodrell Bank impacts are identified.

Balancing up the adverse impacts against the benefits of the scheme in the context of Policy SE8, whilst the weight afforded to the environmental benefits are significant, the weight afforded to the social and economic benefits is moderate.

In consideration of the adverse impacts, whilst it is recognised that the development only relates to a relatively small portion of the Havannah Wood LWS, it is understood to be a section which is deemed particularly rich and of good quality, the loss of which would be irreversible. Furthermore, Cheshire has less than half the national average of woodland cover so its retention is particularly important. It is also a consideration that the areas of the LWS that would be impacted during construction would be greater than that of the footprint of the proposed development shown.

In consideration the adverse impact upon trees, the loss of trees is considered to be significant and will have an adverse impact on the woodland. There is also a lack of information to satisfy concerns that the development would detrimentally impact a veteran tree.

It is concluded that because of the irreversible harm that would be created to the LWS and wet woodland and the lack of information relating to possible harm upon a veteran tree, the environmental harm of the development outweighs the benefits, irrespective of the community benefits being secured.

As a result of the above reasons, it is considered that the proposal would be contrary to Policy SE8, Ecology and Tree policies of the development plan and be unacceptable in principle.

### **Other Matters**

#### **Open Countryside**

Concerns were originally had with the detached and sensitive location of the proposed car park for future engineers with regards to the character of the Open Countryside. As such, the applicant has proposed alternative arrangements. This

is the informal parking of a single car on Havannah Lane itself, closer the proposed hydro project. It has been advised that an engineer will visit the site no more than every 2 days and will be on site no longer than 30 minutes. This removes the Open Countryside element concern of the proposal.

### Highways

In consideration of the proposed parking arrangements, the Council's Head of Strategic Infrastructure (HSI) has advised that the alternative parking arrangements are acceptable and would create no highway issues, eliminating their original concerns regarding parking arrangements.

## **CONCLUSIONS AND RECOMMENDATION**

The application site is located predominantly within the Open Countryside where development is only supported in certain instances to protect it for its own sake.

Policy SE8 of the CELPS supports community-led renewable energy initiatives such as that proposed, irrespective of its location, as the benefits of such schemes are recognised. In this case, the environmental benefits are the CO2 savings (around 200 tones per year) that would be created as a result of the development, there would also be benefits to the Grade II listed building through the proposed removal of tree samplings from the brick structure, the social benefits in terms of assisting in the creation sustainable communities and the economic benefits in terms of any profits being spent on local community projects.

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lack of information to satisfy concerns that the development would detrimentally impact a veteran tree.

It is concluded that because of the irreversible harm that would be created to the LWS and wet woodland and the lack of information relating to possible harm upon a veteran tree, the environmental harm of the development outweighs the benefits, irrespective of the community benefits being secured.

As a result of the above reasons, it is considered that the proposal would be contrary to Policy SE8, Ecology and Tree policies of the development plan and be unacceptable in principle.

No significant other concerns would be created in consideration of other development plan policies, subject to conditions in the event of approval.

However, as a result of the above reasons, the application is recommended for refusal.

## **RECOMMENDATIONS**

**REFUSE for the following reasons;**

- 1. The proposed development would have a significant adverse impact upon the Havannah Wood Local Wildlife Site. The proposed compensatory measures are not deemed sufficient to outweigh the harm. In addition, the proposal would have a significant impact upon the woodland as a result of tree loss. Furthermore, insufficient information has been provided to assess the impact of the development upon a veteran tree. It is not considered that other material considerations are sufficient to outweigh the environmental harm that would be created as a result of the development. The application is therefore deemed contrary to policies; SE8 (Renewable and Low Carbon Energy), SE3 (Biodiversity and Geodiversity) and SE5 (Trees, Hedgerows and Woodland) of the Cheshire East Local Plan Strategy and policies; NE11 (Nature Conservation), NE12 (SSSI's, SBI's and Nature Reserves), NE13 (Sites of Biological Importance), NE14 (Nature Conservation Sites) and DC9 (Tree Protection) of the Macclesfield Borough Local Plan.**

**In order to give proper effect to the Northern 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.**