



Small copper by Matt Berry



Cheshire

People taking action for wildlife

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Dear Mr Crowther,

22<sup>nd</sup> June 2017

### RE: Planning application 17/1874m, Land East of Congleton Road, Macclesfield

We are disappointed that Cheshire East Council did not consult with the Cheshire Wildlife Trust directly over this development, particularly given our previous *five* submissions in relation to the development and allocation of this site in the Local Plan. We trust that given this oversight the council will see fit to consider our comments before a decision is made on the proposals.

We have read through the Environmental Statement – Ecology (March 2017) and studied the proposed layout and we have visited the site on several occasions, most recently in June 2017. We are of the opinion that a minimum of 28 hectares of the site would meet the criteria for selection as a Local Wildlife Site and consequently **we consider at least 51% of the development site to be a potential LWS (pLWS)**. This is likely to be a conservative estimate.

LWS criteria met:

- H1 Lowland deciduous woodland
- H8 Marshy Grassland
- H9 Acid Grassland
- H11 Restorable grassland
- H25 Hedgerows
- S6 Reptiles
- S1 Butterflies

We also believe that the site may meet the criteria for birds (LWS criterion S2, for example the site supports BoCC red listed willow tit) and invertebrates (LWS criterion S9). Despite our representations asking for detailed surveys, this information has not been provided in the Environmental Statement.

The whole site is considered to be relict raised bog (a degraded Annex 1 habitat), contiguous with existing Annex 1/Priority habitat on Danes Moss SSSI and LWS. The majority of the site supports species and vegetation communities that have a high degree of correspondence with this habitat type.

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## **Inaccurate information in Environmental Statement**

CWT is particularly concerned that Wyg have submitted inaccurate information by misidentifying species-rich marshy grassland (a Priority habitat) as improved grassland (area 5 – Further Ecological Information 2015) and failing to map at least 1140 metres of Priority hedgerow (including a high value hedge/ditch). An area of woodland was also misidentified as grassland meaning that the losses of lowland deciduous woodland are approximately 1.78 ha (not zero ha as reported).

The distance to the legally protected Danes Moss SSSI has been misrepresented as 450m, whereas the nearest point is just 70m away and is connected by semi-natural habitat.

Statements in the ES relating to the *likely significant environmental effects* on birds and invertebrates are invalid as they are not supported by any survey information (Likely significant environmental effects of the scheme, ES section 5.5 and table 5.10) and therefore the statements must be amended to this effect and the precautionary principle applied.

## **Significance of residual impacts**

The above qualifying features of the pLWS are considered to be important at a county level and therefore any residual impacts on these features must be considered significant at a county scale. In the absence of breeding/overwintering bird surveys and invertebrate surveys and applying the precautionary principle, it should be assumed that these features are also important at a county level and residual impacts may be significant at a county scale. It is our opinion that the proposed mitigation measures as set out in the ES, would *fail* to reduce the significance of *any* of the county level impacts.

## **Impact on SSSI**

The development site is a degraded but contiguous part of the Danes Moss lowland raised bog ecosystem and many of the species present are the same populations that use the SSSI (functionally linked land). For example the common lizard, the small heath butterfly and willow tit (all locally rare Priority species) have all been recently recorded on the SSSI. Reptiles are listed as a reason for SSSI notification on the Danes Moss SSSI citation.

As referred to above, the proposed mitigation measures for reptiles are insufficient to reduce the significance of the likely impacts on this population. The loss of 1.78 hectares of woodland, additional losses of scattered trees/scrub and indirect impacts caused by disturbance of the retained woodland are likely to impact populations of willow tit that use the site and breed on the adjacent SSSI. Fencing off certain areas where willow tit boxes will be sited is considered insufficient to mitigate for the likely impacts. Extensive losses of semi-improved acid grassland and species-rich grassland are likely to significantly impact populations of lowland bog/acid grassland invertebrates (including the small heath butterfly) which use both the SSSI and the development site.

Clarification should be provided on whether the hydrological assessment has investigated the possibility of impacts to water table levels on the adjacent SSSI. The development site and the SSSI sit on the same modified peat body and the SSSI is documented (in the ES) to be higher than the development site.

Data from Air Pollution Information System (APIS) indicates that nitrogen deposition at Danes Moss SSSI is 22.7 KgN/ha/yr which is significantly above the UNECE critical load of 5-10 KgN/ha/yr for the protection of

lowland raised bog ecosystems. This important information has not been incorporated into the ES and neither have the predicted levels of nitrogen deposition following development. The given value for 'significance of effects' of nitrogen pollution on Danes Moss is meaningless without this basic information being provided.

### Landscape Character Value

The proposed development area is of high Landscape Character Value as it supports historic features (moss rooms) associated with ancient peat extractions. These important features were identified in the 2008 Landscape Character Assessment (M1 Danes Moss Character Area). These are visible as a series of long narrow fields with intact high-value hedges. Loss of these historic features is contrary to policy SE7 b 'Non-designated Heritage Assets' and paragraph 13.62 and policy SE4 'The Landscape' in the forthcoming Local Plan.

### Biodiversity losses and gains (habitats)

For the development to be considered *sustainable* (in accordance with NPPF definition of sustainable development - paragraph 9) there should be at least a *no net loss* in biodiversity and ideally a net gain. CWT has undertaken the biodiversity accounting calculations for these proposals with the agreement of CEC. They are set out in the table below and show an overall net loss of biodiversity:

Current habitat	Area/Length of habitat (a)	Value in biodiversity units/ha (b)	Total existing biodiversity units (axb = c)	Final area/length of habitat (d)	Total final biodiversity units (e)	Net gain/net loss (biodiversity units) (e-c= f)
Semi-improved grassland (of moderate species diversity, including areas that meet the restorable grassland criteria for LWS selection)	24.23 ha	8 u/ha	193.84	3.47 ha	27.76	-166.08
Lowland deciduous woodland including wet woodland (Priority habitat)	8.54 ha	12 u/ha	102.48	6.76 ha	81.12	-21.36
Green lane	0.9 ha	8 u/ha	7.2	0.9	7.2	0
Unimproved marshy and acid grassland (Priority habitat)	5.22ha	12u/ha	63.64	-	-	-63.64
Tall ruderal and scrub	7.51 ha	4u/ha	30.04	-	-	-30.04
Amenity grassland and hard standing/built environment	8.1 ha	-		43.23 ha	-	-
Hedgerow	1333 m			193 m		-1140 m
<b>TOTAL</b>			<b>397.2</b>		<b>116.08</b>	<b>-281.12</b>

The biodiversity unit scores for the existing habitats are considered to be conservative estimates; we have taken the lowest likely value (and excluded possible indirect impacts on remaining habitats), so that there is minimal risk of over-valuing the importance of the existing habitats on site or under-valuing the remaining habitats post-development.

## Conclusion

The current proposals show an overall loss of approximately 35.27 hectares of semi-natural habitat including a minimum of 20.7 hectares of potential Local Wildlife Site (pLWS). The value of this in Biodiversity Units is approximately 281. To compensate for the losses in the submitted scheme a minimum of 281 units of compensatory habitat restoration or recreation will be required. Additionally 2280 m of compensatory hedges will be required (assuming existing hedgerows are moderate condition and therefore a 2:1 replacement needed). These measures should also address any county level significant impacts on species, particularly those whose populations extend onto Danes Moss SSSI and LWS.

No plans for new compensatory habitat have been submitted and mitigation measures for the species likely to be significantly impacted are considered inadequate, so the Cheshire Wildlife Trust **objects to the current proposals** in the strongest possible terms. It is our opinion that without plans for new compensatory habitat the current proposals would constitute one of the most environmentally damaging schemes in Cheshire East in recent years. In essence the proposed development falls far short of meeting the requirements for *sustainable development*.

The proposals should be redesigned to avoid areas of Priority habitat and a comprehensive scheme of mitigation and compensation demonstrating how no net loss of biodiversity can be achieved should be submitted alongside any new application.

We believe that **CEC have a duty to refuse permission** for the current proposals on the basis of the following legislation and policies:

- **Section 40 of the Natural Environment and Rural Communities Act (2006)** which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.
- The **NPPF paragraph 9** states that the achievement of sustainable development includes 'moving from a net loss of biodiversity to achieving net gains for nature'.
- The **NPPF paragraph 109**, which states that the planning system should contribute to and enhance the natural and local environment by 'protecting and enhancing valued landscapes' and 'minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.'
- The **NPPF paragraph 118** which states 'When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then **planning permission should be refused**'.

- **EU Biodiversity Strategy 2020** which states:
  - “Target 2: Maintain and restore ecosystems and their services...ensuring no net loss of biodiversity. This will be achieved ...by ensuring that any unavoidable residual impacts are compensated for or offset”.
- **Emerging LPS policy - SE3 Biodiversity and Geodiversity** stipulates *‘all development must aim to positively contribute to the conservation and enhancement of biodiversity and geodiversity and should not negatively impact biodiversity or geodiversity’*.
- **Emerging LPS – Chapter 15 Sites and strategic locations. CM8 South Macclesfield Development Area**
  - I. *The site will be developed only where it can be demonstrated that there is no significant harm on the Danes Moss SSSI, particularly in relation to changes in water levels and quality, species populations and recreational pressures. This should include a full assessment of the direct and indirect impacts of the development on the features of special interest. Where impacts after mitigation cannot be avoided, development proposals will not be permitted.*
- *CEC are a signatory to the Cheshire Region Local Nature Partnership (CrLNP) ‘Net Gains for Nature’ policy (January 2016) which sets out the guidance and principles of biodiversity accounting and compensation.*

Yours sincerely,

Rachel Giles

Rachel Giles Ph.D.

**Evidence and Planning Manager**

**Cheshire Wildlife Trust**