

## PRESS RELEASE STARTS

### Nesting Treecreepers bring SEMMMS to a standstill

Pre-construction work stopped on the SEMMMS road after a pair of nesting Treecreepers were discovered in Carr Wood, an ancient woodland behind Brookside Garden Centre. Work will recommence when the fledglings have left the nest. It is against the law to disturb nesting birds between May and August but the tight schedules imposed on the scheme has led to the developers employing an on-site ecologist to check every tree and hedgerow before they are destroyed. There are around 700 mature trees to be felled but a Freedom of Information request this week revealed only this one nest had been discovered so far.

Normally pre-construction felling work is carried out outside the nesting season but because of the political pressure to start the main construction before a possible change in government, the felling work has started during the nesting season. The scheme wasn't signed off by the Secretary for Transport until 26th January 2015 and because the applicants feared there would be a challenge in the High Courts there was a further delay six weeks which took the project into March.

CEC have not yet discharged all the conditions they placed on their approval of the scheme; in particular the impact of traffic through Disley which is currently about 16k vehicles per day, rising to 28k when the road opens in 2017. Disley has endured poor air quality along the A6 for many years and is currently in breach of the European Air Quality Directive for excessive levels of Nitrogen Dioxide. But at the Public Inquiry the applicants argued that the 34% increase in traffic due to the new road would not cause a significant increase in pollution. They also had to admit that their Enhanced Mitigation Plan for Disley actually made pollution worse. PAULA the residents group against the road, commissioned a report from the air quality expert, Professor Laxen, which concluded that the impact on Disley had been underestimated and that CEC would not be able to discharge the planning conditions based on the evidence submitted to the inquiry.

The applicants have always said that the road would make an overall improvement to air quality. However they also estimated the total Nitrogen Dioxide emissions increase. This counter-intuitive improvement is the result of only considering the exposure where people live. In theory traffic is diverted from the conurbation to the new road 'where no one lives'. Certainly in Disley the levels are so bad that there is evidence that the hourly averages are breaching the legal limits. At this severity, people using the pavement or cycling along a separate track are considered at risk so the analysis based on 'where people live' is not entirely valid.

One might have concluded that after so many years of reports and mitigation plans just about everything environmental would have now been taken into account but it seems not to be the case. Even the fabled Great Crested Newt is refusing to make way with reports from the contractors that they might have to wait 30 days while the critters emigrate reluctantly to their newly built ponds. An enquiry to Natural England indicates that although the developers applied for a Licence in February to move them, it has not yet been granted. With a draconian 6 months prison sentence available as a deterrent, it is not surprising the contractors have stopped work!

ENDS (570 words)

Steve Houston

Poynton

Chair. PAULA

(Mob 07929 603534)

## Notes, Attributions and References

SMBC FOI ref 20398, Nesting Birds (see appendix A below)

'Main Construction' -the first day of the main construction is a contractual watershed after which it is very expensive to exit or even delay. The construction costs are estimated at £120M. In a previous incarnation of this project, the plug was pulled within days of the main construction with signage on the M60 erected and covered up in preparation for the link to the motorway.

Nesting Season Law -The Wildlife and Countryside Act 1981 is the primary legislation which protects animals, plants, and certain habitats in the UK.

The applicant's Environmental Statement actually said;

'11.5.43 Trees, scrub, hedgerows and other nesting bird habitat will be cleared outside of the bird breeding season (March-July) to avoid killing or injuring breeding birds or their dependant young.'

Political Imperative - easily denied but Libdems Chief Whip, Mark Hunter was widely reported to have goaded CEC to 'pull their finger out' because CEC delayed their support for a further two months after Central Manchester and SMBC had voted in favour. Jim McMahon, Project Director is said to have made it quite clear to his team that starting construction before the Election was absolutely critical. The Coalition had put the project on hold soon after taking office in 2010 and it didn't even make the shortlist of roads in the first spending review. Government support changed with the announcement of the Airport City. Campaign for Better Transport have done some FOI work on meetings between Osbourne, Alexander, Hunter and Goddard at Westminster regarding the SEMMMS road.

### High Court Challenge

It is quite usual to wait six weeks after sign off in case of Judicial Review. However it is a matter of fact that SMBC placed a High Court challenge as the top item in their 'Risk Register'.

### CEC Planning Conditions, discharge of. (see appendix B below CEC FOI 810108)

Unlike other planning conditions that have to be discharged before main construction begins CEC only required discharge before the road opens. I think CEC have let SMBC off the hook to the detriment of Disley residents on this. CEC's Air Quality officers advised the council that the project didn't comply with Air Quality Plans for both Disley and Cheshire and that they should

secure the costs of any Disley mitigations from SMBC. This is not reflected in the condition as written. In fact the condition is written ungrammatically and may have no legal force.

‘8. **Prior to the development** hereby approved **being brought into use a scheme** detailing a package of mitigation measures (intended to restrain, alleviate and manage traffic flow increases at locations identified and to levels indicated through enhanced mitigation as shown in table 9.3a and figures 9.6 and 9.7 in the submitted Transport Assessment) **has been submitted to and agreed in writing with the Local Planning Authority.**

Such scheme shall include details of and a methodology and timetable for delivery of the measures, a programme for review, surveys and monitoring of the impact of the measures and if required reappraisal of an addition to the agreed package of measures. The new sections of road shall not be brought into use until the measures have been implemented in accordance with the approved details unless the prior written consent of the Local Planning Authority has been obtained. (Note: this includes mitigation measures for, but not limited to, Disley Village Centre, the A6 corridor, Clifford Road Poynton and B5358 Station Road / Dean Road Handforth .Where this condition requires approval or consent by the Local Planning Authority those matters shall be referred to the Council’s Strategic Planning Board). Reason: In the interests of highway safety, air quality and to safeguard amenity. To comply with policies T1 and DC3 of the Macclesfield Borough Local Plan.’

At the Inquiry the proposers suggested increasing the speed of traffic through Disley because pollution per km per vehicle drops with increasing speed up to a optimum speed of around 40mph beyond which it gets worse again.

#### Disley in breach of Directive

Disley has had high levels of NO2 for years way in excess of the 40ug/m3 limit but the Directive has conceded exceedences for NO2 until 1st January 2015. Now Disley is truly in breach of the Directive. As Professor Laxen points out, Defra excluded Disley from the annual reports to the European Commission so in effect Defra does not consider Disley at risk and the EC is unaware of the high levels in the Disley Air Quality Management Area.

#### 16k vehicles per day

This is from the annual national records available on the DfT website.

28k vehicles per day

Consultation document 'A6 to Manchester Airport: Base Year (2009) and Forecast (2017 with and without Relief Road with Mitigation) Daily Flows'

Great Crested Newt Licences -enquiry to Natural England (see appendix C below)

## **Appendix A: SMBC FOI ref 20398, Nesting Birds**

16th April

FOI Officer [foi.officer@stockport.gov.uk](mailto:foi.officer@stockport.gov.uk)>

Dear Mr Houston

I am writing in response to your request for information (ref FOI 20398).

The relevant Council Service(s) has searched for the requested information and our response is as follows:

**Please list accurate locations, preferably OS grid references, of the trees currently used by breeding birds in the areas where trees will have to be felled.**

**How are these trees identified to the contractor?**

*Any restricted areas are being clearly marked out as “out of bounds” – this includes any nests – and the contractor’s ecology team are recording this as appropriate. **To date we have only encountered one potential nest site (Trecreeper species located within Carr Wood) which has been cordoned off and is being monitored by the Ecologists. Should nests be encountered they will be cordoned off and monitored by the ecologist on site, works will not re-commence within the cordoned area until the chicks have fledged.***

*All site clearance works are controlled by the Ecological Permit to Work system. All areas subject to site clearance are assessed by an ecologist prior to any works commencing to identify any ecological restrictions identified during survey works and to ensure there has been no change.*

*All ecological restrictions are detailed upon the Ecological Permit to Work which is briefed to the site clearance teams by the ecologist prior to works commencing, where deemed necessary the clearance works are undertaken under an Ecological Watching Brief. These actions are all undertaken in accordance with the various species specific ecological mitigation strategies which form part of the planning application.*

If you are unhappy with the way we have handled your request for information, you are entitled to ask for an internal review; however you must do so within 40 working days of the date of this response.

Any internal review will be carried out by a senior member of staff who was not involved with your original request. To ask for an internal review, contact [foi.officer@stockport.gov.uk](mailto:foi.officer@stockport.gov.uk) in the first instance.

If you are unhappy with the outcome of any internal review, you are entitled to complain to the Information Commissioner. To do so, contact:

Information Commissioner’s Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

[www.ico.gov.uk](http://www.ico.gov.uk)

01625 545 745

Yours sincerely

Jill Barlow

CSS Senior Officer – Information Governance

Stockport Council

Town Hall

Stockport

SK1 3XE

## **Appendix B: CEC FOI 810108, Discharge of Planning Conditions**

Mr Houston –

My colleagues in Development Management have confirmed that the discharge of conditions detail is under reference 14/5153D. All pre-commencement conditions have been discharged by Cheshire East Council.

Kind regards.

Helen.

***Helen Sweeney.***

Senior Compliance & Customer Relations Officer,  
Cheshire East Borough Council.

**From:** stephen houston [<mailto:hspHouston@gmail.com>]

**Sent:** 09 April 2015 13:03

**To:** FOI East

**Subject:** Re: Response : EIR Request 810108 : Discharge of planning conditions for SEMMMS/A6-MARR

Dear Helen,

Could you point me in the right direction please.

If I use the reference 13/4355M all I find is that a decision with conditions was made 25th June 2014.

There is no reference to confirmation of the conditions being met. Would it be true to say CEC have not yet approved the conditions prior to the first day of the main construction?

Best regards,

Steve Houston

On 8 April 2015 at 16:17, FOI East <[FOIEast@cheshireeast.gov.uk](mailto:FOIEast@cheshireeast.gov.uk)> wrote:

Mr Houston

I am responding to your request for information logged as case reference 810108 and which has been considered under the Environmental Information Regulations 2004. Your request related to the planning approval for the A6/MARR road which you have stated was conditional on various measures being agreed or actioned before construction began.... including measures for protecting Disley against the environmental impact of the road.

Your three questions were as follows:

- 1) Please send me the documents that show that CEC have discharged all the planning conditions.
- 2) Please send me details of the measures agreed and/or actioned for the environmental protection of Disley.
- 3) If the measures have not yet been agreed please send me the correspondence and related documents that indicate why agreement has not yet been achieved.

The information you are requesting is publicly available on Cheshire East Council's website. Please see



below the link to the relevant pages on the website:

[http://www.cheshireeast.gov.uk/planning/view\\_a\\_planning\\_application/view\\_a\\_planning\\_application.aspx](http://www.cheshireeast.gov.uk/planning/view_a_planning_application/view_a_planning_application.aspx)

The information has been provided by officers from Development Management. They have advised that the website application which is accessed via the above link is specific to the discharge of conditions notice (and not the planning application). The decision notice on the first link refers to each condition and a schedule of documents is recorded against each condition.

If you need any further advice or guidance regarding the information on the website please do not hesitate to get back in touch with the Compliance & Customer Relations Team at Cheshire East Council and we will liaise with the relevant officer.

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request a review under the Freedom of Information Act you should write to the Compliance Unit, Cheshire East Council, Westfields Floor 1, C/O Municipal Buildings, Earle Street, Crewe, Cheshire CW1 1BJ

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by the Council. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Kind regards.

***Helen Sweeney.***

Senior Compliance & Customer Relations Officer,  
Cheshire East Borough Council.

**From:** stephen houston [<mailto:hsphouston@gmail.com>]

**Sent:** 03 April 2015 09:43

**To:** FOI East

**Subject:** Discharge of planning conditions for SEMMMS/A6-MARR

Dear FOI Officer,

CEC's planning approval for the A6/MARR road was conditional on various measures being agreed or actioned before construction began. These conditions included measures for protecting Disley against the environmental impact of the road.

- 1) Please send me the documents that show that CEC have discharged all the planning conditions.
- 2) Please send me details of the measures agreed and/or actioned for the environmental protection of Disley.
- 3) If the measures have not yet been agreed please send me the correspondence and related documents that indicate why agreement has not yet been achieved.

Many thanks,

Steve Houston  
Poynton

12 Apr (7 days ago)

Dear Helen,

Are CEC demonstrating the Disley conditions have been discharged via planning application 14/5153D? I cannot find any reference to Disley mitigation in the documents listed.

Or, are CEC demonstrating there has been no discharge of the Disley conditions by virtue of their omission in 14/5153D?

This reference to the Disley conditions appears in the CEC's 13/4355M Decision Notice, June 2014.

8. Prior to the development hereby approved being brought into use a scheme detailing a package of mitigation measures (intended to restrain, alleviate and manage traffic flow increases at locations identified and to levels indicated through enhanced mitigation as shown in table 9.3a and figures 9.6 and 9.7 in the submitted Transport Assessment) has been (sic) submitted to and agreed in writing with the Local Planning Authority.

Such scheme shall include details of and a methodology and timetable for delivery of the measures, a programme for review, surveys and monitoring of the impact of the measures and if required reappraisal of an addition to the agreed package of measures. The new sections of road shall not be brought into use until the measures have been implemented in accordance with the approved details unless the prior written consent of the Local Planning Authority has been obtained. (Note: this includes mitigation measures for, but not limited to, Disley Village Centre, the A6 corridor, Clifford Road Poynton and B5358 Station Road / Dean Road Handforth .Where this condition requires approval or consent by the Local Planning Authority those matters shall be referred to the Council's Strategic Planning Board). Reason: In the interests of highway safety, air quality and to safeguard amenity. To comply with policies T1 and DC3 of the Macclesfield Borough Local Plan.

At the Public Inquiry, the applicants showed that the 'Enhanced Mitigation' actually increased the pollution impact on Disley. It seems very unfortunate that CEC may have allowed the construction to proceed without reliable mitigation measures being agreed with the applicants.

Kind Regards,

Steve Houston

20th April

Dear Mr Houston,

The condition referred to is “Prior to the development hereby approved being **brought into use...**” so the condition does not require discharge prior to the commencement of development.

The applicant sought to discharge all “pre-commencement” conditions under application 14/5153D, **hence condition 8 has not been submitted for discharge yet.**

I hope this helps answer your enquiry

Thanks

Peter

**Peter Hooley**

Planning & Enforcement Manager

01625 383705

## **Appendix C: Enquiry to Natural England re. Great Crested Newt Licences**

Dear Sian,

Thank you for your email of 17<sup>th</sup> April regarding the A6 Manchester Relief Road and Great Crested Newt licences. I can confirm that two newt licence applications have been received for works relating to this project, as detailed below.

2014-4805-EPS-AD2 - A6 MARR, Greater Manchester

This application was submitted in February 2015, however a licence has not yet been granted.

2014-640-EPS-MIT (Previously EPSM2014-7152A) - Styal Golf Course, Station Road, Styal, Cheshire, SK9 4JN

A licence was granted on 28<sup>th</sup> May 2014 for works in connection with the A6 MARR, however following consultation with the licence holder (and ecologist) it has now been withdrawn.

If additional newts were found that were not covered by a licence, the contractors would need to stop works until a modified licence had been issued. This modified licence would be amended to reflect any additional numbers found on site, or additional locations not covered by the original licence.

It does not appear that we have been notified of any recent discoveries on site, therefore I have forwarded your email to the wildlife advisers who are assessing the A6 application. They may be in contact with if they require any further information.

Please do not hesitate to contact us if you require any further information.

Regards

Jon Moss

Wildlife licensing, Standards & Guidance, Sustainable Development

Natural England

Temple Quay House

2 The Square

Bristol

BS1 6EB

Tel: 0845 601 4523



Carr Wood, ancient bluebell wood