

To:
Development Management
Cheshire East Council
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From:
Protect Butterfly Bank Committee
Wilmslow
Cheshire

Date: 26 May 2025

***Subject: Addendum to Primary Objection to EIA Screening
Request – Land rear of Welton Drive and Stockton Road,
Wilmslow (Ref: Jones Homes/Emery Planning, Application
Reference Number: 25/1075/EIA)***

Executive Summary

This document serves as a formal addendum to our primary objection to the EIA screening request submitted by Jones Homes regarding the proposed development at Butterfly Bank. Our primary objection in writing was dated the 20th May 2025 and recorded on the Cheshire East Planning portal on the 21st May 2025.

Drawing from technical reports originally submitted under the 2014 planning application for the same site (14/3338m), we present consolidated evidence that the development location is environmentally sensitive under the Environmental Impact Assessment Regulations 2017. This sensitivity arises due to **known constraints** related to contaminated land, flood risk, biodiversity, landscape value, historic hedgerows, and arboricultural assets.

These risks are already known to Cheshire East Council via their inclusion in the 2014 planning archive and thus carry legal weight under the principles of procedural fairness, the precautionary principle, and existing local and national policy frameworks. Failure to account for this prior knowledge would constitute a breach of statutory duty.

1. Contaminated Land – Procedural and Environmental Risk

The Phase I Desk Study (Strata Surveys Ltd), Report No. 15844 dated 16th December 2013, highlighted potential contamination from historical agricultural practices, including hydrocarbons, pesticides, asbestos, and leachable metals. It **explicitly** recommended a Phase II intrusive investigation.

The report identified that the proposed development land lies over Principal and Secondary A Aquifers with high-leaching soils and direct hydrological connectivity to Mobberley Brook. It recommended a **full** Phase II intrusive investigation, including sampling for petroleum hydrocarbons, heavy metals, PAHs and asbestos, due to potential risks to controlled waters and human health. This recommendation was formally echoed by Cheshire East Council's Environmental Health team (Ref: EL7/032455), who in a separate 2014 consultation response classified the site as being

potentially contaminated and confirmed that residential use is a sensitive end use requiring full site investigation. They required that a Phase II intrusive investigation be carried out and approved prior to development.

The current applicant, Jones Homes, has submitted no updated environmental data and has instead sought to bypass an Environmental Impact Assessment. In the absence of this critical baseline evidence, the Local Planning Authority cannot lawfully conclude that there is no risk of significant environmental effects. Under Schedule 3 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, and in accordance with the precautionary principle as set out in *Bateman v South Cambridgeshire DC*, a full EIA must be required. Failure to do so would not only disregard site-specific environmental sensitivities already documented but would also expose the Council to a potential legal challenge.”

Since the original 2014 application, both national and environmental planning law have evolved significantly in ways that reinforce the requirement for a full Environmental Impact Assessment at this site. The National Planning Policy Framework (NPPF) now places a heightened obligation on developers to assess and mitigate risks from contamination, flooding, biodiversity loss, and sensitive receptors (paragraphs 183–185, 167, and 174–176). The Environmental Impact Assessment Regulations 2017 introduce a clearer precautionary principle and broaden the definition of ‘significant effects’ to include cumulative, indirect, and construction-phase impacts. Updated DEFRA climate resilience and drainage standards render the 2014 Flood Risk Assessment outdated and legally non-compliant. Furthermore, habitats regulations and biodiversity duties remain fully in force under retained EU law and the Environment Act 2021. Together, these legal frameworks confirm that screening out the requirement for EIA in this case—given the known risks, acknowledged by the Council in its own records—would be procedurally unsound and potentially unlawful

Cheshire East Council is already in possession of this report and thus has a statutory duty to require further investigation. Under the Environmental Impact Assessment Regulations 2017 and NPPF paragraphs 183–185, planning authorities must prevent risks to human health and the environment before permitting development. The failure to provide updated site contamination data represents a material procedural omission that must trigger an EIA.

2. Flood Risk and Drainage – Outdated and Incomplete Data

The July 2014 Waterco Consultants Flood Risk Assessment (FRA) identified significant post-development increases in surface water runoff — up to 491 l/s peak flow and 772m³ of stormwater requiring attenuation. These impacts, along with proximity to Mobberley Brook and underlying slow-draining soils, confirm that the site is hydrologically sensitive. Updated evidence of climate impact, groundwater testing, and attenuation feasibility has not been provided by Jones Homes. The proposed development therefore raises a realistic likelihood of significant environmental effects on water resources, flood risk, and drainage. As such, an Environmental Impact Assessment is required under Schedule 3 of the EIA Regulations 2017.”

The flood risk and drainage context of the Butterfly Bank site was already marginal and sensitive in 2014. In the absence of updated testing, modern attenuation analysis, and climate adaptation strategy, Cheshire East Council cannot lawfully screen out the requirement for an Environmental Impact Assessment. These issues also remain highly material to the full planning determination stage and could form valid grounds for refusal under NPPF §159–167 and Local Plan Policy SE 13.

3. Archaeological and Historic Landscape Constraints

The ARS Ltd Archaeological Report dated November 2013, report no. 2013/109, confirms the site lies within a rare and regionally significant ‘Ancient Field Systems’ landscape type and contains historically important hedgerows and poorly preserved but extant medieval ridge and furrow. The report further concludes that the site holds medium potential for previously unknown archaeological remains and recommended evaluation prior to development. No such evaluation has been undertaken since. In the absence of updated field investigation, Cheshire East cannot lawfully conclude that significant environmental effects on heritage and landscape can be ruled out. A full Environmental Impact Assessment is therefore required in accordance with Schedule 3 of the EIA Regulations 2017.”

The archaeological and landscape constraints identified in the 2013 report remain materially relevant to the current planning application. The site is demonstrably sensitive in heritage and landscape terms, and the lack of updated archaeological fieldwork or impact assessment means that Cheshire East Council cannot lawfully issue a negative screening opinion. A full Environmental Impact Assessment must be required.

4. Arboricultural Sensitivity and TPOs

The Tree Solutions Ltd Arboricultural Assessment, dated 8th July 2014, ref 13/AIA/CHE(E)/53, confirms the presence of multiple A-grade oak trees, including one protected by a Tree Preservation Order (T17), and several others offering potential habitat for protected species such as bats and nesting birds. The site’s landscape includes veteran-quality trees, ecologically significant hedgerows, and historically important field boundaries. These features collectively raise the site’s environmental sensitivity under Schedule 3 of the EIA Regulations 2017. Without a current layout or updated tree survey, it is not possible to determine whether the proposed development will safeguard the required root protection areas, preserve canopy continuity, or avoid indirect damage through infrastructure. In the absence of this information, and given the potential for significant landscape and ecological effects, Cheshire East Council cannot lawfully conclude that an Environmental Impact Assessment is unnecessary.”

The tree cover, TPO designation, and ecological potential of the Butterfly Bank site represent long-established and legally sensitive landscape features. No updated evidence has been provided by the applicant to confirm that these assets can or will be

protected. As such, a full Environmental Impact Assessment is clearly warranted before any screening opinion can be lawfully issued.

5. Landscape and Visual Impact

The 2014 PDP Associates Landscape Assessment, confirms that the site holds medium sensitivity in landscape terms, forms part of a Green Belt parcel judged to serve a major role in preventing town coalescence, and contains features including mature trees, hedgerows, and adjacency to public footpaths and ancient woodland. It acknowledges minor to moderate landscape impacts and confirms cumulative urbanising pressures in the area. These factors render the site environmentally sensitive under Schedule 3 of the EIA Regulations 2017. The site should not be screened out of EIA without updated assessment of visual, landscape, biodiversity and cumulative change, especially given changes to baseline conditions over the past decade.”

The site forms part of Green Belt Parcels WM27 & WM28, which the Cheshire East Council Green Belt Study, dated 7th July 2015, assesses as making a **Significant Contribution** to Green Belt purposes.

This is a material landscape constraint under NPPF paragraphs 137–140 and Local Plan PG 3, and any visual or ecological impact must be evaluated through a full EIA.

6. Legal Obligations of the Planning Authority

Under the EIA Regulations 2017, Schedule 3, local authorities must assess whether the site is environmentally sensitive and whether the development is likely to have significant effects. The regulations require consideration of cumulative impacts and the precautionary principle.

The presence of archived technical reports submitted to Cheshire East Council places the authority on constructive notice of known environmental constraints. Failure to require an EIA despite this knowledge would constitute procedural unfairness and may expose the authority to legal challenge, including judicial review under the Planning and Compulsory Purchase Act 2004 and associated case law.

7. Conclusion

The site is demonstrably environmentally sensitive based on evidence already held by Cheshire East Council. The precautionary principle, NPPF compliance, and statutory EIA duties all support the requirement for a full Environmental Impact Assessment. We therefore urge the Council to reconsider the screening position and request that a positive EIA screening opinion be issued.