

<b>DECISION-MAKER:</b>	PLANNING AND RIGHTS OF WAY PANEL
<b>SUBJECT:</b>	Referred felling licence application from the Forestry Commission for trees at Marlhill Copse
<b>DATE OF DECISION:</b>	23 <sup>rd</sup> February 2021
<b>REPORT OF:</b>	HEAD OF CITY SERVICES

<b><u>CONTACT DETAILS</u></b>			
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<b>STATEMENT OF CONFIDENTIALITY</b>	
NONE	
<b>BRIEF SUMMARY</b>	
To Consider the referred felling licence application and accompanying woodland management plan for trees at Marlhill copse that are protected by a Tree Preservation Order and Conservation Area which have been registered as 20/00340/TPO. 20/00341/TPO and 20/00091/TCA.	
<b>RECOMMENDATIONS:</b>	
	(i) To grant consent to 20% thinning of sycamores and mixed broadleaf trees in compartments 1a, 1b and 1c.
	(ii) To raise no objection to 20% thinning of Goat Willow, Common Alder and mixed broadleaf trees in compartment 2a
	(iii) To raise no objection to 20% thinning of Goat Willow, Common Alder and native broadleaf trees in compartment 2b.
	(iv) To raise no objection to 20% thinning of Common Alder, Goat Willow and Ash trees in compartment 2c.
	(v) To grant consent to felling of Monterey Pine, Corsican Pine in compartment 1a(i) with a condition of suitable replacement trees on a 1 for 1 basis.
	(vi) To refuse consent to the felling of all broadleaf trees in compartment 1a(i)
<b>REASONS FOR REPORT RECOMMENDATIONS</b>	
1	The requested work is in relation to a referred felling licence application which is part of the implementation of a woodland management plan.
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>	

The Council can grant consent, with or without conditions, or refuse consent to part or all the trees subject of the referred application. In respect to the conservation area notification, the Council could make a tree preservation order to prevent the work from commencing under the notification.

**DETAIL (Including consultation carried out)**

2 Southampton International Airport Limited (SIAL) applied to the Forestry Commission (FC) for a felling licence at Marlhill Copse.  
The FC, under section 15(1)(b) of The Forestry Act 1967, decided to refer it to the council to determine under The Town & Country Planning Act 1990, rather than make the decision itself.

3 The details of the referred felling licence have been placed on-line for members of the public to review and give comments.

By the morning of the 15<sup>th</sup> of February, the Council had received 116 comments in relation to the three applications.

Comments in support – 32 comments from 32 individual residents.

Comments to object – 74 comments from 35 individual residents. There were 4 duplicated objections from 4 residents against an application that they had already objected to, therefore these comments are not included with the total numbers for objections, however their comments have been considered.

There were 5 comments received in relation to the airport and its proposed expansion, therefore these have not been included in the support or objection numbers.

There was one blank comment letter received.

Support.

The comments from residents who are in support of the work are very keen to see the plan implemented and feel that it will be of benefit to the woodland and are pleased to see a form of management being proposed for the woodland that hasn't received much attention for a number of years.

Objection.

An overview of comments received to object to the implementation of the woodland management plan are listed below.

No reason given for tree felling  
Harm to wildlife  
Impact on the woodland habitat  
Management plan is not sustainable woodland management  
Destruction of heritage features

	<p>No evidence provided to show that woodland is unsafe</p> <p>Impact on noise from airport</p> <p>Reason for work is only for airport expansion</p> <p>Felling trees in a climate emergency</p> <p>Impact to the environment</p> <p>Allowing for shallower take off angles of larger aircraft from the airport.</p>
4	<p>The majority of Marlhill Copse is designated as a Site of Importance to Nature Conservation (SINC). All of the trees, with the exception of T1, are within the SINC. The council's Planning Ecologists has been informed of the proposed works within the SINC.</p>
5	<p>Part of the application includes trees within a nationally registered park or garden, therefore Historic England are to be informed of the proposed works. An email was sent to Historic England and the following response was received.</p> <p><i>'This doesn't appear to fall within our remit which can be found in Table 1 and 2. If you have not done so already, I would recommend talking to your Historic Environment Officer who may have comments to make'</i></p>
6	<p>The Council's Historic Environment Officer has been consulted and has provided the following comments. <i>'the loss of a small number of individual trees within this much larger grouping would not adversely harm the overall character or appearance of the conservation area, providing the works can be demonstrated to be necessary as per the advice above, and that any loss of trees would be replaced or better managed'</i></p>
7	<p>The referred felling licence is accompanied with a woodland management plan (WMP), which gives greater detail over the tree felling, restocking, woodland history and composition. As the WMP is so intrinsically linked to the felling licence application, it should be reviewed together.</p> <p>It is important for members to understand that the report covers other forestry operations, however it is only the felling of trees that are within Marlhill Copse that the members are requested to consider.</p>
8	<p>The aim of the management plan is to bring a neglected woodland back into being a native woodland for future benefit to the local area and to enhance the ancient semi-natural woodland by the 20% thinning of Sycamore, Ash, Goat Willow, Alder and other mixed broadleaf species, along with the removal of exotic tree species. The creation of a shrubby woodland interface is proposed which will replace the current vertical face, that borders the properties along the top of the woodland, with native tree planting to form a graduated face. This is an accepted practice and form of management and, given time, will provide benefit to the woodland and encourage wildlife</p>
9	<p>The content of the felling licence application and WMP have been reviewed by tree officers within the council's tree team and assessed on the merits of the request based on woodland management, rather than anything relating to aviation safety.</p>
10	<p>When reviewing the felling licence and the associated information within the WMP, officers have referred to the Forestry commissions UK Forestry</p>

	Standard and Dr George Peterken's The Management of semi-natural woodlands, volume 3 - Lowland mixed broadleaved woods. The UKFS provides a general set of principles for forestry practice in the UK, however many areas of the UK have specific woodland types that are individual to the location and as such, require a more specific type of management. Peterken's management guides should be used to further individualise management proposal based on the specific woodland type.
11	As part of the assessment, officers considered regulation 17(3) within The Town and Country Planning (Tree Preservation)(England) Regulations 2012 and also paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation area in accordance with section 72 of the Planning (Listed Building and Conservation Area) Act 1990, for any tree within the Itchen Valley Conservation area.
12	When assessing the application to fell trees that are within a woodland, officers must apply regulation 17(3) of The Town and Country Planning (Tree Preservation)(England) Regulations 2012.
13	This regulation states – <i>'Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area'</i> .
14	The officers have considered the required tests set out within this regulation and have formed the following opinion.
15	<p><b>Does the application relate to an area of woodland?</b></p> <p>The TPO is a 'woodland' TPO and the Department for Environment, Food and Rural Affairs (DEFRA describe the location with the following classifications.  Priority Habitat Inventory – Deciduous Woodland  National Forest Inventory – Broadleaved  Ancient Woodland (England) – Ancient and Semi-natural woodland (ASNW)  This, added with the definition of 'woodland' within the UK Forestry Standard (UKFS), leads officers to agree that the trees are within a woodland.</p>
16	<p><b>Does the work accord with good forestry practice?</b></p> <p>There is no definition in the TPO Regulations of what "the practice of good forestry" means. However, the UKFS is a guidance document prepared by the Forestry Commission which sets out the Government's approach to sustainable forestry. It is referred to the within the national planning guidance on TPOs ("the PPG") and it is therefore relevant when assessing what is good forestry practice. The term 'Forestry' is described in the UKFS as 'The science and art of planting, managing and caring for forests'.</p> <p>The UKFS states that the standard's requirements are divided into legal requirements and good forestry practice requirements. The Requirements are categorised into different elements of sustainable forest management, each supported by Guidelines for managers. It makes it clear that they should be interpreted and applied flexibly: "Some aspects of forest management lend themselves to 'yes or no' compliance, but most do not, and so the UKFS has</p>

	not attempted to condense all the complexities of forest management into an over-simplistic format. The UKFS has therefore been written to be interpreted with a degree of flexibility and applied with an appropriate level of professional expertise.”
17	To assist with the assessment as to whether the work accords with good forestry practice, officers have reviewed the UKFS and Dr George Peterkens publication ‘The Management of semi-natural woodlands, volume 3 - Lowland mixed broadleaved woods’ Each forestry operation that has been applied for will be detailed separately with the officers opinion.
18	<p>The work listed below is for silvicultural thinning of the woodland. The term ‘silviculture’ relates to the science of the establishment, composition, health and quality of woodlands for the needs of the land owner, therefore not solely to produce timber.</p> <p>20% silvicultural thinning of sycamores and mixed broadleaf trees in compartments 1a, 1b and 1c.</p> <p>20% silvicultural thinning of Goat Willow, Common Alder and mixed broadleaf trees in compartment 2a</p> <p>20% silvicultural thinning of Goat Willow, Common Alder and native broadleaf trees in compartment 2b.</p> <p>20% silvicultural thinning of Common Alder, Goat Willow and Ash trees in compartment 2c.</p>
19	The UKFS describes thinning as ‘ <i>The removal of a proportion of trees in a forest after canopy closure, usually to promote growth and greater value in the remaining trees</i> ’
20	Officers accept that silvicultural thinning within a woodland is a recognised form of management that woodland owners carry this out as part of woodland management scheme.
21	It is the officer’s opinion that the 20% silvicultural thinning of the woodland would be of benefit to the health and quality of the woodland and for the promotion of better-quality trees.
22	The other aspect of work requested is the regeneration felling of Monterey Pine, Corsican Pine and Mixed Broadleaved trees in compartment 1a(i)
23	This work would involve the removal of all the trees within compartment 1(a)(i) followed by a scheme of replanting native trees to form a rising woodland edge to replace the sharp face that abuts the residential properties.
24	As with the thinning operations, the local authority must assess if this work accords with the practice of good forestry. Officers have therefore reviewed the UKFS and found information regarding sustainable forestry that comments on the value of woodland edges.
25	It states that ‘ <i>Forest edges that grade into open ground and, where possible, contain mixtures of native trees and shrubs are far more beneficial to biodiversity than abrupt edges. They provide, for example, bird nesting and feeding areas and sources of nectar for pollinators and other insects. Many birds nest in edge habitats, and some, such as black grouse, depend on the</i>

	<i>maintenance of a diverse edge structure. Butterflies require nectar sources and food plants associated with edges and open areas'</i>
26	Officers note that the statement above relates to ' <i>forest edges that grade into open ground</i> ' and therefore have considered if this is appropriate in this location as it is not grading into ' <i>open ground</i> ' within the woodland itself. The UKFS gives further information regarding forest edges and guides that ' <i>Their value as habitats is greatly increased if they can be linked together <u>and if the forest edges next to them are managed as part of this network</u></i> '. It is the officers opinion that grading the edge of the woodland can provide a valuable habitat, however the grading of the woodland edge would not be as high as grading in addition to an internal grading, however the UKFS does tend to agree that forest edge grading, nevertheless, does provide a level of valuable habitat over a sharp interface.
27	Further sections within the UKFS add support to the validity of a graded forest edge over a sharp face. It states that ' <i>Diverse and graded forest edges, together with species mixtures, can help in creating visual diversity</i> ' and to ' <i>Pay particular attention to the diversity of external and internal forest edges: vary the tree density and consider adding additional tree and shrub species</i> '.
28	Taking this information in to account, it is the officers opinion that there is a value in graded woodland edges and it is also the officers opinion that if the felling of the trees in this location is undertaken for this purpose creating a diverse mixed species woodland edge, then it is the officers opinion that it does accord with the practice of good forestry.
29	<p>Although it can be seen that the work fits with the practice of good forestry, there is a concern over the impact that this may have to the woodland in the neighbouring compartment 1(a) due to the effects that the wind may have on the trees that are currently sheltered by compartment 1(a)(i).</p> <p>Section 5.7 of the WMP recommends to not over-thin the hanger top, however the requested work in this area goes beyond thinning.</p> <p>Over thinning a woodland may cause issues with an increased potential of trees failing due to the sudden change of the wind dynamics through the woodland. Whilst it appears that section 5.7 was written with thinning in mind, it is the officers opinion that the complete felling of compartment 1(a)(i) has a potential to impact the trees in the adjoining compartments as they suddenly become the woodland face and will be subject to greater stresses of wind, whereas they are currently sheltered and internal trees. However, this could be said to be a result of any felling or natural occurrence that leads to a tree failure, therefore a balanced perspective must be given.</p> <p>It is the officers opinion that the recommendation in section 5.7 does raise a concern over the potential harm that could result from the change in wind exposure to compartment 1(a), however this may not actually occur, therefore the advice from the officer is more cautionary than actual.</p> <p>In balance, there is a clear benefit of felling and the creation of a graded woodland edge over a perceived threat from wind damage. It is the officers</p>

	opinion that the longer term view and associated and benefits outweigh the potential of tree failure, due to wind exposure.
30	The officers are aware that there is a strong desire from some members of the public to retain the large Monterey and Corsican Pines that form part of the boundary of Marlhill Copse to the neighbouring properties. Although it can be seen from above that their removal, as part of the creation of a rising woodland edge profile, can be regarded as good forestry practice, officers felt that it is appropriate to separate these trees, due to their prominence, and consider separately.
31	To aid in forming an opinion, officers have referred to Dr George Peterken's The Management of semi-natural woodlands, volume 3 - Lowland mixed broadleaved woods. This document has been used as it best describes the woodland in accordance with the DEFRA classifications and is also referenced as a 'Lowland mixed deciduous woodland' in section 4.4 of the WMP.
32	In addition to this, officers accept that the classification of ancient and semi natural woodland exists on the oldest part of Marlhill Copse and this should be kept in mind when considering the application.
33	<p>Before further information is given, it is important for members to understand that there are different classifications for trees, and these are described below.</p> <p><b>Native tree.</b> A native tree is one that colonised the land when the glaciers melted after the last Ice Age and before the UK was disconnected from mainland Europe.</p> <p><b>Naturalised Tree.</b> A naturalised tree is one that has been introduced into the UK and readily self-seeds and is able to maintain its population.</p> <p><b>Exotic Tree.</b> An exotic tree species is one that has recently been introduced into the UK. These trees do not readily self-seed to enable them to colonise freely. They were brought to the UK, mainly during the period of 'seed hunters' and during the Victorian era which popularised many of the exotics that we see today.</p> <p>It is the officers opinion that the Monterey and Corsican Pine are classified fall within the classification of an 'exotic tree' species and any management proposals will be considered, having regard to this.</p> <p><b>Invasive non-native or exotic.</b> This classification can include trees and shrubs and there are national guidelines regarding the transportation, planting and spreading of these species. For the purpose of the WMP, it mainly concerns Rhododendron ponticum. Further details regarding the control of invasive exotic species can be found in section 6 objective 4 of the WMP.</p>
34	Officers accept that the pines, which are within compartment 1(a)(i) do not form part of the ASNW and sit just outside of the ASNW boundary, however they are within the DEFRA classification as a Priority Habitat of a Deciduous Woodland and also on the National Forest Inventory as being broadleaved,

	therefore officers must accept that the pines do not form any part of the DEFRA land classification as the pines are neither deciduous or broadleaved.
35	Peterken has given information as to an appropriate way of management of exotic species that are within a lowland semi-natural mixed broadleaved woodland and wrote that <i>‘Several non-native tree species have colonised or have been planted into mixed broadleaved woodland, including beech (which is native in other forest types), <b>several conifers</b> and well established denizens such as sycamore, chestnut and Norway maple. <u>Chestnut and beech may be retained as part of the mixture on the ground they occupy, i.e. their spread should not be extended by planting. Others should be eradicated if they occupy less than 10% of the wood. If they are more widely and abundantly established, they should be controlled during thinning as minority constituents of the mixture. Mature sycamore stands often contain much ash advance regeneration, which should be retained for restocking. Non-native tree species should not be planted in ancient semi-natural woods where they are not already present</u></i>
36	The Peterken document is clear in its approach for the management of coniferous trees within this classification of woodland. It can be seen that this document identifies that an appropriate form of management, of exotic conifers within this type of woodland, is to eradicate them, if they form less than 10% of the wood. The area of woodland that the Monterey and Corsican pine occupy has been detailed in section 4.4 of the WMP and is shown to be 6.1%
37	It is therefore the officer’s opinion that the felling of the pines, which are classed as conifers, and occupying less than 10% of the wood, is regarded as an appropriate form of management and as such must accord with the practice of good forestry.
38	The officers have gone on to consider the remaining elements of regulation 17(3) of the TPO regulations and whether the felling of the trees would fail to secure (a) the maintenance of the special character of the woodland or (b) the woodland character of the area.
39	<b>The special Character</b> – The officer has considered what the special character of the area is and agrees that in a large section of the copse, it conforms with the description as detailed by DEFRA as being a broadleaved ancient and semi-natural woodland with the areas falling outside of this being predominantly a mixed native and naturalised broadleaved woodland. It is accepted that the pines form part of the woodland boundary, however for the purpose of assessing the special character, officers have considered the DEFRA characterisation and agree with the classification given. The WMP covers the ASNW and the mixed native and naturalised broadleaved woodland, therefore both are appropriate for the assessment of the special character.
40	Considering if the work would fail to secure the maintenance of the special character of the woodland or the woodland character of the area, the officers have formed the following opinion.
41	<b>Does the work fail to secure the maintenance of the special character of the area?</b>



	<p>The trees subject of the WMP are either protected by the tree preservation order or conservation area with some trees growing within the boundary of the ANSW with others growing outside of this classification area. The woodland has a varied age classification of mixed broadleaved trees, therefore is in line with the special character classifications.</p> <p>The removal of 20% of the poorer stems of mixed broadleaved trees will leave a large remaining number of trees that make up the special character classification and as such, the thinning would not fail to secure the maintenance of the special character. The conifers do not feature in any of the DEFRA land classifications, therefore their felling cannot be included in the assessment of the special character and conversely cannot fail to secure it.</p> <p>It is therefore the officers opinion that the implementation of the felling aspect of the WMP would not fail to secure the maintenance of the special character of the area.</p> <p>The final test to consider is if the felling of the trees would remove the woodland character of the area.</p>
42	<p><b>Does the proposed felling remove the woodland character of the area?</b></p> <p>It is the officers opinion that the 20% silvicultural thinning of the woodland would not remove the woodland character of the area as 80% of the better-quality trees would still remain. The visual aspect of the area being a woodland would still be maintained from both internal and external to the site.</p> <p>The felling of compartment 1(a)(i) will have the biggest impact to the woodland character as 0.24ha (2400m<sup>2</sup>) of mixed broadleaf and coniferous trees are proposed to be removed to introduce a graded woodland edge by the restocking of equal percentages of Wild Cherry, Field Maple, Hazel, Holly and Hawthorn, all of which are native trees.</p>
43	<p>The work in this compartment can be reviewed as two separate works when assessing the woodland character of the area as it involves coniferous trees and broadleaf. Completing all the work would have the biggest impact, however is the pines were felled and the broadleaved trees kept, or vice versa, then this would lessen the impact as some trees would remain.</p>
44	<p>If all the work is completed, it would result in a part of the woodland being lost on the southern aspect of the internal tarmacked path. This would give a section, of approximately 177 metres of the internal path, an impression that the path runs along the boundary of the woodland rather than being inclusive of the wood, as is current. This impression would be due to the loss of the trees on the southern aspect within compartment 1(a)(i). The felling runs to an approximate 330 metres adjacent to the footpath, however the trees within the rear gardens of the properties in Moat Hill will lessen the impact as these are not included within the felling licence application. If either the pines or broadleaved trees are kept, this would then clearly retain some of the woodland character of the area. Given that the woodland classification is that of a broadleaved woodland, it is the officers opinion to retain the broadleaf trees, to retain its character, over the pines that do not form the DEFRA character assessment of the woodland.</p>

45	It can be considered that the loss of the woodland character of the area is transitory from within the site as externally, the woodland character of the area will be that of the trees in the ASNW that lie to the north of the path and would become the face of the woodland, albeit it further back from the boundary. This loss would be lessened over time whilst the proposed newly planted graded interface grows.
46	<p>The WMP in section 6 on gives details on the assessment of the work in relation to the two tests. The opinion formed is that the special character of the woodland and the woodland character of the area should be maintained and states that <i>'While the removal of trees would have some impact to the skyline views from around the copse, especially the works in compartment 1(a)(i), the long-term impact will be negligible'</i>.</p> <p>It gives further detail and gives an opinion that <i>'there may be a temporary impact to the character of parts of the woodland'</i> and goes on to say that <i>'the objectives will enhance the woodland and will have a positive impact on the wider community and environment as well as the character of the woodland'</i>.</p> <p>It is the officers opinion that this view is of one of the future character of the woodland to the area and officers can see the overall benefit and long term view. However, when assessing the woodland character to the area for the purposes of regulation 17(3), officers must consider how the work would impact the current woodland character of the area, rather than rely on an assessment of the character in the future having regard to any conditions securing replanting.</p>
47	It is the officers opinion that the work can be demonstrated to be in-line with the practice of good forestry and that there is a benefit to the work for the future of the woodland by converting the steep face of the woodland and converting it to a graded bank of mixed native broadleaved trees. However, it is the officers opinion that completing all of the work in compartment 1(a)(i) would result in the loss of the woodland character to the area, even though it could be argued that it is transitory and will lessen over a period of time.
48	It is the officers opinion that there needs to be a balanced approach to the decision over the impact the work will have to the woodland character of the area and can see that there needs to be a consideration to the immediate impact weighed against the future gain.
49	The decision over the impact to the woodland character of the area is a very finely balanced and subjective view.
50	It is the officers opinion that the work to fell all of the broadleaved trees in compartment 1(a)(i) would remove the woodland character internally to the site, although not from a view externally. Therefore, given the concerns over the impact that the felling would have to the internal amenity and woodland character of that immediate area, it is the officers opinion that this limb of the test in regulation 17(3) is not met and that, this element, when considering the amenity value of the trees, should not be approved.
51	Officers advise members to consider all different parts of the application and consider the test on the thinning and regeneration felling rather than applying a decision to the application in its entirety, something which the PPG

	envisages and is accepted in practice. The woodland has different areas of work and will have a greater or lesser impact to the local area.
52	<b>Conservation Area.</b> The trees that are in compartments 2a, 2b and 2c are within the Itchen Valley conservation area and require the council to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area in accordance with section 72 of the Planning (Listed Building and Conservation Area) Act 1990.
53	To be able to assess the impact, first there must be a consideration as to what the character of the conservation area is. The Itchen Valley Conservation Area strategy document of 1993 was used to supply the details of the character of Marlhill Copse. This can be found in sections <b>17.2</b> and <b>17.3</b> of the document.
54	<b>Section 17.2</b> – <i>‘Marlhill Copse itself originally formed part of the Townhill Park Estate and is shown on the 1st Edition Ordnance Survey Plan dated 1871, as a woodland block running along the Itchen Escarpment. The size of the trees suggest that they were planted around 1800 and the woodland is now a fine example of mature Oak trees grown as standards. During the 1920's and 30's these were thinned, and the glades were planted up with many unusual trees and shrubs, in particular Rhododendrons, Magnolia and Nothofagus, some of which remain today’.</i>
55	Historically the copse was not the same size as it is today as the 1871 map shows that it did not extend as far to the north as present day. The description of the trees in section 17.2 is in relation to woodland that existed on the 1871 map and not that of the current extended copse that now incorporates the some of the trees that are subject of the felling licence and management proposals. 17.2 gives detail over the trees within the copse that form a feature of the conservation area. The silvicultural thinning of the self-sown trees and other mixed broadleaved are likely to be too young to be trees that were present at the time of the conservation area assessment and have grown due to lack of more recent form of management.
56	As the trees subject of the application and notification were either not within the woodland, as shown on the 1871 map, or are regarded as being one of the unusual notable species of the conservation area assessment, it is the officers view that they cannot be included in the character assessment of the conservation area.
57	<b>Section 17.3</b> – <i>‘The Copse itself lies on an escarpment and its mature trees form a very important element in the landscape of this part of the City, providing a very effective transition in visual terms between the City and its surrounding countryside’.</i>
58	Officers have assessed the loss of the trees and the impact that this would have on the ‘effective transition in visual terms between the City and its surrounding’ and the impact on the character and appearance of the wider conservation area
59	It is the officers’ opinion that the loss of the trees would not remove the visual transition between the woodland and the surrounding area as the trees within compartment 1a would then form the visual transition, if 1(a)(i) were to be completely felled. It may be arguable that the visual transition may have been lessened by the felling, however it is the officers opinion that a transition

	<p>between woodland and urban area would still exist, therefore is not regarded as a loss in transition between the city and countryside. This is a subjective test; therefore, members should form their own opinion over the loss of transition in visual terms to determine if this is acceptable</p>
60	<p>The biggest impact will be from the felling of all conifer, which include the Monterey and Corsican pines, along with all mixed broadleaf trees that occupy 2,400m<sup>2</sup> (0.24ha) of woodland identified as 1(a)(i) on the plan (SEE APPENDIX 1)</p> <p>To make an assessment of all of the works within the conservation area, the local authority must consider the impact that the proposed works will have on the transition effective transition in visual terms between the City and its surrounding' and the impact on the character and appearance of the wider conservation area. In this instance, it is the officers opinion that the, even if felling occurs, there will remain an effective transition.</p> <p>Accordingly, officers consider that the proposed works (for all elements) will preserve the character and appearance of the conservation area.</p>
61	<p><b>Compensation.</b></p> <p>The Council can be liable for compensation in the event it refuses an application to consent. However, under Regulation 24(3) of The Town and Country Planning (Tree Preservation) (England) Regulations 2012, compensation is limited where the works are “forestry operations” in a woodland area. Regulation 24(3) states as follows:</p> <p><i>(3) Where the authority refuse consent under these Regulations for the felling in the course of forestry operations of any part of a woodland area—</i></p> <p><i>(a) they shall not be required to pay compensation to any person other than the owner of the land;</i></p> <p><i>(b) they shall not be required to pay compensation if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is subject to an appeal to the Secretary of State, the date of the final determination of the appeal; and</i></p> <p><i>(c) such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.”</i></p> <p>There is no definition of forestry operations for the purposes of the TPO Regs or in the Town and Country Planning Act 1990. Given the broad dictionary definition of forestry (as used in the UKFS), it is the officers’ view that these are forestry operations in a woodland area and therefore any compensation is limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.</p>

	<p>If these works are not considered forestry operations, then there is a risk of exposure to liability for a greater level of compensation as Regulation 24(1) states:</p> <p><i>(1) If, on a claim under this regulation, a person establishes that loss or damage has been caused or incurred in consequence of—</i></p> <p><i>(a) the refusal of any consent required under these Regulations;</i></p> <p><i>(b) the grant of any such consent subject to conditions; or</i></p> <p><i>(c) the refusal of any consent, agreement or approval required under such a condition, that person shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.</i></p> <p><i>(2) No claim, other than a claim made under paragraph (3), may be made under this regulation—</i></p> <p><i>(a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or</i></p> <p><i>(b) if the amount in respect of which the claim would otherwise have been made is less than £500.</i></p>
62	<p><b>Conclusion:</b></p> <p>Officers have considered all elements of the proposal and feel that some parts are clearly in accordance with the practice of good forestry and that the work does not fail to secure the maintenance of the special character or remove the woodland character of the area, therefore it is the officers opinion that these elements meet the test in regulation 17(3) of the TPO regulations, and having paid special attention to the conservation area test, to the desirability of preserving or enhancing the character or appearance of the conservation area.</p> <p>However, the biggest impact to the local area is undoubtedly the felling of the Pine trees along the boundary and the felling of compartment 1(a)(1) to create a graded interface of mixed native trees of differing mature height. The guidance within the UKFS gives details over the benefit that this will give, even if it is just the boundary. The loss of all of these trees will certainly remove a section of the woodland character of the area, however this may be considered to be greater internally within the woodland than from the local street and as such they preserve the character of the conservation area. It is important to have in mind that the opinion of the officers is a subjective view and is based on all of the work within compartment 1(a)(i) being completed. It is important for members to also have in mind all the aspects of the work being applied for and to consider each on its own merits whilst weighing it up against the long and short term implications and benefits that the creation of the graded woodland have.</p> <p>Officers agree that the work to thin the woodland in the TPO and conservation area is a practice of good forestry and that it would not harm the special character or the woodland character of the area, and therefore support this work.</p>

	<p>In relation to the work to fell trees in compartment 1(a)(i), this has been a difficult decision as it is very finely balanced. It is the officers opinion that the loss of the woodland character of a section of the woodland has to be given due weight for the assessment for reg 17(3)</p> <p>The assessment for felling of the broadleaf trees within compartment 1(a)(i) has been undertaken in relation to the impact the work will have now and not what can be achieved by the application of a replanting condition for future amenity. The officer accepts that the felling of the pines can be attributed to the practice of good forestry and that it would not result in the loss of the special character of the woodland or the woodland character of the area. The felling of the broadleaf trees, in conjunction with the pines, in the officers opinion, would result in a loss of woodland character of the area, albeit from within the woodland itself.</p> <p>It is therefore, for this reason only, why it is felt that the felling of the broadleaf trees in compartment 1(a)(i) should be refused</p> <p>If members feel that on balance, the loss of the section of woodland can be accepted and wish to see the graded woodland edge created, then they can still approve the application. The tests set out in regulation 17(3) give the local authority the option to refuse an application if it feels that the work would fail to secure the maintenance of the special character or the woodland character to the area. If either of these are not impacted, then the local authority must grant consent, however not meeting one of the two tests does not mandate refusal, but simply gives the option.</p> <p>Officers have not given any weight to the protected flight surfaces for aviation or to the proposal for SIAL to increase the length of the runway when reviewing the documents as it has not been supported by any supporting information. The referred felling licence and woodland management plan have been assessed purely based on the practice of good forestry whilst using current best practice guidance. Any benefit that SIAL may receive from the granting of consent is coincidental and is not the reason that lead to the officers opinion.</p>
<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
	NONE
<b><u>Property/Other</u></b>	
	NONE
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
	The statutory duties in connection with determining the application are set out in the body of the report.

	The Council may impose conditions in accordance with the Town and Country Planning Act 1990 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012
<b><u>Other Legal Implications:</u></b>	
	NONE
<b>RISK MANAGEMENT IMPLICATIONS</b>	
<b>POLICY FRAMEWORK IMPLICATIONS</b>	

<b>KEY DECISION?</b>	<b>Yes/No</b>
<b>WARDS/COMMUNITIES AFFECTED:</b>	
<u>SUPPORTING DOCUMENTATION</u>	
<b>Appendices</b>	
1.	Compartment Plan
2.	

**Documents In Members' Rooms**

1.	
2.	
<b>Equality Impact Assessment</b>	
<b>Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.</b>	<b>Yes/No</b>
<b>Data Protection Impact Assessment</b>	
<b>Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.</b>	<b>Yes/No</b>
<b>Other Background Documents</b>	
<b>Other Background documents available for inspection at:</b>	
<b>Title of Background Paper(s)</b>	<b>Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)</b>
1.	
2.	