

Application No: 13/3449C

Location: GLEBE FARM, BOOTH LANE, MIDDLEWICH, CHESHIRE, CW10 0RP

Proposal: Outline application for residential development (approximately 450 dwellings), retail unit (A1, A2, A3, A4 and/or A5) and supporting infrastructure.

Applicant: Bovale Limited

Expiry Date: 15-Nov-2013

SUMMARY RECOMMENDATION

Approve subject to conditions and the completion of a S106 Agreement

MAIN ISSUES

Impact of the development on:-

Principal of the Development

Planning Policy and Housing Land Supply

Location of the site

Landscape

Affordable Housing

Highway Implications

Amenity

Trees and Hedgerows

Design

Ecology

Open Space

Education

Flood Risk and Drainage

Agricultural Land

REASON FOR REFERRAL

This application is referred to the Strategic Planning Board as it a large scale major application.

1. DESCRIPTION OF SITE AND CONTEXT

The site of the proposed development extends to 15.3 ha and is located to the south of Middlewich. The site is within open countryside. To the north is residential development fronting Kingswood Crescent, Shilton Close, Northwood Avenue and Inglewood Avenue. To the north is

agricultural land. A former sports ground is included within the site. To the east of the site is Booth Lane with the Trent and Mersey Canal beyond, to the west of the site is Warmingham Lane.

The majority of the site is currently in agricultural use and there are a number of trees and hedgerow to the boundaries of the site. The site also includes a number of ponds.

2. DETAILS OF PROPOSAL

This is an outline planning application for up to 450 dwellings with an average density of 35 dwellings per hectare. Access is to be determined at this stage, with all other matters reserved. However it should be noted that the internal layout does not form part of the application to be determined at this stage.

There would be two access points to serve the site; one via Warmingham Lane and the second access via Booth Lane.

The indicative plan shows that the site would include the provision of a linear area of public open space and a Neighbourhood Equipped Area for Play (NEAP).

The development would consist of a mix of house types with the maximum height being three stories in height and mainly ranging from 2-4 bedroom units.

The indicative plan shows that the development will include a small retail unit.

3. RELEVANT HISTORY

EIA Screening – EIA not required

4. POLICIES

National Policy

National Planning Policy Framework

Local Plan policy

PS3 – Settlement Hierarchy

PS8 - Open Countryside

GR21- Flood Prevention

GR1- New Development

GR2 – Design

GR3 - Residential Development

GR4 – Landscaping

GR5 – Landscaping

GR9 - Accessibility, servicing and provision of parking

GR14 - Cycling Measures

GR15 - Pedestrian Measures

GR16 - Footpaths Bridleway and Cycleway Networks

GR17 - Car parking

GR18 - Traffic Generation

NR1 - Trees and Woodland

NR3 – Habitats
NR4 - Non-statutory sites
NR5 – Habitats
H2 - Provision of New Housing Development
H6 - Residential Development in the Open countryside
H13 - Affordable Housing and low cost housing
RC2 – Protected Area of Open Space Recreational Facility

Other Considerations

The EC Habitats Directive 1992
Conservation of Habitats & Species Regulations 2010
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
Interim Planning Statement Affordable Housing
Interim Planning Statement Release of Housing Land
Middlewich Town Strategy
Cheshire East Development Strategy
Cheshire East SHLAA

Cheshire East Local Plan Strategy – Submission Version

Paragraph 216 of the National Planning Policy Framework (NPPF) states that, unless other material considerations indicate otherwise, decision-takers may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning guidance, it is appropriate to attach enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in the decision-making process.

At its meeting on the 28th March 2014, the Council resolved to approve the *Cheshire East Local Plan Strategy – Submission Version* for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

Relevant policies of this document are:

MP1 Presumption in favour of sustainable development
PG1 Overall Development Strategy
PG2 Settlement hierarchy
PG6 Spatial Distribution of Development
SD1 Sustainable Development in Cheshire East
SD2 Sustainable Development Principles

IN1 Infrastructure
IN2 Developer contributions
SC1 Leisure and Recreation
SC2 Outdoor sports facilities
SC4 Residential Mix
SC5 Affordable Homes
SE1 Design
SE2 Efficient use of land
SE3 Biodiversity and Geodiversity
SE4 The Landscape
SE5 Trees, Hedgerows and Woodland
SE6 Green Infrastructure
SE9 Energy Efficient Development
SE12 Pollution, Land contamination and land instability
SE13 Flood risk and water management
CO1 Sustainable Travel and Transport
CO2 Enabling business growth through transport infrastructure
CO4 Travel plans and transport assessments
CS 20 Glebe Farm, Middlewich

5. CONSULTATIONS (External to Planning)

Environment Agency: The Environment Agency has no objection in principle to the proposed development but would like to make the following comments:

The discharge of surface water from the proposed development is to mimic that which discharges from the existing site. Percolation test should be undertaken in the first instance to confirm whether infiltration would be a suitable method for the disposal of surface water. If surface water is to be disposed of via a watercourse, and a single rate of discharge is proposed, this is to be the calculated site specific mean annual runoff (\bar{Q}) from the existing undeveloped greenfield site (as opposed to the generic 5 litres/sec/ha stated within the Flood Risk Assessment prepared by Stuart and Harris Ltd). For discharges above the allowable rate, attenuation will be required for up to the 1% annual probability event, including allowances for climate change.

The discharge of surface water should, wherever practicable, be by Sustainable Drainage Systems (SuDS). SuDS, in the form of grassy swales, detention ponds, soakaways, permeable paving etc., can help to remove the harmful contaminants found in surface water and can help to reduce the discharge rate. The following conditions are suggested:

- A scheme to limit the surface water run-off from the site
- A scheme to manage the risk of flooding from overland flow
- The provision of a buffer to the water course
- Contaminated land

Cheshire Brine Subsidence Compensation Board: The site is in an area which has previously been affected by brine subsidence, and the possibility of minor future movements cannot be completely discounted. A condition is suggested to be added to the outline consent.

United Utilities: No objection to the proposal providing that the following conditions are met:-

- This site must be drained on a total separate system, with only foul drainage connected into the foul sewer. Surface water must discharge to the nearby watercourse.
- For the avoidance of doubt, no surface water from this development should be allowed to discharge to the public sewer network either through direct or indirect means.

Strategic Highways Manager: This development will generate sufficient traffic and cause impact on the existing highway network which will congest local junctions beyond normal capacity.

It is the developer's responsibility to mitigate against this traffic impact under the National Planning Policy Framework and the provided Transport Assessment clearly shows that to develop the whole site will need the Middlewich Eastern Bypass (MEB) to be provided in order to mitigate against development impact at the future year assessment.

This is accepted by the Strategic Highways Manager as a course of action both for mitigation of traffic impact from this site and funding provision for the Middlewich Eastern By-pass.

The Strategic Highways Manager recognises that the contributions for the footway/cycleways which are proposed for the canal towpath areas will fall under the jurisdiction of the Canals and Rivers Trust and that this should be considered by the Local Planning Authority in liaison with C.A.R.T.

To this end the Strategic Highways Manager recommends that a number of conditions and informatives be attached to any permission

Environmental Health: Conditions suggested in relation to hours of operation, submission of noise mitigation measures for the future occupiers of the proposed dwellings, odour and noise control, bin storage, external lighting, dust control and contaminated land.

Public Open Space: Following an assessment of the existing provision of Amenity Greenspace accessible to the proposed development, if the development were to be granted planning permission there would be a deficiency in the quantity of provision, having regard to the adopted local standards set out in the Council's Open Space Study for both Amenity Green Space and Children and Young Persons provision.

Therefore, there is a need to provide new green spaces within the boundary of the new site. The amount of Public Open Space (POS) that would be expected in respect of the new population would equate to 13,530sqm, this is in accordance with Interim Policy Note on Public Open Space.

The application is providing 23,700sqm, an over provision of 10,170sqm however this is made up of a variety of open space typologies and it is not clear if the water bodies and play facilities are included in the calculated area.

Landscape mitigation and enhancement is proposed throughout the development and to existing features and boundaries. This includes an area of wetland habitat running north to south through the western area of the site. This is appreciated thus promoting bio-diversity and is due to regulatory requirements to comply with SuDS however it has never been the Council's policy to take transfer of areas of POS that have water bodies located in, around or running through them due to the additional liabilities and maintenance implications associated with such areas.

Therefore it is suggest that consideration is made for this area of POS to be transferred to a suitably competent resident's management company along with any wetland areas.

The development encompasses an area of land covered under the former Congleton Borough Council's policy RC2 protected areas of POS. The land is not owned by CEC and was a former private football pitch for RHM employees. This has not been in use for some years (exact length not known) and is overgrown. This site is mentioned as a 'closed' site in the Open Space Assessment 2012. A current study is being undertaken to produce a CEC Playing Pitch Strategy currently being written using Sport England's latest guidelines although this will not be available until 2014.

Following an assessment of the existing provision of Children and Young Persons Provision accessible to the proposed development, if the development were to be granted planning permission there would be a deficiency in the quantity of provision having regard to the adopted local standards set out in the Council's Open Space Study for Children and Young Persons Provision. Consequently there is a requirement for new Children and Young Persons provision to meet the future needs arising from the development.

The plan indicates the inclusion of a possible two play facilities, one located at the northwest of the site (NEAP) and the other marked as a pocket park which is more central to the development.

Ideally, the pocket park should contain at least 5 items of equipment, some of which should be DDA inclusive and targeted at 8 years and under age range. The NEAP (Neighbourhood Equipped Area for Play) standard play area would be acceptable due to the size of the development and should be suitable for all ages. This should include at least 8 items/activities incorporating DDA inclusive equipment.

Due to the complex management required for play facilities, Streetscape considers the Council has the best competencies required to carry out effective maintenance to protect these community facilities. If however, the decision is made to transfer the play facilities to a residents management company then a full maintenance plan should be submitted prior to commencement of any works.

Providing the NEAP and LEAP standard play area is provided on site, a commuted sum only for a 25-year maintenance period would be required for each play area based on the Council's Guidance Note on Public Open Space Requirements for New Residential Development the financial contributions sought from the developer would be;

Maintenance: £ 403,871.00 (25 years per play area)

Alternatively, should the preferred option be offsite contributions towards Sycamore Drive in place of the smaller LEAP facility, the following contributions are required;

Enhanced Provision: £123,894.00
Maintenance: £ 403,871.00 (25 years)

Natural England: In terms of the SSSI – no objection and conditions are suggested to mitigate the impact. Great Crested Newts – no objection. Bats – recommend addition information is provided before the application is determined.

Health and Safety Executive: The HSE does not advice on safety grounds against the granting of planning permission in this case.

Education: A development of 450 dwellings would generate 81 primary and 59 secondary aged pupils.

Primary - Current forecasts indicate a surplus of 121 places by 2018. However applications (11/4002C, 11/4545C, 12/0883C and 13/0100C) have been approved and from which we anticipate 68 primary aged pupils plus the registered application 12/2584C from which we anticipate a further 27 primary aged pupils. Equating to 95 additional pupils in total. On this basis a primary contribution will be required. $121 - 95 = 26$ forecast surplus places taking into account the above applications. 81 primary aged pupils expected from development – 26 surplus places = 55. On this basis a contribution of £596,545 will be required.

Secondary - Current forecasts indicate a surplus of 42 secondary aged places by 2019, however the same applications as with primary affect the secondary school and soak up the surplus. On this basis a contribution for every secondary aged pupil will be required. £964,219.

Canal and Rivers Trust: The Canal & River Trust is aware that the site has been put forward as a potential additional site allocation for mixed use development in the emerging Local Plan. However, as far as the Canal and Rivers Trust is aware, no Sustainability Appraisal has yet been carried out that may inform whether or not this site is likely to meet the sustainable development requirements of the National Planning Policy Framework. The Trust has commented as follows in respect of the Additional Sites consultation (May 2013) and would re-iterate these comments in respect of the current planning application:

“The impact of the development on the Trent & Mersey Canal and its users must be fully considered at an early stage, and measures put forward to mitigate any detrimental impacts. The presence of the canal towpath should be taken into account in any sustainability appraisal of the site, as this could potentially provide a sustainable, off-road route for walking and cycling to and from Middlewich town centre. However, this would require developer contributions towards appropriate improvements to the towpath surface, and careful consideration should also be given to providing safe, accessible routes to and from the towpath including the means of crossing the A533 Booth Lane.”

The Trust is disappointed to note that the applicant has not addressed the requirements of the emerging policies (Objective 4, CO1 – Sustainable Travel and Transport and SE5 – Green Infrastructure) in the supporting documents and would request that further information is provided in respect of this. In particular, clarification should be provided of how the contribution towards the completion of the Middlewich Eastern Bypass would contribute towards the accessibility of the proposed development by sustainable modes of transport, and how this contribution meets the statutory requirement for planning obligations to be “necessary to make development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development” (CIL Regulations 2010).

In the absence of such justification, the Trust maintains that a contribution towards improving the surface of the canal towpath in the vicinity of the site is fully justified when considered against the tests listed above.

On the basis of the current proposal as set out in the draft S106 Heads of Terms the Trust would therefore have no option but to **object to planning permission being granted** due to the adverse impact on the canal infrastructure caused by the increased use of the towpath as a result of the proposed development.

Cheshire East PROW: The proposed development will need to provide sustainable travel options for residents, including access for pedestrians and cyclists within the site and to adjoining Booth Lane, Warmingham Lane and the green corridor to the north.

The towpath of the canal would act as a key off-road route for travel to and from the town centre and also for leisure purposes, and access to this facility from the site, and a crossing facility on Booth Lane should be required and developed in liaison with the Canal and River Trust. Contributions towards the improvement of the surface of the towpath to accommodate the increased usage anticipated as a result of the proposed development would be likely to be required by the Trust. The improvement of the surface of the towpath has been identified as a local aspiration through consultation for the Council's Rights of Way Improvement Plan (ref. T73) and as key infrastructure project within the development of the Local Plan. The legal status, maintenance and specification of proposed pedestrian and cyclists routes within the development site would need the agreement of the Council.

The developer should be tasked to provide new residents with information about local walking and cycling routes for both leisure and travel purposes, through on site signage and travel planning advice.

Sport England: Since the original objection was submitted to this application, Sport England have been working with the applicant, the Council and the Cheshire FA to find a solution. It has been agreed to provide improvements at the Sutton Lane playing field site in order to mitigate the loss of the playing field at Booth Lane. Although Sutton Lane is an existing playing field the current poor condition of the site prevents a substantial part of the playing field from being used for pitch sports. The following works will allow the playing field to be used to its optimum and provide the opportunity to more than double usage;

- A feasibility study has been submitted by an approved Agronomist that provides 5 options to improve the site. Two of the options require site remodelling and drainage works and three require site renovation and drainage works. The agronomist strongly advises a drainage survey be carried out prior to selecting the final option; and
- Fencing all or part of the site to ensure the physical security of the pitches for matchplay whilst allowing continued local community use. A scheme to secure this has yet to be finalised.

Based on the verbal agreement and email correspondence to date Sport England is satisfied a scheme above can be implemented that meets paragraph 74 of the NPPF and Sport England's Policy. Sport England withdraw the objection subject to:

1. An appropriate level of developer contribution for the works set out above and secured via a S106 Agreement. The developer contribution should be sufficient to ensure the works in the final option can be carried out to the appropriate standard as set out in the Agronomist Feasibility Report
2. The drainage survey recommended by the Agronomist is carried out prior to commencement of the development to identify which of the 5 improvement options will be most effective
3. The Council enters into Memorandum of Understanding with Sport England (Heads of Terms should be agreed prior to planning approval being granted) to ensure that the developer contribution is used for the specified works and provided within an agreed timescale

Sustrans: If this land use is supported by the local community and approved by the council's planning committee, Sustrans comments are as follows:

- The layout of the estate should include linkages for pedestrians and cyclists away from motor traffic to the Shropshire Union canal towpath and to Booth Lane, the adjacent residential area to the north, and to Warmingham Lane.
- Sustrans would like to see a development of this scale make a contribution toward improving the pedestrian/cycle network locally, such as traffic management measures, crossings, resurfacing the canal towpath adjacent to the site.
- The design of the estate should restrict vehicle speeds to less than 20mph.
- The design of any smaller properties should include storage areas for residents' buggies/bicycles.
- Sustrans would like to see travel planning set up for the site with targets and monitoring.

Archaeology: Condition suggested.

6. VIEWS OF THE PARISH COUNCIL

Middlewich Town Council: Middlewich Town Council has considered the above application and the Town Council recommends approval of the outline application subject to highways approval and contribution towards supporting infrastructure and community facilities. The Town Council strongly supports and welcomes the section 106 agreement contribution towards the Eastern Bypass (Link Road). The Town Council supports pedestrian and cycle access onto Warmingham Lane but not vehicular access. The Town Council would like further detail regarding the impact assessment on existing services such as doctors and schools and requests additional supporting information regarding the proposed retail units. This application fits broadly with the vision and aspirations set out in the recent Town Strategy document, so that while there are details to be discussed and agreed, the principle of the development at Glebe Farm and its potential to create opportunities for regeneration and a boost to the local economy.

Moston Parish Council: No comment to make

7. OTHER REPRESENTATIONS

Letters of objection have been received from 13 local households and a petition signed by 22 residents raising the following points:

Principal of development

- The site is outside the settlement boundary
- Large developments have already been approved on Warmingham Lane
- The development does not meet the needs of local people
- Brownfield sites should be developed first
- The Town Strategy ranked the site 6 out of 7 sites
- The development is too large
- The local plan should carry full weight
- The development is contrary to the NPPF
- Approving this development would advocate open-season
- The housing market in Middlewich is saturated
- The properties which back onto the site should be gifted land to extend their gardens
- Loss of Green Belt

- Loss of Greenfield land
- Lack of employment in Middlewich
- There is no need for more housing in Middlewich
- The proposal is contrary to the Congleton Local Plan

Highways

- The access point is inadequate onto Warmingham Lane
- Increased traffic
- Increased traffic congestion
- Rat-run through the site
- There needs to be the completion of the bypass
- Impact upon the adjoining residents from the access point onto Warmingham Lane
- The Warmingham Lane access is not necessary
- Inadequate access onto Warmingham Lane
- The access onto Warmingham Lane would not comply with Manual for Streets
- Concern that the bypass will never be built
- Alternative point for a second access off Sycamore Drive
- Pedestrian safety
- High level of accidents on Booth Lane
- Warmingham Lane is not suitable for additional traffic

Green Issues

- Loss of habitat
- Loss of green land
- Impact upon wildlife
- Impact upon protected species
- Loss of trees
- The trees on the site should be protected
- Impact upon trees
- Loss of high grade agricultural land
- The developer has made little effort to retain the natural features on this site
- Adverse landscape impact
- The marsh area on the site supports a wealth of wildlife
- Rare birds are found within the marsh on the site

Infrastructure

- Lack of infrastructure in Middlewich
- Increased pressure on local schools
- Increased flooding
- Middlewich requires a train station
- Middlewich requires a new health centre
- Doctors and dentists are full
- Electrical infrastructure crosses through the site
- A new school is required
- There is little in terms of leisure facilities
- Drainage issues

Amenity Issues

- Insufficient screening to the residential properties which back onto the site

- Impact upon air quality
- Noise and disruption from construction of the dwellings
- Increased noise
- Increased pollution
- Impact upon privacy
- Overlooking
- Loss of a view
- Loss of outlook for surrounding properties

Other issues

- Impact upon the Brine Pipeline
- Retail units should be located within the town centre. The retail unit will affect town centre viability.
- The site has flooding problems
- Loss of property value
- Middlewich Town Centre is in decline
- Security risk for the properties which back onto the site

An objection has been received from Action Moston raising the following:

- Action Moston states that the majority of this development is not in Middlewich but is in the Parish of Moston. The 450 houses are proposed on a solely greenfield site with major ecological/wetland/subsidence issues. This involves the loss of agricultural land in and on the edges of Moston. Previously, residential development has not been acceptable in Moston. It is likely that traffic generated from this site would not only exit toward the A533 but also exit onto Warmingham Lane directly opposite the Site 4 Middlewich (Warmingham Lane). The number of vehicle movements generated by both these developments will further increase the unsuitable impact and hazards on country lanes in Warmingham and Moston and is at odds with the rural ethic. There is no provision for the school places that would be demanded by a development of this size particularly in conjunction with the proposed 350 houses on Warmingham Lane (of which 194 are already permitted). Extensions to overall school capacities must be considered before permission is granted with contributions expected from developers.

8. APPLICANT'S SUPPORTING INFORMATION

To support this application the application includes the following documents:

- Design and Access Statement (Produced by BBLB Architects)
- Planning Statement (Produced by Harris Lamb)
- Transport Assessment (Produced by David Tucker Associates)
- Travel Plan (Produced by David Tucker Associates)
- Landscape and Visual Impact Assessment (Produced by Pleydell Smithyman)
- Ecological (Produced by FPCR)
- Hedgerow Survey (Produced by Pleydell Smithyman)
- Tree Survey Produced by (Pleydell Smithyman)
- Breeding Bird Survey (Produced by FPCR)
- Viability Development Appraisal (Produced by Graham Hale & Complany)
- Flood Risk Assessment (Produced by Stewart & Harris)
- Ground Conditions Desk Top Study (Produced by Stewart & Harris)
- Archaeology Assessment (Produced by L-P Archaeology)
- Air Quality Assessment (Produced by Air Quality Consultants)

- S106 Heads of Terms
- Statement of Community Involvement (Produced by Harris Lamb)
- Agricultural Land Assessment (Produced by David Hughes Consultancy)
- Mining Report (Produced by the Coal Authority)

These documents are available to view on the application file.

9. OFFICER APPRAISAL

Principle of Development

The site lies substantially outside the settlement boundary of Middlewich, and is identified as open countryside within the Congleton Borough Local Plan First Review. The proposed development would not fall within any of the categories of exception to local plan policy PS8 relating to development within the open countryside. As a result, it constitutes a “departure” from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined “*in accordance with the plan unless material considerations indicate otherwise*”.

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy concerns.

In terms of the emerging local plan the application site forms part of strategic site CS20, which is a large L-shaped parcel of land which would be located to the south of Middlewich and extend between Booth Lane in the east and Warmingham Lane in the west. The emerging policy seeks to deliver a residential development of 450 new dwellings and the provision of pedestrian and cycle connections which enhance Green Infrastructure. The site is greenfield and is currently in agricultural use with a number of ponds and a wetland area to the centre of the site.

Specifically the Submission Version of the Local Plan identifies the following development over the Local Plan Strategy period:

‘The development at Glebe Farm over the Local Plan Strategy period will be achieved through:

- *The delivery of 450 new homes; and*
- *Provision of pedestrian and cycle connections which enhance Green Infrastructure.*

Site Specific Principles of Development

- *Financial contributions to the delivery of a Middlewich Eastern Bypass.*
- *Relevant contributions towards highways and transport, education, health, open space and community facilities.*
- *The achievement of high quality urban and architectural design and the delivery of a high quality public realm.*
- *The provision of a network of open spaces for nature conservation and recreation which reinforce connections to adjacent green infrastructure.*
- *Contributions to education and health infrastructure.*

- *The site will deliver excellent connections to existing residential areas and facilities within Middlewich.*
- *A pre-determination desk based archaeological assessment will be required for the site.*
- *The Local Plan Strategy Site is expected to provide affordable housing in line with the policy requirements set out in Policy SC5 (Affordable Homes).*
- *The development proposals adjoining the Trent and Mersey Canal Conservation Area and associated listed buildings must reflect the location and be of a high standard'*

It is evident that the proposed development would be consistent with the Local Plan Strategy.

Housing Land Supply

The National Planning Policy Framework (NPPF) confirms at paragraph 47 the requirement to maintain a 5 year rolling supply of housing and states that Local Planning Authorities should:

"identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land".

The NPPF clearly states at paragraph 49 that:

"housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

This must be read in conjunction with the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF which for decision taking means:

"where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*
- *specific policies in the Framework indicate development should be restricted."*

A number of recent appeal decisions have concluded that the Council has not conclusively demonstrated a five year supply of deliverable housing land, founded on information with a base date of 31 March 2012 selectively updated to 31 March 2013. However, the Council has recently published a 5 Year Supply Position Statement which seeks to bring evidence up to date to 31

December 2013. The approach taken to the Statement has been informed by policy requirements and by consultation with the Housing Market Partnership.

The Borough's five year housing land requirement is 8,311. This is calculated using the 'Sedgefield' method of apportioning the past shortfall in housing supply across the first five years. It includes a 5% buffer, which is considered appropriate in light of the Borough's past housing delivery performance and the historic imposition of a moratorium.

A standard formula of build rates and lead-in times has been applied to most housing sites, unless more detailed site-specific information is available. Those considered deliverable within the five year supply have been 'sense-checked' and assumptions altered to reflect the circumstances of the particular site. The Criticisms made of the yields from certain sites in the recent appeals, particularly those in the merging Local Plan, have also been taken on board.

Sources of supply include sites under construction; sites with full and outline planning permission; sites awaiting Section 106 Agreements; selected Strategic Sites which are included in the emerging Local Plan; sites in adopted Local Plans; and small sites. This approach accords with the *National Planning Policy Framework*, existing guidance and the emerging *National Planning Policy Guidance*.

A discount has been applied to small sites, and a windfall allowance included reflecting the applications which will come forward for delivery of small sites in years four and five.

A number of sites without planning permission have been identified and could contribute to the supply if required. However, these sites are not relied upon for the five year supply at present.

The current deliverable supply of housing is assessed as being some 9,757 homes. With a total annual requirement of 1,662 based on the 'Sedgefield' methodology and a 5% 'buffer', the *Five Year Housing Land Supply Position Statement* demonstrates that the Council has a 5.87 year housing land supply. If a 20% 'buffer' is applied, this reduces to 5.14 years supply.

In the light of the above the Council will demonstrate the objective of the framework to significantly boost the supply of housing is currently being met. With specific reference to the current proposal, site CS20 is one of the Strategic Sites included within the latest housing supply figures. 155 dwellings are expected over years 1-5.

Location of the site

The site is considered by the SHLAA to be sustainable. To aid this assessment, there is a toolkit which was developed by the former North West Development Agency. With respect to accessibility, the toolkit advises on the desired distances to local amenities which developments should aspire to achieve. The performance against these measures is used as a "Rule of Thumb" as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions.

The accessibility of the site shows that following facilities meet the minimum standard:

- Amenity Open Space (500m) – 134m
- Children's Play Space (500m) – 134m

- Outdoor Sports Facility (500m) – 202m
- Convenience Store (500m) – This would be provided on site
- Supermarket (1000m) – 998m
- Public House (1000m) – 998m
- Bus Stop (500m) – 294m

Where the proposal fails to meet the standards, the facilities / amenities in question are still within a reasonable distance of those specified and are therefore accessible to the proposed development. Those amenities are:

- Post office (1000m) – 1066m
- Cash Machine (1000m) – 1127m

Significant failure to meet minimum standard:

- Post Box (500m) – 1066m
- Pharmacy (1000m) – 2504m
- Primary School (1000m) – 1813m
- Secondary School (1000m) – 2460m
- Medical Centre (1000m) - 2347m
- Leisure Facilities (leisure centre or library) (1000m) – 2384m
- Community Centre/Meeting Place (1000m) – 2365m
- Child Care Facility (nursery or crèche) (1000m) - 1508m
- Railway Station (2000m where geographically possible) – 3823m
- Public Right of Way (500m) – 963m

In summary, whilst the site does not comply with all of the standards advised by the NWDA toolkit, as stated previously, these are guidelines and are not part of the development plan. Owing to its position on the edge of Middlewich, there are some amenities that are not within the ideal standards set within the toolkit and will not be as close to the development as existing dwellings which are more centrally positioned.

However, this is not untypical for suburban dwellings and will be the same distances for the residential development to the north and the approved developments on Warmingham Lane from the application site. However, all of the services and amenities listed are accommodated within Middlewich (apart from a train station) and are accessible to the proposed development on foot or via a short bus journey. Accordingly, it is considered that this small scale site is a sustainable site.

Landscape

The application site has no landscape designations. The Congleton Borough Local Plan identifies the application site as lying outside the settlement boundary and Policy P8 Open Countryside applies. This policy indicates that *‘Development in the open countryside will normally be unacceptable unless it can be shown to be essential to local needs and the rural economy and cannot be accommodated within existing settlements’*.

The application site is on the southern edge of Middlewich and covers an area of 15.3 hectares and is located to the west of the A533 Booth Lane, there is an existing strip of development along much of the Booth Lane boundary; Warmingham Lane is located a distance to the west and the

area directly to the north forms the southern edge of the residential part of Middlewich, apart from a wetland glade that dissects the area along a north to south alignment. The application site and area to the south and further to the west is open countryside and rural in character.

The assessment indicates that the existing wetland corridor to the north will be retained across the application site, in addition there is an existing easement associated with existing salt works running along an east to west alignment.

As part of the application a Landscape and Visual Impact Assessment has been submitted. The assessment follows the guidelines and methodology outlined in the Guidelines for Landscape and Visual Impact Assessment 3rd Edition 2013. The assessment refers to the National Character Area, Area 61 – Shropshire, Cheshire and Staffordshire Plain/Cheshire Sandstone Ridge. The assessment also refers to the Cheshire Landscape Character Assessment, although it identifies this as being at the local, rather than county level. The Cheshire Landscape Character Assessment 2009 identifies the application as being located within Type 7 East Lowland Plain, specifically ELP5 Wimboldsley Character Area; the application area exhibits many of the characteristics of this landscape type.

The assessment also refers to the Congleton Landscape Character Assessment 1999. The Congleton Landscape Character Assessment identifies this as Middlewich Open Plain, an area that is generally flat and of medium scale with irregular fields, with clipped hedgerows and some post and wire infill fencing. The assessment also identifies the industrial and railway infrastructure in the character area and does indicate that this is a poor quality landscape.

The landscape impact assessment indicates that the overall landscape quality is low and that the sensitivity to change is medium, the assessment also indicates that the magnitude of change would be low and that the overall impact will be a slight adverse impact. The Councils Landscape Architect broadly agrees with the landscape impact assessment.

The visual assessment is based on the five zones, and indicates that the visual impact would be moderate to substantial adverse in Zone A along the northern boundary; substantial to significant adverse in Zone B along the north western boundary; negligible adverse for Zone C, located along the eastern boundary; slight adverse for Zone D along the northern part of the western boundary and nil to slight adverse for Zone E along the south of the site. The Councils Landscape architect would agree with the visual assessment.

The proposed mitigation indicates that a linear park is proposed through the application site, this appears to correspond to the existing easement in place that is associated with the salt works. It is not clear from the application how restrictive this easement may be in terms of what may actually take place along this route. The assessment also indicates that it is intended to retain the existing pond located within the application site. Apart from that there is only a vague indication that existing vegetation will be retained *‘Aspects of existing mature trees and established vegetation, hedgerows/structure will be retained within the overall site Masterplan’*.

There is potential to achieve some degree of mitigation in the perimeter landscape area, but any positive effects would depend largely on the provision of landscape improvements and enhancement generally but specifically along the existing boundaries and especially in the areas identified in the assessment as Zone A and Zone B, along the northern boundary.

Affordable Housing

The Councils Interim Planning Statement: Affordable Housing (IPS) states in Settlements with a population of 3,000 or more that we will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 15 dwellings or more or larger than 0.4 hectares in size.

It goes on to state the exact level of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities, and other planning objectives. However, the general minimum proportion of affordable housing for any site will normally be 30%, in accordance with the recommendation of the 2010 Strategic Housing Market Assessment. The Affordable Housing IPS states that the tenure mix split the Council would expect is 65% rented affordable units (these can be provided as either social rented dwellings let at target rents or affordable rented dwellings let at no more than 80% of market rent) and 35% intermediate affordable units. The affordable housing tenure split that is required has been established as a result of the findings of the Strategic Housing Market Assessment (SHMA) 2010 and the SHMA Update 2013.

The SHMA Update 2013 shows that for the sub-area of Middlewich there is a need for 65 new affordable homes per year between 2013/14 and 2017/18, made up of a need for 26 x 1 beds, 22 x 2 beds, 8 x 3 beds, 4 x 1 bed older persons accommodation and 4 x 2+ bed older persons units.

There are currently 206 applicants on the housing register applying for social rented housing who have selected one of the sub-areas of Middlewich as their first choice, these applicants require 58 x 1 beds, 99 x 2 beds, 60 x 3 beds and 3 x 4 beds (6 applicants haven't specified how many bedrooms they need).

Therefore as there is affordable housing need in Middlewich there is a requirement for affordable housing to be provided at this site, 30% of the total dwellings on site should be provided as affordable, this equates to up to 135 affordable homes and the tenure split of the affordable dwellings should be 65% social or affordable rent (88 units) and 35% intermediate tenure (47 units), the affordable housing should be provided on site.

In this case the applicant is offering 10% affordable housing due to issues over viability and the £5,000,000 contribution to the Middlewich Eastern Bypass/replacement sports pitches. The applicants viability report refers to 10% affordable rent although the applicants Heads of Terms refer to 10% intermediate tenure. Clarification on this matter will be updated accordingly. The reduced level of affordable housing and other contributions will be discussed in the viability section below.

Highways Implications

The submitted Transport Assessment assesses the traffic generation numbers and from this it considers the traffic impact on the existing highway network.

The TA acknowledges the Authorities ambition to provide the Middlewich Eastern By-pass and to this end has considered both the likely traffic distribution in a '*with by-pass*' scenario and a

'without by-pass' scenario and provides network flow diagrams for both. The latter was used as a sensitivity test.

The scope for assessment of traffic impact within the TA was agreed originally with Officers from the Strategic Highways Development Management team and includes for agreed committed development sites.

Traffic generation from the site is calculated from vehicle trip rates derived from the TRICS database and these figures form the basis of the junction assessments provided within the TA.

The content of the TA looks at the access strategy for the site and the sustainable connectivity with regard to: walking, cycling, bus and train.

Access

The proposal is to access the site from Booth Lane via a new signal junction and the provision of a secondary priority controlled T-junction with traffic calming entry feature from Warmingham Lane.

This would effectively split the traffic generation from the site giving options for traffic distribution.

Journey to work data from the 2001 census has been used to determine traffic distribution from the site and this shows that 81% of traffic can be expected to use the main access onto the A533 Booth Lane and 19% would use the secondary access onto Warmingham Lane. The Strategic Highways Manager considers this to be reasonable.

It is recommended in the TA that the speed limit on Booth Lane is reduced to 40mph which is appropriate. However, it requires a Traffic Regulation Order and a contribution will be required to fund 'traffic management' rather than provide it.

Independent Road Safety Audits have been provided for each access proposal and the only recommendation made is that the traffic signals are designed to incorporate speed assessment facilities at the access onto Booth Lane.

Travel Planning

With such an emphasis being placed on the improvement of accessibility to this site and the promotion of modes of travel other than the private car the developer has provided a Travel Plan which identifies local facilities and sustainable travel opportunities and incorporates targets and monitoring proposals.

The Strategic Highways Manager considers this broad approach to the Travel Plan as a framework and will require a more detailed submission by condition.

Middlewich Eastern Bypass (MEB)

The Transport Assessment recognises that if MEB comes forward that strategic traffic flows will change on the existing highway infrastructure and also recognises the current need for considerable improvement to the local highway infrastructure.

As a result the developer is prepared to also offer flexible financial contributions which are targeted at local highway infrastructure improvements identified and costed by the Strategic Highways Manager.

These costed local improvement schemes are aimed at improving sustainable transport options and local links together with significant improvement at the Leadsmithy St/A54 signal junction in Middlewich and are intended to mitigate against development impact in accordance with the NPPF and the GTA (DfT), whilst appropriately promoting the use of alternate transport modes other than the private car.

The TA recognises that there are some deficiencies in sustainable links to facilities in Middlewich and offers an accurate assessment of them. It identifies areas of improvement which are required through policy and guidelines and for which there are costed schemes for improvement.

There are clear congestion issues in the centre of Middlewich around the A533/A54 signal junction at Leadsmithy Street/St Michael's Way and monies from this development should be available to fund measures which come forward and would mitigate the traffic impact of this development proposal.

Previous analysis for Middlewich concerning Middlewich Eastern By-pass has shown that there is likely to be a 50 – 75% reduction in traffic using the: Leadsmithy Street/Kinderton Street/Leadsmithy Street right/left turn when MEB is opened and clearly this would create capacity at the Leadsmithy St/Kinderton St signal junction.

The Glebe Farm TA has considered future year traffic flows (2018) at this junction without the MEB and with 50% and 75% transfer if MEB is developed. This analysis does show improvements in capacity at the junction with the transferred flow percentages in the future year however it is only the 75% transfer which gives capacity at all peak times whilst 50% reassignment does still show some congestion at Leadsmithy Street though it remains on a par with the 2013 (existing) scenario. This would still be considered to mitigate the development impact.

This analysis clearly demonstrates that in accordance with the requirements of the GTA (DfT), the completion of the Middlewich Eastern By-pass would mitigate the traffic generation from this development at full build out.

The following local measures have been identified on the local infrastructure with regard to the promotion of sustainable modal choice for travel, public transport improvements and public realm improvements:

- Bus Service/Facility Improvements - £154,000.
- Town Bridge – Signal Junction Improvements - £1,503,166.
- Cycle Lanes -Towpath: Middlewich to Glebe Farm - £1,926,099.
- Cycle Lanes -Carriageway Modification: Middlewich to Glebe Farm - £115,594.
- Cycle Lanes -Towpath: Glebe Farm to Elworth - £1,366,240.

- The total value of these improvements is: £5,065,099.

This development proposal is required to effectively mitigate against its traffic impact on the strategic highway network.

As the delivery of MEB does not have a completion date at this time it is important to identify alternate mitigation measures which will serve to help mitigate impact should MEB not be delivered. The measures are listed above and would ensure the delivery of improvements to sustainable modal choice for the development.

In total the contribution from the Glebe Farm development towards these measures would be £5,000,000 and this will be conditioned by the Strategic Highways Manager as an up-front contribution prior to development build out.

This contribution will provide the following:

- Completion of funding for Middlewich Eastern By-pass allowing Cheshire East Council to pursue its completion.
- The opportunity to provide the extensive local infrastructure highway improvements if Middlewich Eastern By-pass is not completed.

The Strategic Highways Manager has produced detailed estimates for these improvements and negotiated sums of money against them which will be subject to security under a Section 106 agreement attached to any permission which may be granted for this development proposal. The contributory sum/sums will be held for a minimum of ten years from the date of deposit.

The build out of this development as a whole will rely on the completion of the Middlewich Eastern Bypass or the delivery of the alternative complimentary measures detailed within this report.

Traffic generation has been calculated against the proposed total number of dwellings and is therefore robust.

Therefore the developer is offering a funding contribution to Middlewich Eastern by-pass which will enable the total funding package for MEB to be brought together and this would lead to the completion of the by-pass.

This would effectively mitigate against development impact and can be regarded as CIL compliant. The required contribution for Middlewich Eastern By-pass is £5,000,000 (five million).

As can be seen from the alternate identified schemes above, the comparison in total values is similar and the developer has offered that if the proposed development reached a build out level of 200 units that some or all of the contribution offered could be used alternatively to provide those measures to the local highway infrastructure should the MEB not come forward for construction. The Strategic Highways Manager considers this to be a reasonable proposal however it must be recognised that in the interim period there would be some traffic generation from this development which would cause some added congestion on the local highway infrastructure until such time as the MEB was open or the alternate local measures were provided.

Amenity

In terms of the surrounding residential properties, these are mainly to the north of the site. Although the application is in outline form, there is no reason to consider that the required separation distances could be achieved at the Reserved Matters Stage.

The proposed development would have a density of 35 dwellings per hectare which is consistent with the surrounding area and would not be out of character in this area.

To the north-west of the site, concern has been raised that the access point onto Warmingham Lane would cause loss of privacy, noise and disturbance to the adjoining residential properties which front Warmingham Lane and Inglewood Avenue. As the application is in outline form there are no details of the proposed boundary treatment but it is considered that appropriate boundary treatment/landscaping could be secured to help mitigate against loss of privacy and noise and disturbance.

The applicant has submitted a noise assessment report with the application. The report shows that noise on the site can be mitigated to an acceptable standard as detailed in BS8233. As the final layout of the site has yet not been confirmed; a detailed scheme of glazing, ventilation mitigation measures and acoustic screening fences, should therefore be prepared and submitted at the Reserved Matters application stage.

In terms of air quality, the Environmental Health Officer has requested a condition regarding an environmental management plan and travel plan to minimise the impact from the development in terms of the site preparation and construction phases.

The Environmental Health Officer has requested a condition in relation to noise mitigation measures for the future occupiers of the proposed dwellings, odour and noise control, external lighting, dust control and contaminated land.

Trees and Hedgerows

Trees

The trees within the site are currently not afforded protection by a Tree Preservation Order. The submitted tree report identifies some 49 individual trees and 13 Groups of trees comprising principally of individual hedgerow Oak and occasional Ash. Species composition of Groups comprise of Oak and/or Ash occasionally with Hawthorn, Field Maple, Crab Apple and Willow.

The assessment identifies 24 individual (A) High category trees and three (A) category groups; 14 individual (B or B/C) moderate category trees and one (B) category group. Some trees have been classed as C/B; B/C or A/B and therefore it is unclear as to which category these trees or groups should be. Four trees and two groups have been assessed as unsuitable for retention due to their decline or are dead and are proposed to be removed. Six individual (four Oak trees T7, T27, T31, T33, a Cypress T46 and an Apple, T49) and six groups (G3, G4, G8, G10, G11 and G13) are proposed to be removed due to their low quality (C) category status and have been assessed as having limited landscape and amenity value.

Although the assessment indicates that outline proposals have been designed to incorporate most of the individual trees and groups within the application area, two Category A Oak trees, T1 (which is located outside the site edged red) and T12 are proposed to be removed (T1 is presumed for removal for visibility splay requirements and T12 for internal access arrangements. Three Category B trees (2 Oak and an Ash) will require removal to accommodate the proposed access of Warmingham Lane and internal access arrangements. At least part of five low quality or moderate to low quality groups (depending on whether they are assessed as C or C/B) are also proposed to be removed for development.

In principle there should be no major arboricultural reasons why the site cannot be developed subject to a suitable layout and design in accordance with BS5837:2012. The layout ought to be able to be reconfigured to allow the retention of those A and B category trees identified for removal to accommodate access arrangements or highway requirements relaxed in respect of mandatory visibility splays and unadoptable highway construction.

Hedgerows

Further information has been submitted in relation to this issue and this is currently with the Council Tree Officer for consideration. An update will be provided in relation to this issue.

Design

The application is outline with details of scale, layout, appearance and landscaping to be determined at a later date. In support of this planning application a Design and Access Statement has been provided.

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”

In this case the density of the site is appropriate and is consistent with that of the surrounding area.

It is not considered that the development would have a detrimental impact upon the setting of the nearby canal Conservation Area.

To all sides of the site a boundary hedgerow would be provided/retained to act as a green buffer to the open countryside and surrounding residential properties. According to the indicative plan the open space would be located to the centre of the site. A NEAP and LEAP could be well overlooked by residential properties.

Ecology

SSSI

The application site is approximately 630 metres from the Sandbach Flashes SSSI. In this case Natural England has advised that there is not likely to be an adverse effect on the SSSI as a result of the proposed development subject to the imposition of conditions relating to bird disturbance. The impact upon the SSSI is therefore considered to be acceptable.

Bats

Five trees have been identified on site as having moderate potential to support roosting bats. Four of these trees are located on the site boundary and the fifth is located in an area of open space. Therefore based upon the submitted indicative plan it appears feasible that these trees could be retained as part of the development.

Additional bat activity surveys have been undertaken. The site supports foraging habitat for a number of bat species and the level of bat activity is broadly what would be expected for a site of this nature in a rural location. It is suspected that there may be a roost present in the nearby existing housing. The Council's Ecologist advises that the proposed development is likely to lead to some loss of bat foraging habitat however, this could be mitigated for by means of a good quality landscaping scheme for the open space and boundaries of the site. A condition would also be required requiring the lighting scheme for the site to be agreed with the LPA as part of any reserved matter application.

Great Crested Newts

Due to access restrictions not all ponds within 250m of the proposed development have been surveyed for Great Crested Newts. However, as surveys of all ponds where access was available have been negative for this species the Council's Ecologist advises that it is unlikely that this species is present on site or will be affected by the proposed development. No further action in respect of Great Crested Newts is required.

Reptiles

The submitted ecological assessment states that the application site is for the most part unsuitable for reptiles. In the Council's Ecologist's opinion the pond 3 area and associated wetlands could be utilised by grass snake on at least a transient basis. However, as this habitat is retained as part of the development any potential impacts on this species would be at least partly mitigated.

Grassland Habitats

An additional botanical survey of the grassland habitats has now been undertaken and submitted to the Council following concerns raised by the Council's Ecologist. As agreed with the applicant's consultant the survey was undertaken in October which is outside the optimal survey season for surveys of this type and it is likely that the accuracy of the survey has been constrained by the season.

Based on the results of the submitted survey the grassland habitats on site would not meet the site selection criteria for designation as Local Wildlife sites. However, three fields (fields 3,6 and the retained area of marshy grassland) have the potential to be of sufficient value to be designated if a survey was undertaken at the appropriate time of year.

The Councils Ecologist advises that the grassland habitats on site must be considered to have at least some nature conservation value in the local context. However a full assessment of the value of the grassland habitats could only be made following a further botanical survey at the optimal time of the year.

If planning consent is granted the Councils Ecologist advises that the loss of grassland habitats on site must be off-set by means of a commuted sum which could be utilised to fund off-site habitat creation.

It would be informative for the applicant to undertake a detailed assessment of the residual impacts of the proposed development however in the absence of such an assessment the Councils Ecologist proposes the following method of calculating a commuted sum to off-set the potential loss of biodiversity associated with the proposed development. The level of contribution sought in this instance is higher than some other schemes due to the potential high value of some of the grassland habitats lost to the proposed development. The calculation is based on the Defra report 'Costing potential actions to offset the impact of development on biodiversity – Final Report 3rd March 2011'. The loss of habitat (Semi improved grassland) associated with the proposed development amounts to roughly 12.93ha. The cost of the creation UK BAP grassland is £11,293.00 per ha. Therefore the cost of creation of and on-going management of Lowland Grassland habitats is: $12.93\text{ha} \times £11,293.00 \text{ (cost per ha)} = \underline{£146,018.49}$ (Source UK BAP habitat creation/restoration costing + admin costs).

In this case the developer is not willing to make this contribution and the loss of habitat will need to be considered as part of the planning balance.

Hedgerows

Hedgerows are a biodiversity action plan priority habitat and hence a material consideration. A number of hedgerows around the site have been identified as having nature conservation value. This submitted indicative layout plan suggests that it is feasible to retain a number of hedgerows around the site, however there are also likely to be some losses as a result of the development of this site. If outline planning consent is granted a suitable condition is required to ensure adequate replacement hedgerow planting is incorporated into any future landscaping for the site.

Other Protected Species

An updated survey has been undertaken for other protected species. There are unlikely to be significantly affected by the proposed development.

Ponds

Ponds are a Biodiversity Action plan priority habitat and hence a material consideration. A number of ponds are present on site. Two of these ponds (ponds 1 and 5) are to be likely to be lost as a result of the proposed development. It seems likely that ponds 2 and 3 would be retained as part of the proposed development. Two other ponds (ponds 4, 6) that could potentially be retained do not appear on the indicative layout plan. If the Reserved Matters application results in the loss of any ponds replacements should be secured.

Breeding Birds

The application site has been assessed as being of local importance for breeding birds. The potential impacts of the development upon breeding birds should be minimised through the retention of the marshy grassland and hedgerow habitats on site and the incorporation of features suitable for breeding birds into the scheme design. However the development is likely to result in a residual impact upon birds.

Public Open Space

The indicative layout shows that an area of POS would be provided centrally within the site. The Open Space Officer has stated that if the development is approved there would be a deficiency in the quantity of provision and the requirement for the site is 13,530sq.m. The area shown on the indicative plan is 23,700sqm this is an over-provision of 10,170sqm (despite the inclusion of a wetland area). Therefore the amount of open space to be provided is acceptable.

In terms of children's play space, the Public Open Space Officer has requested the provision of a NEAP and LEAP. This would be provided centrally and secured as part of a S106 Agreement.

The open space and LEAP on site would be managed by a management company and this would be secured as part of a S106 Agreement.

Loss of Recreational Open Space

The application site includes a former sports ground which is protected by Policy RC2 (Protected Area of Open Space/Recreational Facility) which would be lost as part of this development.

In relation to this issue there have been negotiations between the Sport England, the Council, the applicant and the Cheshire FA and it has been agreed that the most appropriate solution would be a scheme of improvements to the existing playing pitches at Sutton Lane which are in a poor state of repair.

In response to this the applicant commissioned an Agronomists Report to assess the cost and feasibility of these improvement works. This report identified 5 improvement options but required a further survey of the drainage at Sutton Lane to identify which of the options would be most appropriate.

In relation to this issue the drainage contractor has stated that a crew will be on site on the morning of 19th March 2014 and that the report should be produced by the 21st March. However, this is very much weather dependant and further inclement weather could cause another delay to the CCTV survey. A further delay would mean that the drainage survey report would unlikely be ready for the planning meeting on the 2nd April 2014.

In this case there has been further consideration of the options and it has been determined that only options 3 and 4 are viable to improve the pitches at Sutton Lane with the options 1, 2 and 5 being discounted. Options 3 & 4 would provide pitches that conform with the criteria set out in the Sport England Design Guidance Notes. The only reason for the CCTV drainage survey is to distinguish between the two options, and the financial implications of this are shown below;

- Option 3 - Surface renovation and the installation of primary and secondary drainage into a limited area of the sports field. The estimated value for these works is £136k + £24k for a 12 month maintenance programme (excluding professional fees and VAT).
- Option 4 - Surface renovation and the installation of a secondary drainage system into a limited area of the sports field. The estimated value for these works is £82k + £24k for a 12 month maintenance programme (excluding professional fees and VAT).

Both options would require an additional contribution to provide fencing at Sutton Lane and this has been costed at £60,000.

The Council will enter into a Memorandum of Understanding with Sport England as requested by Sport England.

A further update will be required in relation to the final costings.

Education

In terms of primary school education, the proposed development would generate 81 new primary places. As there are capacity issues at the local primary schools, the education department has requested a contribution of £596,545. In this case the applicant is unable to make this contribution due to viability issues and the required contribution for the Middlewich Bypass.

In terms of secondary school education, the proposed development would generate 42 new secondary places. As there are capacity issues at the local secondary schools, the education department has requested a contribution of £964,219. In this case the applicant is unable to make this contribution due to viability issues and the required contribution for the Middlewich Bypass.

Flood Risk and Drainage

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. This defines that the land has less than 1 in 1000 annual probability of flooding and all uses of land are appropriate in this location. As the application site exceeds 1 hectare, a Flood Risk Assessment (FRA) has been submitted as part of this application.

The submitted FRA identifies that there is no risk from river/coastal flooding, the flooding maps and from historical flooding. However there is a high to very high risk of groundwater flooding, a low risk from surface water flooding and a risk from blockages along the water ditches on site and infrastructure failure.

The submitted FRA identifies Sustainable Urban Drainage Systems (SUDS) can be used on this site to manage storm water and run-off both to the application site and to surrounding properties.

The submitted FRA states that:

- Infiltration tests will be carried out as part of the full site investigation. If infiltration results prove successful then soakaways will be used.
- Rainwater harvesting is recommended.
- Swales are likely to be used to redirect, store and infiltrate surface water. Swales can be directed towards the existing ditches on the site.

- The use of permeable paving for parking bays will be used to store and slow down the rate of discharge.
- Modular tanks with a high void ratio can be used to create a below ground storage structure.
- There are existing ponds on site which can provide both storm water attenuation and treatment. There are existing ponds within the site and they may need to be increased in size to cater for an increased hardstanding area.
- Water butts are recommended to harvest rainwater for garden use.

The FRA then goes on to state that the surface water run-off from the site will drain to the existing surface water ditch at the maximum Greenfield surface water run-off rate.

In terms of foul water drainage a pumping station will be required and a separate foul water drainage system will be provided within the site. The foul water drainage will connect to the existing foul water manhole in Booth Lane.

The Environment Agency has been consulted as part of this application and has raised no objection to the proposed development subject to the imposition of conditions. As a result, the development is considered to be acceptable in terms of its flood risk/drainage implications.

Proposed Convenience Store

The application includes the provision of a small retail unit which would have a maximum floorspace of 375sqm. This would serve residents on the application site and at the southern part of Middlewich. Given the size of this unit there would be minimal impact upon the viability and vitality of Middlewich Town Centre. The proposal would not require an impact assessment as it is below the threshold of 2,500sq.m contained within the NPPF.

Impact upon the Hazardous Installation

A brine pipeline runs across the application site and concern has been raised about the impact upon this pipeline. In this case the Health and Safety Executive have been consulted and raised no objection in relation to this hazardous installation or other hazardous installations in the area. The impact is therefore considered to be acceptable and further details will be provided at the reserved matters stage.

Archaeology

The Council's Archaeologist has considered the application and supporting report and considers that the issue of archaeology could be resolved through the use of a planning condition.

Agricultural Land Quality

It is noted that Policy NR8 (Agricultural Land) of the Congleton Borough Local Plan has not been saved. However, the National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

An Agricultural Land Survey has been produced and this indicates that the application site is Grade 3b and Grade 4. As a result the loss of this land does not raise any issues.

Impact upon the adjacent canal

The Conservation Area runs along the line of the adjacent canal located to the opposite side of Booth Lane. Given the intervening road it is considered that it would be possible to negotiate an acceptable design solution that would not harm the setting of the Conservation Area.

The options for improvements to the canal towpath are mentioned within the highways section and would be provided if the MEB does not come forward. This is also referred to within the objection from the Canals and Rivers Trust who are seeking contributions to upgrade the canal towpaths. Further consideration is given to this issue within the viability section below.

Viability

As part of this application there have been a number of requests for contributions from the relevant consultees and these are summarised as follows:

- Highway mitigation MEB - £5,000,000 or other highway/sustainability measures £5,065,099.
- Playing pitch improvements at Sutton Lane - either option 3 (£220,000) or option 4 (£166,000)
- 30% affordable housing (split 65% as rented or 35% as intermediate tenure)
- Primary school education contribution of £596,545
- Secondary school contribution of £964,219
- Habitat mitigation contribution £146,018
- Maintenance of the NEAP and LEAP on site if maintained by the Council £403,871 per play area OR off-site works in place of the LEAP at Sycamore Drive enhanced provision and maintenance would total £527,765.

In this case the developer has offered a £5 million contribution which will be split between the Middlewich Eastern Bypass or other highway/sustainability measures and replacement playing pitches and 10% affordable housing.

The NEAP and LEAP would be provided on site and managed by a private management company so there would be no requirement for the maintenance contributions or the off-site works at Sycamore Drive

As a result of the above it was necessary to obtain external advice from a viability consultant to ensure that the level of affordable housing and other contributions could not be provided in support of this application.

The figures contained within the viability report are confidential and will not be repeated within this report but the Councils viability consultant has assessed the figures and concludes that;

'We have reviewed the value, cost and timing assumptions and conclude that the proposed scheme, providing £5,000,000 in Highways Contributions and 10% of units as affordable rent, is the maximum the scheme could viably provide'

In this case it is deemed necessary to provide the Sutton Lane playing pitch contribution to address the objection from Sport England. Whilst the highways mitigation (either in the form of the contribution to MEB or the other highways/sustainability measures) is required to mitigate the highways impact of this development without this there would be an objection from the Strategic Highways Manager and it has been agreed that the Sutton lane contribution will be deducted from the £5,000,000.

Although it is unfortunate that the full level of affordable housing is not provided it is considered that the level of 10% must be provided on site to support a mixed and balanced community.

Unfortunately and as a result of the above it is not possible to secure the requested contributions to primary and secondary school education or in terms of habitat mitigation.

LEVY (CIL) REGULATIONS

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010 it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

The development would result in the loss of playing pitches which are protected by Policy RC2 of the Local Plan. As a result of the Sport England objection it is necessary to secure mitigation off-site to make the development acceptable in planning terms and this figure is directly related to the development and fair and reasonable.

The development would also result in increased vehicular movements to the site and the surrounding road network within Middlewich suffers from serious congestion problems. Due to the increased vehicular movements it is considered that a contribution will be required to mitigate this impact and without this the development would be unacceptable. The contribution is considered to be directly related to the development and fair and reasonable. The preference is for the contribution to go towards the Middlewich Bypass but an alternative scheme of mitigation has been identified (it is considered that the strategic importance of completing the bypass would outweigh the harm to the Canal Infrastructure if the bypass sum is secured).

As explained within the main report, POS and children's play space is a requirement of the Interim Planning Policy. It is directly related to the development and is fair and reasonable.

On this basis, the S106 recommendation is compliant with the CIL Regulations 2010.

10. CONCLUSIONS

The site is within the Open Countryside where under Policies PS8 and H6 there is a presumption against new residential development. The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies are out of date and there is a presumption in favour of development. In this case the development is consistent with Policy CS20 of the Cheshire East Local Plan Strategy Submission Version and is one of the Strategic Sites

included within the latest housing supply figures where 155 dwellings are expected over years 1-5. As a result it is considered that the principle of development is acceptable in this case.

It is considered that the development is acceptable in terms of affordable housing provision. Matters of contaminated land, air quality and noise impact can also be adequately addressed through the use of conditions.

The issue of highway safety and traffic generation is considered to be acceptable and the development would not have a severe impact subject to the required contribution.

Although there would be some adverse visual impact resulting from the loss of open countryside, it is considered that, due to the topography of the site and the retention of existing trees and hedgerows, this would not be significant relative to other potential housing sites in the Borough.

With regard to ecological impacts, the Council's ecologist is satisfied with the impact upon protected species. In this case there would be a loss of habitat and the requested contribution cannot be secured. This issue is considered to be outweighed by the economic and social benefits of approving housing in this location.

The scheme complies with the relevant local plan policies in terms of amenity and it is considered that an acceptable design and layout can be secured as part of a reserved matters application.

Policy requirements in respect of public open space provision can be met within the site, and therefore it is not considered to be necessary or reasonable to require further off-site contributions in this respect.

Contributions to primary and secondary schools cannot be secured for viability reasons. This issue is considered to be outweighed by the economic and social benefits of approving housing in this location.

The loss of the playing pitch on site would be mitigated against by the suggested contributions to improve the playing pitches at Sutton Lane.

The Flood Risk Assessment has not identified any significant on or off site flood risk implications arising from the development proposals that could be regarded as an impediment to the development.

11. RECOMMENDATIONS

APPROVE subject to completion of Section 106 Legal Agreement to secure the following:-

- 1. A contribution towards playing pitch improvements at Sutton Lane. The final sum to be confirmed and is either option 3 (£220,000) or option 4 (£166,000). The sum is to be submitted prior to the commencement of development.**
- 2. A contribution towards Middlewich Eastern Bypass of £4,780,000 if option 3 is used above or £4,834,000 if option 4 is used. If the MEB is not delivered the sum will be spent on the following highway/sustainability measures: Bus Service/Facility Improvements; Town Bridge – Signal Junction Improvements; Cycle Lanes -Towpath: Middlewich to Glebe Farm; Cycle Lanes -Carriageway Modification: Middlewich to Glebe Farm; and Cycle Lanes**

-Towpath: Glebe Farm to Elworth. The sum is to be submitted prior to the commencement of development.

3. No more than 200 dwellings are to be constructed prior to the completion of the MEB or the other highway/sustainability measures

4. A scheme for the provision of 10% affordable housing all to be affordable rent. The scheme shall include:

- The numbers, type and location on the site of the affordable housing provision**
- The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing**
- The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved**
- The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and**
- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.**

5. Provision of Public Open Space, a NEAP and LEAP to be maintained by a private management company

And the following conditions

- 1. Standard Outline**
- 2. Submission of Reserved Matters**
- 3. Time limit for submission of reserved matters**
- 4. Approved Plans**
- 5. Hours of construction limited to 08:00 to 18:00 Monday to Friday, 09:00 – 14:00 Saturday and not at all on Sundays**
- 6. Pile driving limited to 08:30 to 17:30 Monday to Friday, 09:00 – 13:00 Saturday and not at all on Sundays**
- 7. Prior to the commencement of development a Phase I Contaminated Land Assessment shall be submitted to the LPA for approval in writing.**
- 8. Details of external lighting to be submitted and approved**
- 9. Dust control measures to be submitted and approved**
- 10. Prior to the development commencing, an Environmental Management Plan shall be submitted and agreed by the planning authority.**
- 11. A scheme for the acoustic enclosure of any fans, compressors or other equipment for the proposed retail store**
- 12. A detailed scheme of glazing, ventilation mitigation measures and acoustic screening fences, should therefore be prepared and submitted at the Reserved Matters application stage**
- 13. Travel Plan provision**
- 14. Electric vehicle Infrastructure**
- 15. The submission of a ground dissolution/brine extraction related risk assessment and proposals regarding suitable foundations designed to overcome the potential effects of brine pumping related subsidence.**
- 16. A scheme to limit the surface water run-off from the site**
- 17. A scheme to manage the risk of flooding from overland flow**
- 18. The provision of a buffer to the water course**
- 19. Provision of bird and bat boxes**

20. Works should commence outside the bird breeding season
21. Access point to Booth Lane to be provided in accordance with the approved details prior to first occupation
22. No development shall take place within the area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The work shall be carried out strictly in accordance with the approved scheme.
23. Reserved matters application to include details of existing and proposed levels
24. Tree protection
25. Tree retention
26. Arboricultural Method Statement to be submitted at the Reserved Matters stage
27. If the Reserved Matters application results in the loss of any ponds replacements should be provided.

Informative:

1. The applicant is advised that they have a duty to adhere to the regulations of Part IIA of the Environmental Protection Act 1990, the National Planning Policy Framework 2012 and the current Building Control Regulations with regards to contaminated land. If any unforeseen contamination is encountered during the development, the Local Planning Authority (LPA) should be informed immediately. Any investigation / remedial / protective works carried out in relation to this application shall be carried out to agreed timescales and approved by the LPA in writing. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Planning and Place Shaping Manager has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.

Should this application be the subject of an appeal, authority be delegated to the Planning and Place Shaping Manager in consultation with the Chairman of the Strategic Planning Board to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.

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