

Strategic Planning Board

Agenda

Date:	Wednesday, 20th April, 2011
Time:	10.30 am
Venue:	The Capesthorne Room - Town Hall, Macclesfield SK10 1DX

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

Please note that members of the public are requested to check the Council's website the week the Planning/Board meeting is due to take place as Officers produce updates for some or all of the applications prior to the commencement of the meeting and after the agenda has been published.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. Apologies for Absence

To receive any apologies for absence.

2. Declarations of Interest/Pre-Determination

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests and for Members to declare if they have made a pre-determination in respect of any item on the agenda.

3. Minutes of the Previous Meeting (Pages 1 - 6)

To approve the minutes as a correct record.

4. Public Speaking

For any apologies or requests for further information, or to arrange to speak at the meeting

Contact: Sarah Baxter
Tel: 01270 686462
E-Mail: Sarah.Baxter@cheshireeast.gov.uk

A total period of 5 minutes is allocated for the planning application for Ward Councillors who are not members of the Strategic Planning Board.

A total period of 3 minutes is allocated for the planning application for the following individuals/groups:

- Members who are not members of the Strategic Planning Board and are not the Ward Member
- The relevant Town/Parish Council
- Local Representative Group/Civic Society
- Objectors
- Supporters
- Applicants

5. **09/2083C-Albion Inorganic Chemicals, Booth Lane, Moston, Sandbach Cheshire, Outline application for comprehensive redevelopment comprising of up to 375 residential units (Class 3); 12,000 sqm of office floorspace (Class B1); 3810 sqm of general industrial (Class B2), warehousing (Class B8), car dealerships and petrol stations (Sui Generis) and fast food restaurant (Class A5) uses; 2600 sqm of commercial leisure uses incorporating hotel (Class C1), restaurant/pub uses (Class A3/A4) and health club (Class D2); retention and change of use of Yew Tree Farm Complex for residential use (Classes C3); public open space; together with access and associated infrastructure for Countryside Properties (Northern) Ltd (Pages 7 - 64)**

To consider the above application.

6. **10/4977C-Extension to existing gypsy caravan site including laying of hardstanding, stationing of 9 caravans for residential purposes and, erection of 6 utility buildings, Horseshoe Farm, Warmingham Lane, Moston, Middlewich, Cheshire for Mr Oliver Boswell (Pages 65 - 80)**

To consider the above application.

7. **09/2806W-Mere Farm Quarry, Chelford Road, Nether Alderley, Macclesfield, Cheshire, Interim Extension to Sand Workings at Mere Farm Quarry for Hanson Quarry Products Europe Ltd (Pages 81 - 96)**

To consider the above application.

8. **The Planning Protocol (Pages 97 - 118)**

To consider a report on the Planning Protocol.

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Strategic Planning Board**
held on Wednesday, 30th March, 2011 at The Capesthorne Room - Town
Hall, Macclesfield SK10 1DX

PRESENT

Councillor H Davenport (Chairman)
Councillor J Hammond (Vice-Chairman)

Councillors A Arnold, Rachel Bailey, D Brown, M Hollins, D Hough,
W Livesley, G M Walton, S Wilkinson and J Wray

OFFICERS PRESENT

Mrs P Cockroft (Senior Planning Officer), Ms S Dillon (Senior Solicitor), Mr D Evans (Principal Planning Officer), Mr A Fisher (Head of Planning and Housing), Mr B Haywood (Principal Planning Officer) and Mr S Irvine (Planning and Development Manager),

127 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors W J Macrae and C Thorley.

128 **DECLARATIONS OF INTEREST**

None.

129 **MINUTES OF THE PREVIOUS MEETING**

RESOLVED

That the minutes be approved as a correct record and signed by the Chairman.

130 **PUBLIC SPEAKING**

RESOLVED

That the public speaking procedure be noted.

131 **09/3564N-RE-DEVELOPMENT OF BROWNFIELD SITE AT HACK GREEN MAGGOT FARM TO INCLUDE DEMOLITION OF EXISTING INDUSTRIAL BUILDINGS AND ERECTION OF 4 BARN STYLE DWELLINGS, THE MAGGOT FARM, FRENCH LANE, BADDINGTON, NANTWICH FOR MR. HARRY MOULTON**

(During consideration of the application, Councillor D Brown arrived to the meeting).

Consideration was given to the above application.

(Mr Locke, the agent for the applicant attended the meeting and spoke in respect of the application).

RESOLVED

That the application be approved subject to the completion of a S106 Agreement and subject to the following conditions:-

1. Reserved matters to be submitted
2. Three years for the submission of reserved matters application
3. Implementation within two years from approval of final reserved matters
4. Development to be in a courtyard style in general accordance with the indicative layout
5. The design of the dwellings shall reflect traditional vernacular agricultural buildings
6. Access in accordance with principle shown on site layout full details to be submitted with reserved matters
7. Submission and approval of materials
8. Contaminated land survey
9. Landscaping scheme for residential development
10. Implementation of landscaping scheme and maintenance of it for residential development
11. Surface water drainage scheme in accordance with principles of sustainable drainage
12. Scheme for the disposal of foul drainage
13. The submission of details of the storage and disposal of waste and recyclable materials with reserved matters applications
14. Remove Permitted Development rights for all dwellings
15. Prior to any commencement of works between 1st March and 31st August in any year, a detailed survey is required to check for nesting birds
16. Reserved matters to make provision for bin storage
17. Reserved matters to make provision for 10% renewable energy
18. Submission / approval / implementation of a construction waste management plan.

132 **11/0152N-A RETROSPECTIVE PLANNING APPLICATION TO LEVEL AN AREA OF LAND EXTENDING TO 1.27HA, WHICH HAS ALREADY BEEN IN FILLED, BANK VIEW, LONG LANE, WETTENHALL FOR MR BAKER**

Consideration was given to the above application.

RESOLVED

That the application be approved subject to the following condition:-

Re-direction of the land drain as shown on the plan received on 16th February 2011.

133 **09/3251N-DEMOLITION OF EXISTING GARAGE AND PETROL STATION AND ERECTION OF 11NO DWELLINGS, GRENSON MOTOR CO LTD, MIDDLEWICH ROAD, MINSHULL VERNON, CREWE, CHESHIRE FOR MR J MIDDLETON, GRENSON MOTOR CO LTD**

(During consideration of the application, Councillor B Livesley arrived to the meeting and in accordance with the Code of Conduct he did not take part in the debate or vote on the application).

Consideration was given to the above application.

(Mr Horne, an objector and Mr Catherall, the Architect for the applicant attended the meeting and spoke in respect of the application).

RESOLVED

That the application be approved subject to the completion of a S106 Agreement to secure three affordable units on the site and subject to the following conditions:-

1. Standard – 3 years
2. Materials to be submitted to the LPA and approved in writing
3. Surfacing materials to be submitted to the LPA and approved in writing
4. Landscape scheme to be submitted to the LPA and approved in writing
5. Landscape - implementation of the approved scheme
6. Boundary treatment to be submitted to the LPA and approved in writing
7. Noise mitigation measures to be implemented
8. Contamination mitigation measures
9. Car parking provision to be provided
10. Bin storage to be submitted to the LPA and approved in writing
11. Cycle storage to be submitted to the LPA and approved in writing
12. Approved plans
13. Removal of Permitted Development Rights
14. Window reveal to be 50mm

In addition the following conditions were also agreed:-

1. Details of the design of the fenestration to the dwellings hereby approved shall be submitted to the LPA and approved in writing. The development shall be completed in accordance with the approved details
2. Details of how the hydrobrake system and septic tank shall be accessed for maintenance purposes shall be submitted to the LPA and

approved in writing. The development shall be completed in accordance with the approved details.

3. Prior to the commencement of development full details of the drainage of the site including septic tanks, soakaways and the hydrobrake system shall be submitted to the LPA. The LPA shall liaise with the relevant consultees (the Environment Agency and Building Control) and approve the details in writing. The development shall be completed in accordance with the approved details.
4. Prior to the commencement of development a waste management scheme shall be produced for the disposal of the hardstanding on the site. The Waste Management Plan shall include; the type and volume of waste that the development will generate, the steps taken to ensure that the maximum amount of waste arising from the site development process is incorporated within the development; and the steps to be taken to reuse and recycle the waste that cannot be incorporated within the new development. The development shall be completed in accordance with the approved details.
5. Details of the pile driving required as part of the construction of the dwellings hereby approved shall be submitted to the LPA and approved in writing. The development shall be completed in accordance with the approved details.
6. Prior to the commencement of development details of how the proposed development will secure at least 10% of its predicted energy requirements from decentralised and renewable or low-carbon sources shall be submitted to the Local Planning Authority and approved in writing. The development shall be completed in accordance with the approved details which shall thereafter be retained.
7. Details of Great Crested Newt Mitigation Measures shall be submitted to the LPA and approved in writing. The development shall be completed in accordance with the approved details.

134 **APPEAL SUMMARIES**

Consideration was given to the Appeal Summaries.

RESOLVED

That the Appeal Summaries be noted.

135 **EXCLUSION OF THE PUBLIC AND PRESS**

RESOLVED - That the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A) 4 of the Local Government Act 1972 on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 5 as appropriate of Part 1 of Schedule 12A of the Local Government Act 1972 and public interest would not be served in publishing the information.

136 **10/3471C-PROPOSED RESIDENTIAL DEVELOPMENT OF UP TO 280 DWELLINGS, LANDSCAPING, OPEN SPACE, HIGHWAYS AND ASSOCIATED WORKS, LAND SOUTH OF MIDDLEWICH ROAD AND EAST OF ABBEY ROAD, SANDBACH FOR FOX STRATEGIC LAND & PROPERTY**

(Prior to consideration of the item, Councillor Mrs R Bailey declared a personal and prejudicial interest in the item by virtue of the fact that the landowners were longstanding friends and in accordance with the Code of Conduct she left the meeting prior to consideration of the item).

(During consideration of the item, Councillor J Wray left the meeting and did not return).

Consideration was given to the above report.

RESOLVED

For the purpose of a forthcoming Planning Inquiry regarding application 10/3471C, authority is delegated to the Head of Planning & Housing in consultation with the Chairman or Vice Chairman to retain or withdraw the Council's objections to the proposed development on the grounds of Great Crested Newts (Refusal Reason 4), Bats (Refusal Reason 5) and Trees (Refusal Reason 6) attached to the Board's decision of 17th November 2010, following the receipt of further information from the Appellants.

The meeting commenced at 2.00 pm and concluded at 4.03 pm

Councillor H Davenport (Chairman)

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Planning Reference No:	09/2083C
Application Address:	Albion Inorganic Chemicals, Booth Lane, Moston, Sandbach, Cheshire, CW11 3PZ
Proposal:	Outline application for comprehensive redevelopment comprising of up to 375 residential units (Class 3); 12,000 sqm of office floorspace (Class B1); 3810 sqm of general industrial (Class B2), warehousing (Class B8), car dealerships and petrol stations (Sui Generis) and fast food restaurant (Class A5) uses; 2600 sqm of commercial leisure uses incorporating hotel (Class C1), restaurant/pub uses (Class A3/A4) and health club (Class D2); retention and change of use of Yew Tree Farm Complex for residential use (Classes C3); public open space; together with access and associated infrastructure
Applicant:	Countryside Properties (Northern) Ltd
Application Type:	Outline
Grid Reference:	373132 362923
Ward:	Congleton Rural
Earliest Determination Date:	10 th September 2009
Expiry Dated:	14 th October 2009

BACKGROUND.

Members will recall that this application was deferred at the meeting of the Strategic Planning Board on 16th February 2011 in order for

1. further discussions to take place in respect of the percentage of affordable housing being offered by the developer,
2. further information to be submitted in respect of the contamination of the land
3. consideration of the possibility of relocating the housing element to the Greenfield part of the site and the commercial use to the brownfield part of the site.

(A copy of the original report and the update are appended to this report.)

ADDITIONAL REPRESENTATIONS.

Sandbach Town Council

The Council has raised the following points:

- i. Concern about contamination on this site. This was a CEEMAH site and Members would require cast iron assurances that development in any form was safe.
- ii. Concern about the loss of Greenfield, and in this case playing field for any kind of development.
- iii. Concern at the effect this and other, current and approved, applications will have on the traffic flow through Sandbach. The Council cannot see any remedial measures mitigating this increase in traffic.

- iv. The sites isolated position would result in a dependency on cars for all necessary travel.
- v. The rail line running to the rear of the site has great potential and should be made use of.
- vi. This proposed site is equidistant to at least three Sandbach primary schools – There should be a higher contribution to education which should be divided equally between the local primary and secondary schools.
- vii. Concern that this development will greatly impact the already overburdened Sandbach infrastructure.
- viii. A dedicated cycle way should be included in the proposals to allow residents safe travel to local facilities without the need for a car journey.

Middlewich Town Council

The Town Council supports the request for a contribution from the developer towards the cost of the completion of the Middlewich Eastern Bypass should the planning application for the development of the Albion Chemical Works site be approved.

Pochin Developments

The Council will be aware of the commitment which Pochin has made over the years to deliver the bypass for the local community and the employment opportunities which will flow from its completion. The principle has always been that the bypass needs the maximum amount of development based private sector funding to allow it to be built. Pochin have worked with the Highway Authority jointly on this premise for over ten years. All but the last section has been funded entirely by private sector contribution.

The Council should acknowledge the traffic impact of this unexpected proposed redevelopment in just the same way as that planned through the local allocation and seek fair and reasonable ways of generating financial contributions towards the cost of this much needed infrastructure.

They would ask that the Council review these opportunities on behalf for the community and ensure that a proper contribution is made should this application be granted and implemented. They are soon to meet with Council officers to set out the details of how all contributions should be collected and used properly.

Harris Lamb on behalf of Bovale Ltd.

Bovale has been working closely with Pochin to fund the construction of the bypass. Due to the significant cost associated with the construction of the bypass Bovale have suggested the development of an enabling residential scheme known as Glebe Farm.

Bovale owns a significant parcel of land, known as Glebe Farm, on Booth Lane at the southern edge of Middlewich. This parcel of land has been the subject of a number of meetings with Council officers over the course of the last three years. It is proposed that this site could be developed for housing as part of an enabling

development to help deliver the Midpoint 18 employment site and the Middlewich bypass. They have, however, been advised by Council Officers on a number of occasions that houses cannot be developed at Glebe Farm until the Middlewich bypass is complete. This is due to the significant traffic problems within Middlewich town. They were, therefore somewhat surprised that Council Officers have sought to recommend the approval of a substantial development that will significantly increase the amount of traffic in Middlewich without seeking any form of contribution towards the development of the Middlewich bypass.

The applicants Planning Supporting Statement advises at paragraph 5.7 that off site highways works will be required. These works include improvements to the A54 / A 533 junction in the centre of Middlewich. Given that the development is for 375 dwellings, over 17,00sqm of B use class floorspace, a hotel and retail it will obviously result in significant traffic generation and place more pressure on the roads of Middlewich. A contribution from the development of this site should, therefore be sought for the Middlewich bypass.

Given the scale of the development proposed compared to Midpoint Phase 3 and Glebe Farm and the contribution that these developments are expected to make towards the bypass, they would suggest that a contribution of between £5.5m and £6m should be made towards the bypass from the Albion Works site. They would suggest that the Councils start negotiations immediately with the applicants to ensure an appropriate contribution towards the bypass.

On a related note, they note that this application is being recommended for approval despite a direct conflict with the Councils Interim Planning Guidance. Again, they are surprised given that they have been advised by officers on a number of occasions that the Glebe Farm proposals are contrary to the interim policy statement as currently drafted and will be resisted on these grounds in the short term. A consistent policy with the Albion works should now be applied to Glebe Farm.

APPLICANT'S ADDITIONAL SUPPORTING INFORMATION

Letter from WSP Environment & Energy Ltd

A letter has been received from the applicant's contaminated land consultant (WSP Environment & Energy Ltd) setting out in detail the remedial works that have been carried out on site to date and the works which remain to be carried out. The contents of the letter are summarised as follows:

- Various stages of investigation and remediation have been carried out at the site to manage 'statutory' liabilities associated with historical contamination. Throughout these works consultation with the regulators has been carried out at appropriate stages. The Environment Agency has provided their view of the site in relation to the planning application for a mixed used development.
- The EA has requested in their letter dated 3 September 2009 that four key stages of work related to contaminated land are completed as follows:
 - o A preliminary risk assessment (PRA).
 - o A detailed site investigation.
 - o An options appraisal followed by a remediation strategy.
 - o A verification plan.

- Elements of the above have been completed to date as part of the IPPC works and the works required as part of the environmental deed. In monetary terms, over the course of BSL involvement at the site, they have instructed various stages of investigations and remedial works to the sum just over £1 Million.
- In line with the EA's view of the further works required at the site, once the master plan for the site is confirmed further phase of detailed ground investigation will be undertaken. Dependent upon the findings of the further characterisation exercise, appropriate remediation / mitigation will be completed. The close regulatory consultation will continue in order to meet the requirements of the planning conditions for the site.
- At this stage, it is anticipated that a further £60,000 to £130,000 could be spent on further ground investigation at the site prior to finalising the remediation strategy to facilitate development. This figure does not take into account the costs of further remediation works at the site. The finalized remediation strategy will be submitted for scrutiny / approval of all relevant regulatory bodies prior to implementation.

Letter from BNP Parabis

A letter has been received from the applicant's economic viability consultant (BNP Parabis) setting out in detail the remedial works that have been carried out on site to date and the works which remain to be carried out. The contents of the letter are summarised as follows:

- At the recent planning committee a request was made as to the impact on viability and the ability of the site to maximise affordable housing of switching the residential element so that it sits primarily on the greenfield element of the site rather than the brownfield element.
- An additional viability assessment to model the outcome of this switch has been undertaken.
- The residential area for 375 units is currently 7.9ha; the greenfield part of the site is 4.8ha, or approximately 60% of the total residential land area.
- The viability assessments carried out and submitted to the Council in autumn 2010 demonstrated that given the necessary remediation and the current poor market conditions the provision of any affordable housing was challenging.
- However from discussions with the Council's appointed professional advisor, Roger Hannah and Co., it was possible to produce a model based on enhanced sales receipts that showed an 8% provision – 31 affordable units out of 375 – and this proposal was put to the Council.
- The switch to predominantly greenfield residential development will produce savings in remediation costs as well as benefits to the development process.
- Using advice from WSP in terms of remediation costs, they have identified total savings from reduced remediation costs of £690,000 – this figure includes reductions in direct remediation costs, gas venting measures, services protection and foundation design. In addition the building design fees have been reduced from 10% to 8.5% to reflect the more straightforward nature of the development. Finally the development and sales programme has been brought forward by 3 months as there will be a less complex pre-development phase. In line with the previous appraisal this does not consider

the impact on the commercial element – where remediation works will still be required.

- In addition to the base remediation savings they have considered what other impacts the change would have on the development appraisal carried out.
- It is not considered that there will be a change in the end value of the completed residential units; the completed scheme would change the character of the area whether it was on brownfield or greenfield and the micro environment would also not be significantly different by a move 400 metres south.
- However the process of developing on greenfield land is more straightforward and, as indicated above, this will create time and site preparation cost savings and they have factored this into the revised appraisal. All other elements and assumptions of the previous submitted Viability Report remain unchanged.
- The market picture since the October 2010 report remains unsettled and the residential market in the UK (outside of London and the south east) is still very challenging especially in terms of mortgage availability. The Land Registry reports a fall of 2.3% in values in the last quarter in Cheshire East. The Nationwide reported a 0.3 % rise in national house prices in March, the Halifax a 0.9% fall.
- The outcome of the appraisal shows that, in using the greenfield area for residential, a residual outcome of £3.242m is reached, this is just below the viability threshold of £3.3m. Thus there is a case to make that it becomes viable to provide 60 affordable units out of 375 (16%) if the residential is switched to the predominantly greenfield part of the site, this increase is mainly due to the savings made on remediation costs.

Amended Plan

A Revised Parameter/Zone Plan (Reference 6059/004 Rev.C) showing the land uses re-arranged so that the residential use is predominantly on the Greenfield part of the site.

OFFICER COMMENT

As stated above, the application was deferred at the Strategic Planning Board meeting of 16 February in order for further discussions to take place in respect of the percentage of affordable housing being offered by the developer, to allow further information to be submitted in respect of the contamination of the land and to consider the possibility of relocating the housing element to the Greenfield part of the site and the commercial use to the brownfield part of the site. This addendum report will detail the outcome of the negotiations in respect of each of those three issues.

Contaminated Land

A number of Members raised questions about contamination on the site and remediation either carried out to date or proposed for the site. WSP Environmental Ltd. have been employed by Bluefield (Sandbach) Ltd (BSL) since they acquired the

site in 2006, and have provided consultancy services, site investigation and supervised the remediation works completed by third parties. They have submitted a letter which, is summarised above and goes into considerable detail regarding the contamination of the site resulting from the historic chemical manufacturing processes, the remediation work carried out to date, and what is likely to be necessary in order to implement the proposed development. The letter identifies the fact that on acquisition, BSL and the former owners of the site entered into an Environmental Deed which transferred the environmental liabilities to BSL. This required BSL to place in an Escrow account £1M to fund specified remedial works including the Mercury Plant decontamination and the remediation of the waste sludge lagoon. Those works have now been completed in accordance with statutory regulatory approval. Both the Environment Agency and the Council's Contaminated Land Officer, have confirmed that they are satisfied with the works that have been carried out to date.

There remains additional remediation works that must be carried out in order to accommodate the proposed development. The exact form of remediation has yet to be defined and will be dependent upon the final land use mix and detailed layout of the site in accordance with normal planning and regulatory controls. This can be secured by planning condition and the Council's Contaminated Land Officer and the Environment Agency have indicated that they are happy with this approach and would be consulted prior to signing off any information submitted in order to discharge those conditions.

Relocation of Housing to Greenfield Site.

Following the resolution by Strategic Planning Board, the developer has agreed to relocate the proposed residential development to the Greenfield part of the site and a revised zoning plan has been submitted accordingly. It should be noted, however, that the Greenfield part of the site is 4.8 hectares compared to the 7.9 hectares of residential development that has been proposed from the outset, and therefore as identified on the revised Zoning/Parameters Plan, it would be possible to accommodate approximately 60% of the total residential on the Greenfield part of the site.

It is considered that this modification to the arrangement of the proposed land uses, coupled with the additional information provided by WSP are sufficient to address any outstanding concerns relating to the potential impact of land contamination on future residential occupants of the site.

As set out in the main report, the proposed employment development on the Greenfield part of the site, was considered to be a departure from the development plan. However, the relocation of the housing element to the Greenfield part of the site, creates a greater conflict with policy, in that it conflicts with advice in PPS.3 which suggests that housing development should be directed primarily towards brownfield sites. The proposal also contravenes the Council's Interim Planning Policy on the Release of Housing Land which states that when it is demonstrated through the Annual Monitoring Report that there is not a five year supply of housing land as defined by PPS3, subject to other saved policies of the relevant Local Plan being satisfied, the Council will allow the release of appropriate greenfield sites for

new housing development on the edge of the principal town of Crewe and encourages the redevelopment for mixed uses, including housing, of previously developed land within settlements.

The previous scheme, which involved residential development on the brownfield land within the settlement boundary would have complied with this policy. However, in this case, there are a number of other unique material considerations which must be taken into account, when considering the planning policy implications of the revised scheme.

The proposal will not result in the loss of any greater area of greenfield land, that the previous layout, it is merely that the land uses within the site have been re-arranged. The previous scheme involved some housing on the Greenfield site, albeit a small percentage. Similarly, the current proposal, as detailed above, still involves a small amount of housing on the brownfield site, due to that land forming the greater proportion of the site. As with the previous layout, it is considered that allowing the release of a small area of open countryside, will enable the remediation and regeneration of one of the most contaminated vacant brownfield sites in the Borough. This is considered to be a unique material consideration to outweigh the provisions of the development plan.

The most recent Government advice carries a presumption in favour of sustainable development and development for future economic growth. An important aspect of sustainable development is the regeneration and re-use of derelict and contaminated sites. Furthermore, the proposal will provide over 17,000sqm of quality employment space alone, which will contribute significantly to the economic growth of Sandbach and Middlewich as well as the surrounding areas.

More significant, however, is the impact of the switching of the land-uses upon the viability of the scheme, and as a result the percentage of affordable housing that can be provided. This is discussed in more detail below.

Percentage of Affordable Housing

The letter from BNP Paribas essentially makes the point that the development as shown on the original the Parameter/Zone Plan from October 2010, can only afford to make an affordable housing provision of 8%, or 30 units out of 375. The 8% figure has been tested by the Council's own consultants and the original report to the 16 February Strategic Planning Board details the remaining areas of difference between the Council's Consultants and BNP in respect of the calculation of this figure. BNP make the point in their most recent letter that the housing market picture since their original work was undertaken remains unsettled and is very challenging especially in terms of mortgage availability. BNP identified that the Land Registry have recorded a fall of 2.3% in values in the last quarter in Cheshire East alone. For these reasons, the applicants remain of the opinion that their 8% affordable housing offer is the maximum that they can afford to provide based on the original land use arrangement. It should be pointed out, however, that should the position substantially improve once development has been permitted, the Council's claw back clause which would be put into the Section 106 Agreement would ensure that there would be an increase in affordable housing provision.

However, WSP have identified that if the residential development was relocated in part to occupy the undeveloped part of site (the greenfield land), with commercial and employment uses built on the brownfield part of the site, there is likely to be a saving of £690,000 in remediation costs. BNP have modelled this in terms of financial viability and, taking account of the remediation cost savings and additional savings, have identified that with this arrangement, it would be possible to make an affordable housing provision of 16%. This is double the original level of affordable housing that would have been provided, and is considered to be a significant material consideration to outweigh the policy concerns outlined above.

CONCLUSION.

It is considered that the applicant has adequately addressed all three of the reasons for deferral. Further information has been provided in respect of the decontamination of the site. The land uses within the site have been switched around in accordance with Member's suggestions to ensure that the majority of the residential development will take place on the Greenfield part of the site. This has resulted in a reduction in the remediation costs which has improved the viability of the scheme and doubled the amount of affordable housing which can be provided. On this basis the scheme, as amended, is recommended for approval.

AMENDED RECOMMENDATION

APPROVE subject to completion of Section 106 legal agreement to secure the following:-

1. a) Affordable housing provision of 16% - to be provided on site. The housing is to be provided based on 33% social rented and 67% intermediate/shared ownership, and to be provided in a variety of unit sizes to meet local requirements, in accordance with the scheme to be agreed at the Reserved Matters stage. The affordable housing to be 'tenure blind' and pepper potted throughout the site, subject to RSL operational requirements.

1. b) An overage clause which provides for the current viability calculations to be reviewed at appropriate intervals before completion of the development and for the figure of 8% to be increased if the economics of provision improve either by increased on site provision or by financial contribution in lieu.

2. The following contributions:-

- **A533/A54 Leadsmithy St, Middlewich:- £170,000**
- **A533/A534 The Hill/High St/Old Mill Rd/Brookhouse Rd roundabout, Sandbach £197,000**
- **Junction 17 – M6:- £190,000**
- **Quality partnership bus shelters £25,000**
- **Real Time Information facility, Sandbach Rail Station £20,000**

- Travel Plan facilities and targets £38,000
- Education contribution - £100,000

3. Provision for public open space to serve the whole of the development to be agreed with the Council when details of layout are submitted for approval. This must secure the provision and future management of children's play areas and amenity greenspace in accordance with quantitative and qualitative standards contained in the Council's policy documents including the Congleton Borough Local Plan First Review SPG1 and it's Interim Policy Note for the Provision of Public Open Space 2008. Submitted details must include the location, grading, drainage, layout, landscape, fencing, seeding and planting of the proposed public open space, transfer to and future maintenance by a private management company.

And the following conditions

1. Standard outline
2. Submission of reserved matters
3. Approved Plans – location and zoning
4. Notwithstanding detail shown – no approval of indicative residential masterplan.
5. Submission of Landscape Design principles
6. Submission of Landscape framework
7. Submission of Landscape and ecological management plan
8. Retention of trees and hedgerows
9. Submission of Arboricultural Impact Assessment
10. Submission of Arboricultural Method Statement
11. Submission of Comprehensive tree protection measures
12. Submission of assessments under the Hedgerow Regulations with each reserved matters application, for any hedgerows to be removed as part of that phase of development.
13. Submission of topographical survey as part of reserved matters.
14. Use of farmhouse as site office
15. geophysical survey in order to establish the need, if any, for further archaeological mitigation and submission / implementation of mitigation.
16. Submission of travel plan with each reserved matters application
17. Contaminated land assessment
18. A scheme for the provision and implementation of a surface water regulation system
19. A scheme for the management of overland flow
20. A scheme to be agreed to compensate for the impact of the proposed development on the two drainage ditches within the development boundary.
21. A scheme for the provision and management of compensatory habitat creation
22. Wetland creation, for example ponds and swales.

23. A scheme to dispose of foul and surface water
24. Submission of contaminated land investigation / mitigation
25. Submission of revised air quality impact assessment / mitigation
26. South west facing facades of dwellings to be attenuated by close-boarded wooden fencing along the south west site boundary in order to provide a 5 dB reduction.
27. The north western boundary shall be attenuated by a landscaped buffer zone which shall be 2m high and a minimum surface density of 15/20 kg/m³. Along the top of the bund shall be a 2m acoustic fence in order to provide further attenuation.
28. Submission of scheme for protecting the proposed dwellings from railway noise and vibration
29. Submission of a scheme for protecting housing from noise from all the commercial and industrial activities
30. Each reserved matters application for commercial activities to be accompanied by submission and approval of proposed hours of operation
31. Each reserved matters application for commercial activities to be accompanied by a noise impact assessment has been submitted to and approved by the Local Planning Authority. The noise impact assessment shall address;
 - All hours of operation;
 - noise from moving and stationary vehicles;
 - impact noise from working activities;
 - noise from vehicles moving to and from the site in terms of volume increase; and
 - current background levels of noise.Any recommendations within the report shall be implemented prior to the development being brought into first use.
32. Prior to commencement of development of any commercial building scheme for the acoustic enclosure of any fans, compressors or other equipment with the potential to create noise, to be submitted
33. Prior to commencement of development of any commercial building details of any external lighting shall be submitted to and approved
34. Prior to commencement of development of any commercial building details of security for the car parks to prevent congregations of vehicles late at night to be submitted
35. Prior to commencement of development of any commercial building details of the specification and design of equipment to extract and disperse cooking odours, fumes or vapours
36. The hours of construction (and associated deliveries to the site) of the development shall be restricted to 08:00 to 18:00 hours on Monday to Friday, 08:00 to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays

- 37. Details of the method, timing and duration of any pile driving operations to be approved**
- 38. Details of the method, timing and duration of any floor floating operations connected with the construction of the development hereby approved to be approved**

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Planning Reference No:	09/2083C
Application Address:	Albion Inorganic Chemicals, Booth Lane, Moston, Sandbach, Cheshire, CW11 3PZ
Proposal:	Outline application for comprehensive redevelopment comprising of up to 375 residential units (Class 3); 12,000 sqm of office floorspace (Class B1); 3810 sqm of general industrial (Class B2), warehousing (Class B8), car dealerships and petrol stations (Sui Generis) and fast food restaurant (Class A5) uses; 2600 sqm of commercial leisure uses incorporating hotel (Class C1), restaurant/pub uses (Class A3/A4) and health club (Class D2); retention and change of use of Yew Tree Farm Complex for local centre use (Classes A1, A2, A3, B1 and D1); public open space; together with access and associated infrastructure.
Applicant:	Countryside Properties (Northern) Ltd
Application Type:	Outline
Grid Reference:	373132 362923
Ward:	Congleton Rural
Earliest Determination Date:	10 th September 2009
Expiry Dated:	14 th October 2009

SUMMARY RECOMMENDATION:

- **APPROVE** subject to Section 106 Agreement and conditions.

MAIN ISSUES:

- Principle of Development
- Amenity
- Landscape and Tree Matters,
- Conservation and Design Matters
- Drainage and Flooding,
- Affordable Housing,
- Highways
- Education
- Open Space Provision

1. REASON FOR REFERRAL

The application has been referred to Strategic Planning Board, because it is a major development and a departure.

2. DESCRIPTION OF SITE AND CONTEXT

The application relates to approximately 19ha of land and is situated 3.6km north west of Sandbach Town Centre, and is 4.5km south east of Middlewich. The site comprises two distinct areas, an intensively developed chemical manufacturing facility extending to approximately 11.2ha, and a former sports ground affiliated to the chemicals factory extending to approximately 7.8ha. The former factory site has recently been cleared and now comprises a hardcore surface.

The former sports ground was predominantly undeveloped but does include the Grade II listed, Yew Tree Farm House, which dates from the 16th century, with 19th century additions. The predominantly two storey farmhouse was recently used as a club for Directors of the chemical works but has stood vacant for approximately 10 years. Constructed from an oak frame with plaster panels, the farmhouse was extended and partially rebuilt in brick. The listing description for the building notes that there is currently a clay roof in situ but concludes that this was probably formerly thatched.

The listed building and its curtilage structures which are also listed but proxy and were formerly used a staff social club are currently unoccupied. And have been party to various degrees of damage due to relatively recent criminal acts of both vandalism and theft. The buildings are secured in order to prevent further incidents. However, the complex does not benefit from any natural surveillance due to it's isolation from the chemical plant and therefore there is a high probability of further criminal damage occurring in the future whilst the buildings remain undeveloped and unoccupied.

The application site has a plethora of identified constraints including a pedestrian footpath, which provides links through the site to the wider countryside to the north, an electricity substation and a series of mature trees.

The character of the surrounding area is determined by its location within the Cheshire Plain and predominantly open countryside. However, there are additional industrial uses situated off Booth Lane, notably an electricity substation directly to the north –west and the British Salt Works complex located off Booth Lane, which affect the site's setting. An area of semi-national ancient woodland, Hollins Wood, comprises native tree species is located to the south east of the site beyond the railway line. In addition Sandbach Flashes Site of Special Scientific Interest (SSSI) is located to the west of the site beyond the Trent and Mersey Canal

On the west, the site has a long frontage to the A533, and it is bounded by the Sandbach to Middlewich railway line to the south. The site also lies adjacent to the Trent and Mersey Canal which is a designated Conservation Area.

3. DETAILS OF PROPOSAL

Outline Planning permission is sought for the comprehensive redevelopment of the site for a mix of uses including up to 375 residential units (Class 3); 12,000 sqm of office floorspace (Class B1); 3810 sqm of general industrial (Class B2), warehousing (Class B8), car dealerships and petrol stations (Sui Generis) and fast food restaurant (Class A5) uses; 2600 sqm of commercial leisure uses

incorporating hotel (Class C1), restaurant/pub uses (Class A3/A4) and health club (Class D2); retention and change of use of Yew Tree Farm Complex for local centre use (Classes A1, A2, A3, B1 and D1); public open space; together with access and associated infrastructure.

4. RELEVANT HISTORY

The applications site's lawful use as a chemical plant pre-dates the advent of the Town and Country Planning Act in 1947. Accordingly there are no planning records associated with the original development of the site. Planning applications for the site post 1947 are associated with the plant's incremental growth and do not have any relevance to the current application.

5. POLICIES

National Policy

PPS 1 Delivering Sustainable Development
PPS 3 Housing
PPS7 Sustainable Development in Rural Areas
PPG13 Transport
PPS23 Planning and Pollution Control
PPS25 Development and Flood risk.

Local Plan Policy

PS8 Open Countryside
GR21 Flood Prevention
NR4 Non-statutory sites
GR1 New Development
GR2 Design
GR3 Residential Development
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
NR5 Habitats
H6 Residential Development in the Open Countryside
H13 Affordable Housing and low cost housing
E10 Re-use and redevelopment of existing employment sites

6. CONSULTATIONS (External to Planning)

Archaeologist

- There is no evidence that the site contains below ground archaeological remains of national importance or of sufficient importance to warrant preservation *in situ*.
- There is one area of archaeological potential within the application area, an area currently used as farmland at the south-eastern part of the proposed development area. This should be subject to a programme of geophysical survey in order to establish the need, if any, for further archaeological mitigation. This should be secured by condition

English Heritage

- No comments
- The Application should be determined in accordance with national and local policy and the Councils own specialist advice.

British Waterways

- No objection to the redevelopment of the brownfield part of the site
- Impact of development of the southern Greenfield Area could be reduced through the reconfiguration of the master plan
- The green space shown around the hotel and gym could be designed on a board linear northeast-southwest alignment in a green swathe right through the site from the road and canal to open fields beyond
- The business park could be relocated to allow a less dense urban grain, possibly to the northern end of the site providing buffer between the sub-station and residential areas.
- The large roadside willows should be retained at the northern end of the site to safeguard the visual amenity of the canal conservation area
- The pub will represent a facility for boaters using the nearby canal and they support this aspect of the scheme
- There may be opportunities to use canal water for heating or cooling within some the development areas open site especially the industrial areas

United Utilities

- No proposals have been submitted in respect of the foul drainage for the site.
- The applicant has not stated the supply volumes required.

Natural England

- Does not object to the proposal.
- There will be no adverse impact on Sandbach Flashes SSSI
- Further protected species information is required to ascertain the likely effect of the proposal on protected species (Bats & Barn Owls).
- It is important to ensure that all possible alternative uses have been considered and that the proposed use enhances the much degraded corridor between Middlewich and Sandbach.
- A new development does not need to be completely screened, Tree planting and 3 m high artificial bunds are not necessary if new development

is well designed, takes the best features of the surrounding landscape character into account and is acceptable in its own right.

- They support the establishment of new woodland and tree planting in appropriate locations and patterns.
- Environmental Stewardship can help to enhance the farmed landscape, and agricultural land within the site boundary may be eligible for this too.
- They support the aim of keeping proposed built development to a lower level than the existing development.
- Careful control would be needed to ensure that the overall mass and sometimes the height of the proposed buildings would not be greater than the existing.
- There are mature trees present, which make a significant contribution to local amenity and should be protected within the development.

Network Rail

- No objection in principle
- The Design and Access Statement makes an error in describing the railway as a freight railway. The line serves as an important diversionary route for passenger as well as freight services. Increasing levels of rail usage mean it is possible that more traffic will be routed this way in the future
- The developer is responsible for removing the existing rail connection into the site.
- The applicant must liaise with Network Rail's engineers regarding matters such as excavation, drainage, demolition, lighting and building works that may affect the safety, integrity and access to the railway.

Highways Agency

- No objection in principle subject to recommended conditions.
- As an alternative option it is understood that the LPA would be willing to impose a Section 106 agreement for an equivalent financial contribution towards a future highway scheme at Junction 17.

Highways Department

Traffic Generation

- The original Transport Assessment for this application identified traffic impact from the site at a number of junctions as far afield as J17 M6 and the Leadsmithy Street traffic signal junction in Middlewich.
- The proposed Highway Improvement Package provided options for financial contributions to help mitigate the traffic impact on a number of junctions along the affected routes and this was assessed by CEC and their Traffic Consultant.
- The Strategic Highways Manager took the decision that the offered junction improvements/financial contributions to infrastructure were less appropriate than the Highway Authority required and the applicants were asked to review

and change the balance of the proposed improvements in an effort to address the preferred needs of the Authority.

- This work was completed and has been reviewed taking all aspects of the site into account.
- The total value of the Highway Improvement Package for this site is agreed at £640,000 and will go towards the improvement of the following junctions:
 - Junction 17 – M6, Sandbach.
 - Signal junction at A533/The Hill/High Street & Waitrose roundabout, Sandbach.
 - A533/A54 Leadsmithy Street/St. Michaels Way, Middlewich.
- In addition, the provisional financial sums will also provide improvements to local sustainable transport options such as quality partnership bus shelters, and will provide for more effective travel planning through additional measures such as real time passenger information at Sandbach station.
- The contributions from this development will have phased release as the proposed development builds out,
- Additionally, the contributions will allow for some betterment in terms of traffic impact and the Highway Authority have negotiated the maximum available for highway infrastructure contributions
- The monies that Cheshire East Council will receive will be available for more comprehensive improvements once future other development contributions come on line.
- This is particularly the case for the improvement at Junction 17 of the M6 where the Highways Agency have agreed that Cheshire East Council should accrue developer contributions towards the improvement of this junction in the future.

Travel Planning.

- This is a very important aspect of this site and the developer has provided a Travel Plan Framework which has outlined the proposed methods for travel planning of the residential and employment elements of the development site.
- The Travel Plan Framework is meant only to give broad intent for travel planning, with a detailed Travel Plan to follow with the future detailed applications.
- The SHM has had some criticism of the Travel Plan Framework as it was not felt that the targets and weight of intent expressed was sufficiently robust. However the developer's consultant has updated the TPF to include better options and mechanisms for managing travel demand and in discussion with the Planning Department it has been agreed that the Travel Plan Framework

and future Travel Plan documents specifically can be managed via planning conditions requiring their agreed detail.

Conditions:

1. Provision of a Highway Technical Note detailing proposed trigger points for the agreed financial contributions for highway infrastructure improvements
2. Provision of the financial contributions set out above
3. A revised Travel Plan Framework with firm targets and mechanisms for travel plan management to the satisfaction of the LPA.

Environmental Health

Recommend the following:

1. An additional extensive intrusive *Contaminated Land* investigation across the entire site and identification of any additional remediation.
2. An additional Air Quality Impact Assessment to address other pollutants from the CCGT plant in addition to NO_x; include provision of receptor location maps and consider the potential AQ impacts arising from the removal and remediation of the historically contaminated land.
3. Implementation of mitigation measures to minimise any impact on air quality alongside ensuring dust related complaints are kept to a minimum.
4. South west facing residential facades shall be attenuated by close-boarded wooden fencing along the south west site boundary
5. The north western boundary shall be attenuated by a landscaped buffer zone, bund and a 2m acoustic fence in order to provide further attenuation.
6. A scheme for protecting the proposed dwellings from railway noise and vibration
7. A scheme for protecting the affordable housing from noise from all the commercial and industrial activities that have been placed around them.
8. A scheme for protecting the proposed dwellings from developments such as the restaurant/hotel, Business Park and local centre.
9. A noise impact assessment for the commercial development.
10. Submission and approval of hours of opening/operation for the commercial development
11. A scheme for the acoustic enclosure of any fans, compressors or other equipment with the potential to create noise, for the commercial development
12. Prior to its installation details of any external lighting for the commercial development shall be submitted to and approved
13. Details of security for the car parks to prevent congregations of vehicles late at night to and approved.
14. Details of the specification and design of equipment to extract and disperse cooking odours, fumes or vapours shall be submitted to and approved
15. The hours of construction (and associated deliveries to the site) of the development shall be restricted to 08:00 to 18:00 hours on Monday to Friday, 08:00 to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays.

16. Details of the method, timing and duration of any pile driving operations connected with the construction of the development shall be approved in writing
17. Details of the method, timing and duration of any floor floating operations connected with the construction of the development shall be approved in writing

Public Rights of Way

- The development is to affect Public Footpath No. 7 Tetton (now in the parish of Moston), as recorded on the Definitive Map
- If the development will permanently affect the right of way, then the developer must apply for a diversion of the route under the TCPA 90 as part of the planning application.
- If the development will temporarily affect the right of way then the developer must apply for a temporary closure of the route

Environment Agency

Recommend that the following planning conditions are imposed:

- Contaminated land assessment
- A scheme for the provision and implementation of a surface water regulation system
- A scheme for the management of overland flow
- A scheme to be agreed to compensate for the impact of the proposed development on the two drainage ditches within the development boundary.
- A scheme for the provision and management of compensatory habitat creation
- Wetland creation, for example ponds and swales.
- A scheme to dispose of foul and surface water

7. VIEWS OF THE PARISH / TOWN COUNCIL:

- Moston Parish Council has concern about houses being built close to a sub-station. Could they be moved to where the Units are? There is concern about the flow of traffic through Elworth. Moss Lane traffic should also be taken into consideration.
- Middlewich Town Council whilst not objecting to this application wishes to make the following observations / suggestions. It is suggested that there should be a section 106 agreement to facilitate highway improvements and improvements to local amenities. There is concern that there are insufficient local services such as schools, healthcare etc. to serve the occupants of the new dwellings. There is a need to ensure that there is a sense of community amongst the new occupants
- It is suggested that provision should be made to reserve land to build a railway halt to serve this development in the event of the railway being re-opened to passenger traffic. Also has any investigation been given as to whether railway

siding might serve a passing loop for the railway. It is requested that the town Council be allowed the opportunity to obtain and preserve any artefacts of interest to the heritage of Middlewich prior to the demolition.

8. OTHER REPRESENTATIONS:

Letters of representation have been received from Zan Ltd; 6 Brookfield Drive, Holmes Chapel; Haslington Villa, Wheelock Heath and 36 Croxton Lane, Middlewich, raising the following concerns:

Highways

- Any form of highway alteration on the A533 next to the two canal bridge entrances would undermine the business of the adjoining farm and would be totally unacceptable as they would be unable to access the land safely and easily with tractors, forage harvesters and cattle wagons and other large farm machinery.

Services

- There is a large chemical pipe going under the A533 to the settling beds at Crow's Nest Bridge.

Drainage

- The applicant incorrectly states that the water flows beneath an electricity substation. This large amount of water does lead to flooding in this area and flooring to the land to the west of the canal. This is mostly due to poor maintenance of a ditch running alongside Albion and to an existing drainage pipe being at an effective depth and size to cope with the water flowing under the canal. Any additional water from any new development will result in part of the A533 being flooded if this matter is not resolved in its early stages.
- Many watercourse that flow around and through Middlewich (the rivers Dane, Wheelock, Croco, Sanderson Brook and Small Brook, their tributaries of and to Canals are suffering increased incidence of flooding
- The vast areas of land north and south of Celdford Lane which either have outline or full planning permission for large scale development and other tracts of land upstream from Middlewich where development is proposed will increase the rate of run off into these main watercourses.
- The flood risk for these developments it is never assessed cumulatively and does not address all the existing and proposed development.
- Further discharge into the canals could cause problems in Middlewich during periods of heavy rainfall as the rivers often burst their banks making it difficult for excess water to be discharged from the canals.
- Discharge into Small Brook which already experiences flooding, between this point and its confluence with Sanderson's Brook. Two recent developers, in Middlewich had to make alternative arrangements for the disposal of run off and surface water as they could not make an agreement with British Waterways.

- The flood reports must reflect the worst case scenario, i.e. the developers have to use Small Brook instead of the Trent and Mersey. Surface water discharge and run off from development upstream of Middlewich already exceeds the capacity of the entire local watercourse during wet weather. The development could increase substantially the risk of flooding in Middlewich, damage to property and difficulty obtaining insurance to the detriment of the residents of Middlewich

Land contamination.

- The products of the chemical works while in themselves corrosive and hazardous to handle, did not leave an environmental legacy. However there were certain substances used which could permanently pollute the land on which they were handled.. These hazards are Lead, Mercury, Asbestos and certain chlorinated organic compounds which came from the use of carbon anodes.
- During operations on the site between about 1953 and 2003 chlorine was manufactured using mercury cells. Since about 1975 there were environmental concerns about the mercury process which eventually led to the mercury plant's closure in the about 2003.
- Whilst the mercury cells were operating many tonnes of mercury were lost much of which was to ground. Mercury is toxic and unless there has been a difficult and expensive clean up, the site is not suitable for residential purposes.
- The planning application has Zone 1 directly on the former mercury cell plant.mWhile site decontamination using 'best practical means' may claim to remove the risk, hot spots may have persisted. To be on the safe side it would be wise not to use such locations for residential housing.
- Over what timescale will the decontamination and remedial work be achievable, do the decontamination technologies exist for mercury and are they economically viable if funded by redevelopment? Has the applicant any reassurances that mortgage lenders will treat domestic property on a site with a history of mercury contamination as suitable for lending. Are domestic house purchaser demanding this type of property on a high risk site, are Social Landlords prepared and able to fund affordable housing on this high risk site.
- A solution needs to be found that does not involve people living and gardening on the contaminated area, the risk to future generations of residents is too great.
- The site would appear to have a very high risk, with the current proposed development phasing, of not providing safe residential houses in the 0-5 year time-frame.

The submission is poor quality and incomplete

- The published application documents are of poor quality, specifically the quality of the print makes them difficult to read and sections are incomplete.

Railway Line

- The line has potential to minimise road transport during construction and serve the industrial components of the development. It has potential for additional rail traffic, recent press reports include proposals for a passenger service, the published response from Railtrack highlights the track as having had the signaling upgrades and is integrated within the West Coast Mainline project and could be used to take additional regular or relief services (from the Sandbach to Stockport section of the line). The potential for 24 hour use of the track as well as increased intensity of use would suggest a requirement for major noise and vibration attenuation measures to be incorporated in any residential element of the proposed development. The measures implemented at the Wychwood Park development in Crewe adjacent to the London mainline would indicate the major scale of work required.

Sustainability.

- The site is a poor choice for residential use given the busy A533 to the West, an existing noisy power station to the North and potential noise and vibration issues to the East with the railway-line. The site is distant from education and medical provision and requires new on-site provision of shops to provide any level of sustainability as a community. There are better locations within the Borough for development.

Green Field Site

- The application involves a substantial area of greenfield development for a business park - the applicant does not justify why greenfield land in the open countryside needs to be allocated for a business park when the Sandbach area already has unlet business park property within the Fodens site and the Junction 17 Science Park awaiting development. Additional greenfield land does not need to be sacrificed to employment use at present. The greenfield elements of the application site can be returned to agricultural use. Provision of employment through a Business Park on the brownfield area could be justified, given that it would be compatible with the noise and vibration issues of the railway-line, the noise from the A533 and the gas fired power station. The remaining issue would be the timing of the development given the existing unutilised business sites or allocated sites in the close vicinity.

Impact on canal

- The indicative design of the residential component of the development does not recognise the importance of the linear conservation area along the Trent and Mersey Canal, houses appear to back onto both the A533 and the canal.

Mix of land uses

- The proportion of the site allocated to industrial units, relocate the Business Park element to sit within the previously developed area. This would remove the dangers of allowing residential use on the contaminated area, by providing uses for the site that could sit on top of a 100% concrete impermeable barrier over the contaminated area. Employment uses within the site could be located

closer to both the railway line and road without compromising the amenity of the occupiers. The reduced residential provision would be balanced with increased employment use, moving the site closer to its historical level of 1000 employees.

9. APPLICANT'S SUPPORTING INFORMATION:

Planning Statement

- The application proposals represent a major mixed use redevelopment of the former Albion Chemicals site in order to bring the site back into beneficial use. A holistic approach is proposed for the site, with a range of land uses which will create a sustainable development and maximize the efficiency of the site
- Although the site is unallocated in the Local Plan, there is strong policy support for the proposals from all levels of planning policy. At a national level, government guidance seeks to prioritise the reuse of vacant and previously developed land and buildings, and PPS4 in particular encourages the achievement of a broad range of economic development including mixed use.
- At local plan level although the site is unallocated the vast majority of the site falls within the Settlement Zone Line for Sandbach where in accordance with Policy PS3, development is to be generally concentrated. Policy PS4 provides a general presumption in favour of development on the site, while in relation to the housing element of the scheme it is considered that the proposal meets the criteria of Policy H4.
- The range of land uses proposed is entirely consistent with the site's allocation in the Congleton Borough Site Allocation DPD, where the Council recognised the need for a comprehensive, mixed use development of the Albion Works, including the Greenfield land. Although no longer a policy document, the Site Allocations DPD, went through several stages of public consultation and was prepared in accordance with PPS12. It represents current thinking in relation to the site and in the absence of any alternative site specific policy, should be afforded some weight in the determination of the application proposals.
- The redevelopment the Albion Works brings with it a number of important planning benefits. In summary these include:
 - The removal of the current chemical plant and its blight on the landscape resulting in significant visual enhancement of the area in general and the Canal corridor Conservation Area specifically.
 - The removal of development restrictions in the area generally through the presence of current COMMAH, Waste management License and IPPC and Hazardous Substances Consents
 - The remediation of the sites contamination at no cost to the public purse, thereby enabling alternative uses to come forward, and preventing the site becoming blighted.
 - The provision of significant new housing in a sustainable mixed use development, supported by jobs and services, which will help contribute towards meeting the Councils housing lands supply requirements for the Congleton Local Plan area.
 - The provision of significant new jobs and employment opportunities as part of a mixed use development.
 - The delivery of significant improvements to a number of highway junctions in the area.
 - Securing a future appropriate role for the listed buildings within the site

- In overall conclusion, the application proposals have been put forward in a comprehensive fashion and in a joint venture approach between the landowner and a leading house builder in order to ensure the immediate delivery of the site, at a time when the current economic climate is preventing most new development from coming forward.
- For the above reasons it is considered that the application proposals comply with development plan policy and other material considerations also indicate strongly that planning permission should be granted.

Transport Assessment

- The redevelopment proposals have been assessed in terms of compliance with current policy and detailed analysis has been undertaken of the trip generation characteristics of the proposed uses on the site and the consequent impacts on the local highway network.
- The site is accessible via a range of modes of transport
- An improved access arrangement has been identified for the site, including the provision of two new roundabouts on the A533 Booth Lane
- Additional off site highway improvements have been identified at the following locations
 - A54/A533 Leadsmithy Street, Middlewich – signal improvement including an extra lane, improved pedestrian control and other safety improvements
 - A533 / A534 in Sandbach – entry treatment to improve roundabout capacity
 - A533/ The Hill in Sandbach – changes to road markings, provision of cycle lanes
 - M6 / J17 - introduction of signal control
- The package of highway improvements proposed will offset the impact of additional traffic arising from the redevelopment, and ensure that the local highway network continues to operate in an efficient manner.
- The improvement proposals at the junction of the A54 Kinderton Street / A533 Leadsmithy Street will also have the benefit of improving safety at the junction, addressing concerns with the existing layout relating to the maneuvering requirements of large vehicles and improving the pedestrian crossing facilities.
- A travel plan framework has also been developed for the site, to provide sustainable travel behaviour.

Flood Risk Assessment

- Following a flood modeling exercise the majority of the site is found to lie within Flood Zone 1 and therefore has a low probability of flooding
- All forms of development are appropriate within flood zone 1 without the sequential and exception tests being undertaken.
- The assessment has also considered the potential impact of the proposed development on surface water runoff rates. Appropriate mitigation measures to attenuate surface runoff have been presented.
- It is a requirement that the maximum discharge rate, post= development, at the 10.2 hectare, current Brownfield area should be no greater than the current discharge rate. Post development, the impermeability of this area

will reduce from 100% to approximately 75%. Therefore reducing the maximum discharge rate. This will give an improvement in surface water runoff from this area reducing the risk of flood risk both on and off site.

- The maximum discharge rate from the current Greenfield area (7.5ha) should not exceed the mean annual runoff from the site, calculated to 34.5l/s. the attenuation volumes required for the 1 in 100 year rainfall event plus climate change (+20%) assuming no infiltration losses to the ground. (e.g. through the use of an underground tank storage system) and assuming infiltration losses (e.g. through the use of an infiltration basin) for the existing Greenfield area have been determined.
- The attenuation volume required to restrict runoff to the agreed current mean Greenfield runoff rate of 34.5l/s for the existing Greenfield area has been determined to be approximately 4,500m³ assuming no infiltration losses and 4,300m³ assuming infiltration losses. An attenuation storage capacity of 5,400m³ is recommended giving a factor of safety of 1.2.
- This FRA demonstrates that the proposed development will not be at risk from flooding and with appropriate mitigation measures will not increase flood risk elsewhere. Therefore the proposed development meets the requirements of PPS25. The development should not therefore be precluded on the grounds of flood risk.

Site Waste Management Plan (SWMP)

- The SWMP is an important tool to improve environmental performance, meet regulatory controls and reduce rising costs of disposing of waste
- It is a framework which details the quantity and type of waste that will be produced on the project site and outlines how it will be minimized and managed
- It is a live document which needs to be regularly updated to record how waste is managed during the course of the project
- It aims to provide a mechanism for recording, minimizing and managing the types and quantities of waste arising from the development
- The project consists of the demolition and redevelopment of a portion of the site which contains the inorganic chemical manufacturing facility into a mixed use development.
- It will demonstrate that the project complies with legislation and utilized resources efficiently
- Additionally Regional Spatial Strategies and local authority development plans are increasingly seeking the use of waste as a resource
- It will improve the projects resource efficiency and facilitate best practice
- Continuously measure the projects performance and demonstrate improvement
- Collate all relevant information into one usable document
- There are six important steps to implementing the SWMP
 1. Projecting information – preliminary information required by the regulations
 2. Pre-design and design measure – records decisions made regarding waste management prior to the start of construction work
 3. Waste forecasting and Action Plan – estimation of the quantities of waste that will be generated and actions to be taken to reduce and manage that waste

4. Register of Licenses Permits and movements
5. Continuous review
6. Completion Review.

Environmental Statement – Non Technical Summary

- **Highways and Transportation** - a package of measures has been negotiated, which are outlined in full in the transport assessment to mitigate the impacts of the proposal
- **Air Quality** – The air quality of the proposed is considered to be suitable for the proposed use
- **Landscape and Visual Impact** – The development presents an opportunity to benefit local views and landscape
- **Ecology and Nature Conservation** – Overall the impact of the scheme is assessed to be minor to moderate'
- **Hydrology and Land Contamination** – Subject to the adoption of the proposed mitigation measures, the residual effects relating to geology, hydrology and contamination are considered t constitute no likely significant effect.
- **Hydrology and Flood Risk Assessment** – Subject to mitigation measures the impact of fluvial flooding on the construction and post development phase has been assessed as negligible. The incorporation of the surface water management strategy and mitigation measures would result in a negligible to beneficial impact on the surface water and negligible impact on water quality
- **Noise** – the provision of the mitigation measures during construction and operational; phases which are suggested in the ES chapter would reduce the impact of the development to neutral significance.
- **Socio Economic Impact** – The development would ensure the remediation of a contaminated site and provide nboth employment and housing opportunities for local residents.
- **Archaeology** and cultural heritage – Appropriate mitigation would reduce residual effects on the cultural heritage resource to neutral

Tree Survey

- The veteran Oak trees within the Greenfield area to the south of the site are of high ecological cultural significance and landscape value and their retention should be a high priority.
- The retention of the tree groups to the western boundary of the site should also be seen as priority as they form a distinct landscape feature and serve to screen the site from Booth Lane
- There is little vegetation within the built up Brownfield area of the site and where trees do occur they are generally situated to the site's rear boundaries; as such it is considered that there is scope for substantial development within this area without an adverse impact upon the tree stock occurring.
- The long term retention of the pollarded Willow and poplar trees to the south west of the site should not be seen as a priority as these trees are of a low retention value. However, should they be retained it will be necessary

to make provision for the continued pollard management of the trees to minimize the risk of term failing.

- Several trees on the site should be removed irrespective of any development proposals due to their poor condition and potential for structural failure.
- To achieve a satisfactory juxtaposition between new development and those trees selected for retention the guidance contained within section 4 of the report should be considered during the detailed design of the site
- The proposed development of the site should take into account the presence of retained trees and should ensure that where possible all buildings and new surfaces are located outside their Root Protection Areas
- New development should not only take account of current tree sizes and position, but also of mature tree size
- Tree protection areas should be established and appropriate protection measures implemented prior to construction.
- Guidelines contained within BS 5837: 2005 Trees in Relation to Construction should be followed when dealing with trees. Working methods and specifications should be followed to limit potential damage to trees throughout the construction period.

Design and Access Statement

Use

- a range of complimentary uses to combine to create a bespoke mixed use development.
- Uses proposed are residential, open space, retail, financial services, café / restaurant, offices, non-residential uses, pub/hotel, health club, general industrial, storage and distribution, car dealerships, petrol station and fast food.
- The intention is to create a flexible development
- Compatible uses are grouped in zones to ensure that the layout of the development does not compromise any one use coming forward. For example, industrial uses are located to the north of the site and segregated from their residential neighbours with a significant landscape buffer
- The predominant use is residential as it generates the highest land value and will be required to support the other uses including employment generators.
- Realising the development value of the residential use will cover the remediation costs
- All proposed uses are considered to be appropriate to the site's satellite location including significant employment generators, particular in view of the fact that 50% of the residents of the former Congleton Borough commute to work outside it .
- The main employment use is offices
- Retail uses would be small scale within the local centre to serve needs arising from within the development itself rather than the wider area of Sandbach and Middlewich.

Amount

- The maximum amount of development to be accommodated has been expressed on the parameters plan
- This enables an appropriate cap on development limits to be enforced

- The amount of development has derived from
 - o The historical employment figures for the site
 - o The previous footprint of the chemical works
 - o The attractiveness and marketability of the development site
 - o The site location
 - o The capacity of surrounding infrastructure
 - o The industrial and semi-rural context
- The parameters seek to ensure that the site's optimum value is achieved and the site is utilized to full potential.
- However a less amount may be permitted if deemed acceptable at the reserved matters stage
- The supporting information, including the environmental statement., assumes the maximum levels are realised

Layout

- As the application is in outline consideration of layout refers only to the zones of use
- Based on that which was used in the Congleton Borough Site Allocations DPD
- Compatible and responsive to the sites identified constraints and opportunities as well as the economic viability of bringing the site forward
- It has also been informed by economic and planning policy restrictions
- Placing the residential development on the decontaminated proportion of the site will maximize values upfront to enable additional uses.
- This also ensures that the Brownfield element is regenerated first and accords with planning policy which encourages the use of Brownfield land for delivery of housing
- A small proportion of residential development is located on the undeveloped portion of the site and linked via the local centre and POS
- The layout of the additional zones was informed by the position of the residential development which should be surrounded by compatible uses
- The grouping of these uses will serve to create a focal point of the development and reduce the reliance on private vehicles to access local services
- The compatible zones will benefit from blurring the distinction between uses to provide a place which is logical to traverse
- The layout of the roadside uses and commercial zones on the Booth Lane frontage reflects their requirement to achieve a high degree of visibility from the primary access and through road
- The business park is located upon the undeveloped part of the site and will create a gateway to the development.
- The layout of the employment generating zones has been configured to facilitate a range of uses the interior of which can change over time subject to operator requirements.

Scale

- The scale of the proposals has been captured to enable the assessment of the developments visual effects upon the surrounding environment. Akin to the amount of development and cap on the height of the proposed buildings will

ensure that the development is appropriate both within its context and in its interrelationship between zones and uses.

Landscaping

- The detailed landscaping for the site is as reserved matter. Therefore the application only addresses retention and mitigation of development impact on the locale.
- The existing landscape features evident on the application site have been retained where possible to enhance and respect the existing environment
- Specifically the majority of existing trees, hedges and boundary planting have been incorporated on the illustrative master plan
- The existing landscape feature provide the opportunity to use the intrinsic landscape positively to the benefit of the proposed development
- The POS is the only area of open space proposed as part of the master plan. However it is considered that further areas of open space may come forward at the reserved matters stage to create a hierarchy of connecting spaces
- The POS will provide formal and informal areas of dedicated open space and an equipped play area,.
- The POS will therefore provide opportunities for recreational activities and structured play
- The layout of the POS will be designed at reserved matters stage but will be heavily informed by the requirements of the National Playing Fields Association.

Appearance

- The appearance of the site will be wholly dependent on the aspirations of the individual developers and operators and will be controlled by the Council at reserved matters stage. However the mixed use nature of the scheme will serve to ensure that the site benefits from visual stimulation due to the inevitability of the variety of building structures and scales.

Environmental Statement Addendum

- As described in the original ES the broad makeup of development proposals remain unchanged and comprise the holistic redevelopment of the site for range of complimentary uses including employment, residential leisure and retail. The application is submitted in outline with all matters reserved. The proposed changes are limited to the redistribution of individual elements from one zone to another and minor changes to the highway infrastructure.
- The ES addendum aimed to evaluate the incremental impact of the change in the design parameter by first evaluating the impact on the full broad range of factors then conducting further analysis on the most relevant factors (Landscape and Visual Impact, and Highways and Transportation). The change to the existing baseline established in the original ES was found to be not significant which is explained by the relatively minor nature of the proposed design changes. It is considered that the findings of the original ES are still relevant to the project and the assessment included in that document is still representative of the development as now proposed

Revised Access Statement

- The revised access proposal comprises a new roundabout at the southern access point (as previously proposed), a new ghost island property junction to serve the northern redevelopment area (replacing the previously proposed northern access roundabout) and retention of the existing industrial access to the northern area (as previously proposed)
- The revised statement focuses on the ghost island which has been tested to determine the revised traffic flows. These show that the junction will operate well within capacity with the anticipated traffic demands in all scenarios.

Supplementary Planning Statement

- The planning position is unusual in that the site is midway between Sandbach and Middlewich, and yet is designated as falling within the settlement zone limits of Sandbach
- The historic chemical works use of the site has come to an end and it is essential that appropriate alternative land uses that are viable and deliverable can be consented in order to remediate and regenerate the site, which is a blot on the landscape.
- National planning policy is clear that if there is no reasonable prospect of a site being used for an alternative economic use, alternative uses should be considered
- There is no dispute that the site cannot continue in its existing use
- Local Plan Policy E10 permits change of use where the site is no longer suitable for employment use, or where there would be substantial planning benefit in permitting alternative use that would outweigh this loss.
- There is a chronic shortage of residential land within the former Congleton Borough area and this would justify redevelopment for entirely residential
- The applicants have not sought to do this however, preferring instead to come forward with a mixed use scheme, which also provides significant employment opportunities and new facilities.
- This sustainable approach is advocated by regional and national planning policy
- It is accepted that part of the site falls outside the settlement boundary and within open countryside, although historically the land has always been associated with Albion Chemicals as it was used as a sports ground
- The land was included within a former Congleton Borough Site Allocations DPD.
- Notwithstanding this there is a presumption against new development in the open countryside and the proposal does not comply with any of the exceptions to this policy
- However the local plan is out of date and not in conformity with the RSS
- It does not reflect current land use requirements particularly in respect of housing and employment land supply.
- This was the reason for the production of the Allocations DPD, which was founded on a substantial evidence base.
- In the absence of a replacement Cheshire East document it should be afforded significant weight

- The DPD recognised that it was necessary to provide a mixed use such that incorporated housing employment and other uses as a holistic sustainable and viable development. .
- It also recognized that the Greenfield element would be required to enable the Brownfield part of the site to be remediated. This position has not changed
- The application proposals mirror the Site allocations DPD designated uses.
- Financial viability appraisal undertaken by the applicant reflect the fact that the site was purchased not at a financial premium but as a mechanism for resolving environmental liability issues, identifies significant costs involved in remediating the former works.
- Significant infrastructure costs both on site and off site have also been identified in order to render the site suitable for alternative uses
- Taking these into account the viability assessment concludes that the redevelopment of the sit is only viable if all 11.2 acres of Greenfield land is included within the development, Redevelopment of the brownfield part of the site on its wine is simply not viable and if the Greenfield part of the development was removed from the proposal then the site could not be redeveloped without external grant funding which is not available.
- Without the Greenfield element of the application proposals the site will remain vacant, derelict and a wasted resource.
- The RSS does not seek to prevent he development of Greenfield land where appropriate and encourages local authorities to promote opportunities for economic redevelopment that will strengthen the economy of the North West in part, through the redevelopment fop poorly located employment sites for housing and the development of better located employment land that will help diversify the economy and provide local employment.
- The creation of up to 12,000sq.m of business park on the application site which is strategically located between Sandbach and Middlewich will assist in meeting the RSS objective.
- Not only will it provide up to 600 jobs it will also release poorly located historic employment land for other more suitable uses.
- It will help to addressed the housing land supply problems in the Borough as Cheshire East cannot demonstrate a five year housing land supply,
- PPS3 states that where the authority cannot demonstrate a 5 year supply they should consider favorably applications of new housing. This proposal would provide up to 375 new dwellings, a significant number of which could be delivered in the next 3 years,
- There is also an unquestionable need for affordable housing across Cheshire East as a whole, and Sandbach in particular. With very few new residential developments coming forward in the current economic climate, the development will be able to deliver a significant number of affordable units.
- As a consequence of the passage of time since the application was originally devised it has been necessary to make a number of revisions to the allocation of land uses across the site.
- However, these do not change the mixed use concept of the proposals, the overall quantum of development either by land use or as a whole, nor do they introduce new land uses.
- The chances have come about as a consequence of changing market requirements and the take up of the industrial land and delivery of jobs within Zone 7 and demonstrate the need to maintain a flexible approach to the planning of the site.

- The changes do not affect the conclusions of the Environmental Statement submitted with the planning application
- Highway improvements will be carried out to existing junctions in the vicinity of the site which will lead to highway betterment at no cost to the public
- The future of the Yew Tree Farm, listed building complex will be secured.
- In conclusion the application proposals have been put forward in a comprehensive fashion and in joint venture approach between the land owner and a leading house builder in order to ensure that the development is viable and can be delivered immediately. This is particularly important at a time when the current economic climate is preventing development from coming forward. The grant of outline planning permission for the p[roposals is justified not only by planning policy but by significant benefits that will arise out of the development.

10. OFFICER APPRAISAL

Principle of Development

The application site comprises three main areas: the former chemical works, Yew Tree Farm and an area of undeveloped land to the south.

Former Chemical Works

This part of the site lies within the Sandbach settlement boundary where under Policy PS4 of the adopted Local Plan First Review there is a general presumption in favour of new development, provided that it does not conflict with other policies of the plan.

This part of the site would be redeveloped for predominantly residential use which according to Policy H4 is acceptable, provided that it does not utilise a site which is allocated for any other purpose, conflict with other policies of the local plan or result in housing land supply totals at variance with the provisions of Policies H1 and H2. Policy H4 also states that in considering applications for residential development regard will also be given to the availability of previously developed sites, their location and accessibility to jobs shops and services, the capacity of infrastructure, the ability to build communities and sustain infrastructure and physical and environmental constraints of the site such as flood risk or contamination. These are considered in more detail below.

The site is previously developed and unallocated, in the local plan. However, in the light of the previous employment use of the site, it is considered that policy E10 is relevant. This states that the loss of the employment site can only be justified if it can be demonstrated that the site is not suitable for employment uses or that there would be significant planning benefit arising from the alternative use proposed.

The specialist nature of the building and equipment on the site were such that they were not suitable for re-use for other business purposes. Therefore, in terms of employment, re-use the only option would be redevelopment for commercial purposes. However, the viability appraisals submitted by the applicants has demonstrated that, due to its previous use, there are very high remediation costs associated with this site, and that complete employment re-use, would not generate sufficient land value to off-set those costs. However, an element of general industrial

development is to be retained to the north of the site, and further office and commercial space is included within the proposed uses on the Greenfield portion of the site, discussed below. Although the chemical works occupied a large area, the number of jobs per square foot, would have been significantly less than those which could be provided in an office park of similar area, and therefore, the proposal is likely to result in a net increase in jobs across the site, despite the loss of part of the existing employment land to housing.

Notwithstanding the above, a small portion of the site, at the northern end is proposed for retention in B2 and B8 uses, including the maintenance of a small presence by Albion Chemicals. These will help to provide a buffer between the existing transport depot and the new residential development. It will also help to off-set the loss of employment space elsewhere on the site and to create a wider range of uses.

With regard to the second limb of Policy E10, there would be a number of planning benefits arising from the removal of the former chemical plant, which detracted from the visual amenity of the area, including the surrounding open countryside and the adjacent canal conservation area. The scheme would also result in the removal of a potentially hazardous and polluting use and the remediation of the site. The proposals would also make provision for a long-term viable re-use of the listed Yew Tree Farm.

With regard to housing land supply, Policy H1 has not been “saved” and as a result no longer forms part of the Local Plan. However, national policy guidance (PPS3) states that Local Authorities should manage their housing provision to provide a five year supply. Following a review, the Council has determined that it has 4.58 years housing land supply. Consequently the Cabinet has agreed that in order to address the lack of a 5 year housing land supply, an Interim Planning Policy on the Release of Housing Land should be approved for consultation purposes and that it be used in the determination of planning applications pending its adoption. This policy states that when it is demonstrated through the Annual Monitoring Report that there is not a five year supply of housing land as defined by PPS3, subject to other saved policies of the relevant Local Plan being satisfied, the Council will allow the release of appropriate greenfield sites for new housing development on the edge of the principal town of Crewe and encourages the redevelopment for mixed uses, including housing, of previously developed land within settlements.

The redevelopment of this brownfield site, within a settlement boundary for housing complies with this policy and will help to reduce pressure to release Greenfield land elsewhere in the Borough for residential development, which is a further benefit, which will help to outweigh the loss of the employment site.

It is therefore considered that the proposal to remove the existing chemical works and to redevelop the site for housing would have substantial planning benefits in terms of amenity, the environment and economy and that it would make an important contribution to the local area in terms of new jobs and housing. Consequently it is in accordance with the second part of Policy E10.

Open Countryside

The proposed land uses on this part of the site include commercial, an office park, residential and open space. The southern part of the site lies within open countryside,

as designated in the Congleton Borough Local Plan First Review, where development will not be permitted unless it is for one of a number of purposes, including, inter alia, new dwellings, in accordance with Policy H6 and development for employment purposes in accordance with Policy E5.

Policy E5 states that new employment development must either relate to the expansion or redevelopment of an existing employment site, new small scale development, the re-use of an existing building or diversification of a farm enterprise. Due to their scale, it is not considered that the proposals fall into any of the above categories.

Policy H6 states that new residential development in the open countryside will not be permitted unless it is for an agricultural worker, a replacement dwelling, the conversion of an existing building, the redevelopment of an employment site or infilling within an infill boundary line. The residential element of the development on this part of the site, therefore does not accord with this policy. Furthermore, it does not comply with the provisions of the Council's Interim Policy on the release of housing land, as it constitutes a Greenfield site on the edge of the Sandbach Settlement boundary, rather than Crewe.

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 sufficient material considerations to outweigh the policy objection.

The site, including the Greenfield element was allocated in the Congleton Borough Site Allocations Development Plan Document for missed use redevelopment. Although no longer a policy document, the Site Allocations DPD, went through several stages of public consultation and was prepared in accordance with PPS12. The site has also been identified through the Council's Strategic Housing Land Availability Assessment (SLAA). These should therefore be afforded some weight as material considerations. Furthermore, the developer's viability appraisal demonstrates that, due to the high remediation costs, the former chemical works site would not generate sufficient value to enable development to come forward. However, when taken considered as part of a larger site including the Greenfield element, which has much lower site preparation costs, the scheme generates sufficient profit for development to take place. In view of the regenerative and other benefits, such as provision of housing land supply, referred to above, it is considered to be important to bring this site forward for development. This is an important material consideration, which is considered to be sufficient, in this case to outweigh the, policy presumption against the development.

Policy EC14 of PPS4 requires a Sequential Assessment for main town centre uses that are not in an existing centre and not in accordance with an up-to-date development Plan. This applies in the case of the following proposed uses: Offices, fast food restaurant /pub use, hotel, health club or leisure centre. Policy EC14 also requires an assessment of impacts for planning applications for retail and leisure development over 2,500 square metres gross. Included within this scheme are a number of A class uses which will be accommodated within the local centre. However, given the scale of

floorspace will not exceed the threshold identified in Policy EC14 and that the floorspace will specifically serve the overall development, it is not considered that this element of the proposals needs to be separately assessed. The applicant has undertaken a sequential assessment of 27 sites, 16 of which fall within Sandbach and 11 within Middlewich. Each site has been assessed against the key criteria referred to in Policy EC15(a); namely availability, suitability and viability.

Many of the sites clearly fail one or more of the main criteria and therefore do not have to be considered further. In some cases this is because they have planning permission for other, potentially more viable uses such as housing, or their development would be unviable due to the need to deal with existing uses on the site. In addition a number of sites identified could accommodate an element of the Albion proposal but would be better suited for residential development given their location and/or identification in the former Congleton Draft Site Allocations DPD

A total of six out of the 27 sites were either last in use, having planning permission or the potential to accommodate one of the main town centre uses proposed by the Albion Application. These were examined in more details and 2 were found to be poorly served by transport, out of centre and no better than the Albion Site. There were located in edge of centre areas and potential could be re-used for hotel and pub uses and one had been sold for redevelopment. One could accommodate a limited amount of office development but would be significantly below the level of floorspace that is proposed for the Albion Site.

Therefore the sequential Assessment has found that there are very few sites that are available, suitable and viable to accommodate any part of the Albion proposals that required assessment. Those sites that are available are either no different in sequential classification or so small as to not be able to replace even the individual components of the Albion scheme. There is no evidence to suggest that the development of the main town centre uses on the Albion site would in anyway prejudice the limited sequentially superior sites.

Furthermore, the town centre uses proposed by the application form part of an important mixed-use package. Government and RSS policy encourage mixed-use development and without the package of uses proposed; the development would be less sustainable. Thus, whilst it would be possible to provide some of the constituent elements of the application in either Sandbach or Middlewich town centres (such as the pub or restaurant, this could be counter productive in terms of achieving a critical mass of the Albion redevelopment and would weaken the sense of place within the development.

With regard to the impact test, the applicants have concluded that with the exception of the offices, the uses are both individually and cumulatively small in scale; totally no more than 2,600 square metres. As such their impact will be very limited. The main catchments will clearly be the development itself and passing trade travelling along the A433 and the towns of Sandbach and Middlewich

In terms of potential competition with these towns, it is relevant that neither centre currently has a trading hotel. The only hotel is the Old Hall in Sandbach as closed down. Whilst both centres have pubs and restaurants, these are relatively limited in number and clearly cater for visitors to the town centre and local residents. Whilst

both towns have some local authority leisure facilities, neither benefits from a private leisure club.

With the exception of land between the High Street and Brookhouse Road in Sandbach, there are no outstanding Local Plan Locations for commercial and leisure uses within Middlewich and Sandbach town centres. The Brookhouse Road allocation is specifically for retail but suffers from land ownership issues and was not carried forward into the draft Site allocations DPD. There is no suggestion that the Albion proposals would prejudice a Development Plan Allocation from coming forward. Given the scale of existing provision the proposed uses are unlikely to have a major impact of drawing trade away from either Sandbach or Middlewich. Both town centres whilst suffering from the current economic decline, are coping comparatively well. For example, vacancy rates remain below the national average. Both town centres continue to see new investment either in existing shops or new facilities.

In terms of the proposed offices there are a number of allocations in Middlewich within the Local Plan, mainly as part of Midpoint 19 but have yet to be taken up due to a requirement to find the bypass, and will not come forward in the foreseeable future. The Albion proposals are not constrained in this respect.

Proposed as a business park the office element of the Albion proposals will provide modern flexible accommodation for a full range of companies of various sizes. Such a development will serve a different function and market to town centre offices and will not cause competition.

Finally as a mixed-use development the proposals are intended to inter relate to each other including the housing, which is the main land use component of the overall development. For example, an hotel use on the site will assist and help to promote the business part and employment uses whilst a health club has the potential to be used by both people living and working on the site. This approach to land use is fundamental to achieving a sustainable development.

From the applicants assessment, as summarised above, it can be concluded that the main town centre uses that form part of their proposals, because of their location, nature, scale and interrelationship, are unlikely to have any measurable adverse impact on development plan strategy, planned new investment or the vitality and viability of either Sandbach or Middlewich. It is considered that the applicant has demonstrated compliance with the requirements of the sequential approach, that there is no evidence that the proposals are likely to lead to significant adverse impact in terms of those set out in Policies EC12 and EC16 of PPS4 and that there is potential for positive impact, including physical regeneration and job creation on a vacant Brownfield site. Policy EC10 states that local planning authorities should adopt a positive approach towards planning applications for economic growth, particularly where these are designed in a sustainable way and it is therefore concluded that this proposal meets the requirements of PPS.4 in this respect.

Yew Tree Farm

Policy BH16 deals with the conversion of rural buildings to residential use, and states that this will not be permitted unless every effort has been made to secure a suitable

business re-use or residential conversion is a subordinate part of a scheme for business re-use or the location and character of the site is such that residential use is the only appropriate use.

As initially proposed, Yew Tree Farm was shown for conversion to a local centre. However, for conservation reasons, discussed in further detail below, it was considered that conversion to private dwellings would be more appropriate. In addition, residential conversion will enhance the viability of the site, and as a result it will assist in the delivery of an element of affordable housing on the site. This matter is also discussed in more detail below. It could also be argued, given the mixed use nature of the development of a whole, that the conversion of Yew Tree Farm to residential use constitutes a subordinate part of the scheme for business reuse and on this basis, it is considered that the proposal complies with Policy BH16

According to Policy BH15, the conversion, re-use or adaptation of an existing rural building to an alternative use will only be permitted where a number of criteria are satisfied.

The building must be of permanent and substantial and not require extensive rebuilding. Yew Tree Farm was subject to considerable repair and restoration, in the 1990's when it was converted for use as a social club by Albion Chemicals. It is therefore currently in a sound condition. It is considered that residential use is appropriate to the area in which the building is situated, and will not have an adverse impact on the surrounding countryside, as it will be situated alongside other new-build residential development. Therefore the second and third criteria of Policy BH15 are fulfilled.

As a listed building, the form, bulk, and design of Yew Tree Farm are considered to be in keeping with and enhance the surrounding countryside. The acceptability of any alterations, extensions in design and conservation terms would need to be the subject of subsequent reserved matters and listed building consent applications, as the proposal are only in outline at this stage. The remainder of the criteria under policy BH15 relate to matters of access, parking, landscaping and amenity and are dealt with in more detail below.

The site is bounded to the north west by a transport depot, the A533 to the south west and the railway line to the north east, beyond which lies open countryside. The site is also bounded by open countryside to the south, and there are a number of small office and light industrial units on the opposite side of the A533, adjacent to the open countryside part of the site to the south.

The nearest neighbouring residential property is Hollin Green Farm, which is located approximately 450m to the north east of the site. At this distance, it is not considered that there would be any adverse impact on residential amenity, from any of the proposed land uses including the general industrial part of the site at the north western extremity.

Landscape and Tree Matters,

There are no major landscape designations that encompass the site although the Trent and Mersey Canal Conservation area is to the west, separated by the A533,

and the Sandbach Flashes SSSI lies to the south west beyond the canal. The National Landscape Character Area as identified by the Countryside Agency is the Shropshire, Cheshire and Staffordshire Plain. In the Congleton Borough Landscape Character Assessment 1999, the site is within the Middlewich Open Plain character area with the Sandbach Flashes character area in close proximity.

The environmental statement includes a Landscape and Visual Assessment. The Senior Landscape Officer has examined the statement and concurs with the conclusion that the existing industrial works are considered to be a significant detractor on views, particularly from the Trent and Mersey Canal Conservation Area, the A533 road corridor and the surrounding footpath network. In principle, therefore, there is no objection to redevelopment of the existing chemical works and it is noted that the redevelopment presents a number of opportunities to benefit the local landscape. However, she has raised some concerns about the inclusion of the Greenfield part of the site, to the south. Whilst it is acknowledged that the loss of this area of open countryside would result in some harm to visual amenity and the character and appearance of the rural area, as detailed above, this harm will be outweighed by the regenerative benefits that it will enable.

Furthermore, the Greenfield part of the site is tightly constrained by the chemical works site to the north west, the A533 to the south west, the railway line to the north east and a farm track to the south east. As a result, it will not create the appearance of unconstrained urban sprawl into the open countryside. When viewed from the north and west, it will be screened by the existing haulage yard and the existing light industrial development on the opposite side of the A533, and when viewed from the east and south, it will be viewed against the backdrop of those existing developments. The landscape impact of developing of this site, including the Greenfield element, was also considered and found to be acceptable, when it was included in the Congleton Borough Site Allocations DPD.

It is noted, however, that a topographical survey has not been submitted with the application. The existing topography is unlikely to have any impact on the acceptability of the proposed land-uses, in principle. As stated above, the visual impact of the redevelopment is likely to be considerably less than the existing chemical works. Equally it is acknowledged that there will be some adverse visual impact arising from the loss of the open countryside part of the site. However, it will be important in considering the detailed layout and design proposals that will form the reserved matters applications, and it is therefore recommended that a condition is attached requiring a topographical survey to form part of any future reserved matters submission.

Buffer planting either exists or is proposed, specifically to the north, to the west adjoining the A 533 and to the east adjoining the railway. It must be noted that in some locations where buffer planting is proposed, there may be constraints. Establishment of future ownership and ongoing maintenance of such areas is a significant issue which would need to be addressed. Consequently, the Landscape Officer would not support buffer planting within residential curtilages, although this could be addressed as part of the reserved matters submission. In addition, she has commented that the height and spread of planting adjacent to the railway may be limited by the rail company's restrictions, planting adjacent to the A533 could encroach on visibility splays or be restricted by services.

As development would be piecemeal, it would be essential to establish design principles and to secure a comprehensive landscape framework retaining existing features of both landscape and ecological value. The landscape framework would need to be closely aligned to ecological mitigation proposals. Advance structural planting would need to be secured and consideration would need to be given to the ongoing maintenance of such planting as part of an overall landscape and ecological management plan for the site. However, these matters could be dealt with through the use of appropriate conditions.

There are no TPOs and no records of ancient semi-natural woodland on the site. (Hollins Wood SBI to the south east beyond the railway is recorded as an ancient woodland site). The site includes a number of individual trees and several groups of trees. There are few trees within the former industrial area. The groups of trees are mainly on the western boundary adjacent to the A533 and to the east, adjacent to the railway. There are a number of individual trees within the fields to the south of the site. There are hedgerows within and on part of the boundary of the site.

The submission includes a comprehensive tree survey undertaken in accordance with British Standard 5837:2005 Trees in relation to construction. The survey report includes tree constraints plans indicating tree positions, categories and root protection areas. The survey covers 61 individual trees and 11 groups of trees. It is reported that of the trees on site:

- 21% are category A - High retention value
- 25% category B – Moderate retention value
- 41% category C - Low retention value
- 13% R -No retention value

The survey report comments that veteran oak trees within the greenfield area to the south of the site are of high ecological, cultural and historic landscape value and their retention should be a high priority. The retention of tree groups to the western boundary is also seen as a priority. The long-term retention of pollarded Willow and Poplar trees to the south west of the site is not considered a priority .

Four lengths of agricultural hedgerow are included in the survey. Two sections on the southern boundary, and two adjoining the A533. These have been graded following the Hedgerow Evaluation and Grading System (HEGS) and found to be of low-moderate value.

As the application is outline with all matters reserved and only an illustrative masterplan provided, it is difficult to fully assess any potential future impact on trees and hedgerows at this stage. It would appear likely that the layout indicated on the masterplan would have some impact on these features. As part of a detailed application, a full arboricultural impact assessment and arboricultural method statement would be required. There are a number of trees worthy of retention and the Landscape Officer would expect the layout of a detailed application to make such provision for these, together with boundary hedgerows. These could also be made conditions of any planning permission.

It does not appear that an assessment of the Hedgerows has been undertaken in accordance with the Hedgerow Regulations 1997. (Such assessment covers both ecological and historic value and is undertaken in accordance with specified criteria). Such assessment is recommended as the presence of a hedgerow found to be 'important' under the regulations would be a material consideration. However, the proposals are in outline, with only broad areas of zoning shown on the indicative layout plans. Whilst a more detailed indicative layout has been provided of the residential zone, this relates to the former chemical works, and the hedgerows on site, are mainly located within the undeveloped area to the south, which is proposed for primarily commercial development and open space. Consequently, it is not possible at this stage to determine which hedgerows, if any, would be proposed for removal. Therefore it is recommended that conditions are imposed requiring assessments under the Hedgerow Regulations to be carried out and submitted with each reserved matters application, for any hedgerows to be removed as part of that phase of development.

Conservation and Design Matters

Initially, there was some concern that the Grade II listed Yew Tree Farmhouse the timber-framed building and its much later brick-built steading would be engulfed by the new development, and would have been surrounded by housing to one side and commercial development the other. This would be to the detriment of its setting. It would also be unlikely that anyone would wish to convert it into an exclusive residence in this situation, and therefore the only option would be to utilise it as a local centre. Conversion to this type of use has a number of practical difficulties in terms of the fitting the requirements of a modern commercial premises into a listed building without causing loss or damage to features of historic and architectural interest. Also the local centre would not be required until a substantial amount of the other development had taken place. Consequently, it may be some time before a viable re-use for the historic buildings could be secured and in the intervening period they would be susceptible to decay and vandalism.

However, the zoning plan has now been amended to create a greater landscaped buffer around the farmstead, and to move the commercial uses away from it. This should create sufficient space to protect the setting of the listed building, and to create sufficient separation from the new residential development to ensure that the house and its range of outbuildings could be converted into a number of more exclusive bespoke dwellings.

The conservation officer has expressed concerns that, left in the midst of a development site that could take several years to decontaminate and fully build-out, it will be pillaged of most of its original fabric by thieves and vandals long before the developer has converted it. Similar problems occurred at the nearby Cledford Hall, following the allocation of Mid-point 18 for commercial development. However, the developer has agreed to a condition which would require the intermediate use of the farmhouse as temporary site office from the beginning, which would ensure 24 hours security of the building.

The site is adjacent to the canal conservation area and British Waterways has objected to the proposed Greenfield development on the grounds of the suburbanizing effect on the appearance of the canal and its conservation area. Whilst it is acknowledged that there would be a marked change in the character of the conservation area, it is not considered that it would necessarily be detrimental to that character. High quality of design and layout has the potential to create an active and attractive frontage to the canal. The indicative layouts show properties fronting onto the canal and a strip of open space along the site frontage which would link the canal to the development and would allow the public to enjoy the waterside setting.

The scheme could be enhanced in conservation terms, through further development of the master plan to link the canal and greenspace on the site frontage to the main area of open space adjacent to the former farmstead. The main access road should also be realigned to run around the perimeter of Yew Tree Farm, rather than through it as currently shown, to reflect the change in the proposed use from local centre to private residences. Subject to these matters being addressed through the reserved matters submission, it is considered that the proposals would be acceptable in conservation and design terms.

Drainage and Flooding,

A number of residents have expressed concerns about drainage matters. The developer has submitted a Flood Risk Assessment with the application which concludes that the proposed development will not be at risk from flooding and with appropriate mitigation measures will not increase flood risk elsewhere. Therefore the proposed development meets the requirements of PPS25. The Environment Agency has considered the report and raised no objections subject to the imposition of appropriate planning conditions to ensure that the required mitigation is carried out. United Utilities have objected as no detailed foul drainage proposals have been submitted. However, given that this is an outline application, which seeks merely to agree the broad principles of development, and that the detail of the application in terms of layout, number of dwellings and precise mix and location of commercial uses is reserved for future applications, it is not possible to produce definitive foul drainage proposals at this stage.

It is therefore considered that detailed foul and surface water drainage proposals should be dealt with by condition. This approach has been endorsed by the Environment Agency and on this basis, whilst the concerns of United Utilities and local residents are noted, it is not considered that a refusal on flood risk or drainage grounds could be sustained.

Affordable Housing,

Congleton Borough Council adopted Supplementary Planning Guidance and the Cheshire East interim affordable housing policy both require the provision of 30% affordable housing, unless economics of provision arguments indicate otherwise.

A financial viability assessment prepared by Wallace Cameron & Associates (WCA) was submitted with the original planning application and identified the likely level of

revenue that could be delivered from the scheme after account had been taken for the cost of purchasing the land, dealing with site remediation and infrastructure costs and allowing for developer's profit. At that point in time the applicant did not put forward any firm proposals in relation to affordable housing or a broader Section 106 package, wanting instead to understand the Council's priorities following consultation on the application.

In May 2010 as part of minor revisions to the disposition of uses within the application and following the submission of a detailed Supplementary Planning Statement, a further financial viability assessment was submitted by WCA, which updated the original assessment. Based on that revised financial viability appraisal, the Supplementary Planning Statement (May 2010) contained (at paragraph 5.7) a package of planning gain measures including off site highway works and affordable housing.

The Council subsequently instructed Rodger Hannah and Co. (RHC) to review the WCA financial viability appraisal. Their advice was that WCA had adopted the wrong approach in assessing the level of affordable housing that the development could afford, and requested instead that the applicants appraise only the residential element of the mixed use proposals, using the HCA's Economic Appraisal Toolkit (July 2009 version). The applicants, therefore, instructed BNP Paribas Real Estate (BNP) to undertake an assessment of the economic viability of the residential element of the scheme and their original report was issued in July 2010. This was then reviewed by RHC who provided their initial response in September 2010, raising a number of points of concern in respect of BNP's conclusions. Following a meeting to discuss the principal differences further reports were produced by both firms in late October. Whilst the two consultants have achieved a consensus of opinion on a number of matters, some differences still remain. These are set out below.

Differences between BNP and RHC using the HCA Toolkit

It is important to note at the outset that both viability appraisals are based on a hypothetical housing scheme of 379 residential units, made up as follows:

Unit Type	Total Number	%
Yew Tree Farm Courtyard Apartments	9	2.4%
1 Bedroom Flats	8	2.1%
2 Bedroom Flats	11	2.9%
2 Bedroom Houses	71	17.4%
3 Bedroom Houses	149	39.3%
4 Bedroom Houses	135	35.6%
Yew Tree Farmhouse	1	0.3%
Total	379	100%

As indicated above, this is a hypothetical scheme assuming that the site is developed for the maximum of units proposed and in accordance with the specific unit size mix. Given that the site area of the application given over to residential is 7.9 hectares (19.51 acres), this hypothetical mix would provide a density of 48 dwellings per

hectare, including the listed building area. In practice, the likelihood is (based on current market trends) that the site will be developed at a lower density (i.e. less units).

Notwithstanding the above, RHC and BNP have both separately appraised the viability of this hypothetical scheme using the HCA Toolkit. While there is agreement on a wide range of inputs into the Toolkit, for the reasons set out below there is a clear difference in the conclusions of the assessments in terms of what level of affordable housing provision could viably be made. For the applicants, BNP's assessment concludes that the scheme could not afford to provide any affordable housing. Conversely, RHC conclude that the scheme could afford to make a 15% affordable housing provision. There are three main reasons for this difference which are set out below.

Sales Values

In the original appraisals by BNP and RHC there was a considerable difference in sales values (expressed as £/sq.ft of residential floor area) between the parties, and it is noted that in their more recent assessment RHC have put forward a more 'conservative' value model and consider this appropriate in light of the continued retrenchment of the residential market, which indeed has gathered momentum in recent weeks with further monthly falls recorded by the Nationwide Building Society. RHC's figures per square foot are now generally closer (within 5%) of the BNP rates, as the following summary table demonstrates:

Unit Type	BNP Sales Value per sq.ft	RHC Sales Value per sq.ft
Yew Tree Farm Courtyard	£185.61	£232.02
2 Bedroom House	£182.14	£179.42
3 Bedroom House	£165.12	£182.24
4 Bedroom House	£169.83	£170.97
Yew Tree Farm	£211.11	£211.11

The difference between the parties is now marginal except for the Listed Courtyard, which is diminimus in terms of the overall appraisal, and the three bedroom houses. As there are 149 three bedroom houses within the hypothetical scheme, the difference of £17.12 per sq.ft in value for the three bedroom houses when multiplied by the average floor area for a three bedroom house amounts to quite a considerable sum.

Both parties acknowledge that there is a lack of new build residential schemes in Sandbach from which to draw comparison. However, the applicants consider that the RHC approach fails to reference the very cautious state of both the National and Cheshire housing market and the negative outlook of the majority of commentators in the market at the current time. As a result they consider that the RHC approach remains too optimistic.

Residential Floor Areas

As part of the HCA Toolkit approach average floor areas must be stated for the hypothetical residential mix as this is then used to assess both construction cost and unit sale values.

Although they did not raise it at in their original assessment (September 2010) RHC have raised some concerns about the BNP residential floor areas. In particular, they suggest that it is incorrect for BNP to apply larger residential floor areas to the affordable housing (as compared to the private housing), and suggest that residential floor areas should be taken from the Hop Yard development in Sandbach town centre constructed by house builder Seddon's.

The difference between the two parties in terms of unit sizes can therefore be demonstrated by the following summary table:

Unit Type	BNP Average Floor Area (sq.ft)	RHC Average Floor Area (sq.ft)
Yew Tree Farm Courtyard Apartments	431	431
1 bedroom affordable	538	538
2 bedroom private house	700	780
2 bedroom affordable flat	753	700
2 bedroom affordable house	753	753
3 bedroom private house	969	1,070
3 bedroom affordable house	1,055	969
4 bedroom private house	1,238	1,316
Yew Tree Farm	4,500	4,500

The applicants disagree with the rationale given by RHC for changing the residential floor areas. The use of the Seddon Homes floor areas for the application site is not comparing like with like given that the Seddon Homes scheme is an infill town centre scheme and the Albion scheme is in a semi-rural location on the edge of Sandbach. Moreover it is up to the applicant to decide the most appropriate size for each market unit and affordable unit floor areas are set out by the HCA. RHC have reduced the affordable housing floor areas to below those published by the HCA.

The applicants argue that contrary to what RHC state in their most recent report, market practice is not that affordable units are generally smaller than private units, the position is actually the other way round due to HCA minimum standards for affordable housing which do not apply to market housing.

The effect of RHC's adjustment to the residential floor areas is that with their appraisal, there is 26,865sq.ft more residential floor area across the development. Expressed on a per acre basis, the RHC hypothetical scheme would achieve 20,845sq.ft per acre compared to BNP's 19,468sq.ft per acre.

According to the applicant the housing sector is very wary of building at over 19,000 or 20,000sq.ft per acre in out of town locations and the density applied by BNP was already at the upper end of normal site coverage – the trend is very much to have

less density of development than was the norm in the past. Added to which, given the rural location, and the recent removal of minimum densities from PPG3, it is unlikely that a density at the upper end of the range referred to above, would be appropriate in planning terms.

Percentage Uplift in Sales

In the latest BNP assessment a sensitivity analysis is carried out which identifies that in order to deliver 10% affordable housing, there would need to be a 5% increase in sales values. The applicants are of the opinion that RHC have misinterpreted this sensitivity test and taken it to be recognition by BNP that house prices will increase by 5%. As a consequence, RHC have applied a 5% increase to the residual value in their appraisal in order to justify a 15% affordable housing provision.

The applicants argue that not only does this approach misrepresent BNP's appraisal, but it also seeks to challenge the common held view within the industry that house prices have yet to stabilise and will continue to fall for the time being. Indeed, as set out in the BNP October 2010 report, recent data on house prices presents a fairly gloomy picture. For example, the Halifax National House Price Index showed a monthly fall of 3.6% in September, and the Land Registry Index also reported a fall in June. Commentators remain very cautious on the future of the market with experts such as Capital Economics predicting an 11% fall in North West house prices in 2011, on top of a 3.5% fall in 2010. Against the current position and outlook, the approach taken by RHC towards sales values cannot be justified.

Revised Toolkit Appraisal

The above three factors are largely responsible for the difference in valuations between the applicant's consultant BNP and RHC on behalf of the Council. However, since the original reports were prepared by BNP and RHC (in October 2010) two inputs into the Toolkit have been identified which require amendment and these are discussed below.

Firstly, both BNP and RHC have modelled the residential proposals on the basis of 379 units whereas in fact, the planning application has applied for a maximum of 375 units.

Secondly, the level of Section 106 monies attributable to the residential element of the development has been revised following detailed discussion with Highway Officers. A total package of off-site highway works has been agreed at £640,000, of which £470,000 can best be attributed to the residential element of the development. This is significantly more than the £320,000 quoted in the original appraisal.

In addition to these two revisions, and in an attempt to narrow the differences between the parties, BNP have also now applied the RHC higher sales values to the BNP floor areas. In other words, notwithstanding the firm view that the RHC sales values are too high and therefore generate a greater sales receipt, the figures have been accepted for the purposes of providing a revised Toolkit Appraisal.

The revised appraisal with the above 3 adjustments identifies that in order to achieve the residual land value of £3.3M (agreed between the parties), the residential

development could only afford to provide 8.3% affordable housing, rather than the 15% suggested by Rodger Hannah and Co. Based on this revised appraisal, the applicants are proposing an affordable housing provision of 8% (which equates to 30 units out of 375) to be provided on site. The housing is to be provided based on 33% social rented and 67% intermediate/shared ownership, and to be provided in a variety of unit sizes to meet local requirements, in accordance with the scheme to be agreed at the Reserved Matters stage. The affordable housing to be 'tenure blind' and pepper potted throughout the site, subject to RSL operational requirements.

In summary, three principal points of difference remain between the applicant's consultant, BNP, and the Council's Consultant, RHC,, which has led to a difference of opinion as to the level of affordable housing that the site could support. RHC argue that it should be %15 and BNP are of the view that it is 0%. The three points of disagreement are over sales values, floor areas, and percentage uplift in sales. The applicant's have agreed to use the RHC sales values and have provided convincing arguments as to why the floor areas and percentage uplift figures they have used are robust. They have also factored in two recent development in terms of a correction to the number of units proposed and an increase in section 106 monies which will be provided, which further reduce the viability of the scheme. On that basis they have offered 8% affordable housing. On balance, for the reasons given above, it is considered that the 8% contribution is fair and reasonable and reflects the economics of provision.

Highways

As initially proposed, access to the site would have been via two new roundabouts on the A533 Booth Lane and a retained industrial access to the north. However, the Strategic Highways Manager was concerned about this arrangement and has agreed amended plans showing a new roundabout at the southern access point (as previously proposed), a new ghost island property junction to serve the northern redevelopment area (replacing the previously proposed northern access roundabout) and retention of the existing industrial access to the northern area (as previous proposed). On this basis the Strategic Highways Manager is satisfied that a safe access can be achieved to the development.

With regard to wider traffic impacts, a Transport Assessment has been submitted with the application which concludes that the proposed development will generate a significant increase in traffic movements on the A533, in towards both Middlewich and Sandbach, and more significantly, will increase the loadings on main junctions in both town centres. There will also be an impact on, junction 17 of the M6, which is already heavily overloaded. The Highways Department have examined the Transport Assessment and endorsed its conclusions.

Following detailed discussions between the applicants Transport Consultants SK Transport Planning, the Highways Agency and the Council's Highway Engineer, a package of off-site highway works has been agreed, which will address junction capacity issues arising out of the completed Albion redevelopment, and in certain instances addressing existing deficiencies. The package will also assist in making the application site more accessible to non-car borne modes of transport. The package is as follows:

- i. £190,000 financial contribution to Cheshire East Council for the proposed improvement works to Junction 17 of the M6, or such other scheme as deemed appropriate by the Local Highway Authority and Highways Agency.
- ii. £197,000 financial contribution to Cheshire East Council for the proposed improvement scheme to the A533 Old Mill Road/High Street/The Hill and A533 Old Mill Road/Brookhouse Road.
- iii. £170,000 financial contribution to Cheshire East Council for the proposed improvement scheme to the A54 Kinderton Street/Leadsmithy Street junction, or such other alternative scheme deemed appropriate by the Local Highway Authority.
- iv. £25,000 financial contribution to Cheshire East Council for the provision of Quality Partnership Bus Stops on the east and west bound carriageways of the A533 in the immediate vicinity of the application site.
- v. £20,000 financial contribution to Cheshire East Council for the provision of a 'Real Time Passenger Information Facility' at Sandbach railway station.
- vi. £38,000 to be provided in an Escrow account to be used to enhance the accessibility of the application site should the detailed Travel Plan modal split targets not be achieved.

Items (i), (ii), (iv), (v) and (vi) are all considered to be most attributable to the residential element of the development either because they will be required very early on in the development process, or because they the residential development is likely to be the land use that advances first on the site. This is how the figure of £470,000 that has been put into the revised Toolkit appraisal has been calculated.

Education

The Council's School Organisation and Capital Strategy Team have identified that there are currently not sufficient places in primary schools within a two mile radius of the application site to accommodate all of the pupils that could be generated by the residential development. Conversely however, there are sufficient places within secondary schools with a catchment that takes in the application site. The education department has therefore determined that a developer contribution of £462,355, will be sufficient to off-set any impact on local provision.

The developer has proposed a financial contribution of £100,000 to be paid towards the provision of additional infrastructure at the Elworth CE Primary School. Whilst this is significantly below the amount requested, as has been detailed above, the viability of the scheme is marginal, and any increase in education provision, would, by default, result in a corresponding reduction in either the highways contributions or affordable housing provision. On this basis, it is considered that a £100,000 contribution is reasonable and achieves a fair balance between education improvements and other required mitigation works. Furthermore, it should be noted that this contribution would be made prior to occupation of the first residential property, notwithstanding the fact that the residential development will take many years to complete and hence, the generation of additional primary school pupils will have little impact on the primary school in the early years of the development.

Open Space Provision

The indicative zoning plan shows the provision of both Amenity Greenspace and Public Open Space within the development. The developer has explained that this will be provided in accordance with the Council's Supplementary Planning Guidance and will be maintained by a management company. Precise details of the location, nature and extent of the open space will be submitted at reserved matters stage.

To ensure that this takes place it is therefore recommended that the Section 106 Agreement should state that the reserved matters shall make provision for the Public Open Space within the development site. The Agreement should also require details of grading, drainage, layout, landscape, fencing, seeding and planting of the public open space to be agreed in writing with the Council.

Ecology,

A substantial amount of supporting ecological information has been submitted with the application. The Council's ecologist has examined the proposals and raised no objections subject to conditions. Three specific areas require further work to be carried out as part of future submissions. Firstly, a further full planning application will be required for the conversion of Yew Tree Farm, once the final use for those buildings has been determined. A full bat, barn owl and breeding bird survey will be required with that application. Secondly, the survey work that has been undertaken has indicated that there are no badgers on site at present. However, this situation can change rapidly, and it is therefore recommended that further surveys are undertaken as part of the preparation of reserved matters applications for each phase of development. The presence of badgers on site would not prevent development altogether but it would inform the layout and any necessary remediation work at the detailed design stage. Finally, although there are no barn owls identified as being present on site, they are in the vicinity and the scheme could lead to some degradation of their foraging areas. Consequently, it is recommended that provision is made via condition for the establishment of habitat enhancement areas, within the land owned by the applicant, outside the development site boundary.

Contaminated Land

A number of third party objections have been received in respect of contaminated land. However, the Council's Contaminated Land Officer has raised no objection subject to conditions requiring details of the proposed mitigation measures to be submitted and approved. Consequently, it is not considered that a refusal on these grounds could be sustained.

Air Quality

An Air Quality Impact Assessment has been submitted with the application. The Council's Environmental Health Officers have examined the report and highlighted a number of omissions. It is therefore recommended that conditions are imposed requiring a revised and updated report and accompanying mitigation measures to be submitted and approved prior to commencement of development.

11. CONCLUSIONS

The proposal involves the redevelopment of a brownfield site within the settlement boundary, for residential use, which is considered to be acceptable in principle. Although the proposals would result in the loss of an existing employment site, the redevelopment involves a significant element of new employment generating uses, both on part of the former factory site, and on adjoining undeveloped land. The scheme also has a number of other positive planning benefits, most notably the removal of an unsightly chemical works and the remediation of the site. It will also assist in meeting the Council's 5 year housing land supply requirement and in the delivery of much needed affordable housing.

The proposal also involves the development of an area of Greenfield land alongside. Whilst this is contrary to adopted local plan policy it will enable the remediation and regeneration of the adjoining previously developed land which would not otherwise be economically viable. The proposals have been carefully assessed and any harm in terms of impact on the character and appearance of the wider rural landscape, is considered to be limited in this instance, and on-site landscape impacts can be adequately mitigated.

The proposals are considered to be acceptable in terms of their impact on the listed building on site and the canal consideration area, and are not anticipated to result in increased risk of off-site or on site flooding. The developer has offered to provide 8% affordable housing based on 33% social rented and 67% intermediate/shared ownership, and to be provided in a variety of unit sizes to meet local requirements, in accordance with the scheme to be agreed at the Reserved Matters stage. The affordable housing to be 'tenure blind' and pepper potted throughout the site, subject to RSL operational requirements. Whilst this is below the policy requirement of 30%, it is considered that convincing economics of provision and viability arguments have been put forward to justify this level of provision. IN addition the developer will provide a £100,000 contribution to education provision.

The highways impacts of the proposal have been carefully assessed and £640,000 of off-site improvement works has been identified. The Strategic Highways manager is satisfied that this package of measures will adequately mitigate the traffic impacts of the proposal; He is also satisfied that the proposed access arrangements which include a new roundabout on the A533, are acceptable in highway safety terms.

The proposal will make adequate provision for on-site public open space in accordance with the Council's Supplementary planning guidance. It is not considered that any adverse impacts will occur in terms of ecology and it is considered that the contamination issues on the site can be adequately remediated.

Therefore, whilst the principle of the proposal does not comply with the provisions of the development plan policies, in respect of the new development within the open countryside, it is considered that these are outweighed by a number are substantial material considerations. In all other respects the proposal complies with the relevant local plan policies and accordingly it is recommended for approval subject to a Section 106 agreement and appropriate conditions.

12. RECOMMENDATIONS

APPROVE subject to completion of Section 106 legal agreement to secure the following:-

Affordable housing provision of 8% - to be provided on site. The housing is to be provided based on 33% social rented and 67% intermediate/shared ownership, and to be provided in a variety of unit sizes to meet local requirements, in accordance with the scheme to be agreed at the Reserved Matters stage. The affordable housing to be 'tenure blind' and pepper potted throughout the site, subject to RSL operational requirements.

And the following contributions:-

- A533/A54 Leadsmithy St, Middlewich:- £170,000**
- A533/A534 The Hill/High St/Old Mill Rd/Brookhouse Rd roundabout, Sandbach £197,000**
- Junction 17 – M6:- £190,000**
- Quality partnership bus shelters £25,000**
- Real Time Information facility, Sandbach Rail Station £20,000**
- Travel Plan facilities and targets £38,000**
- Education contribution - £100,000**

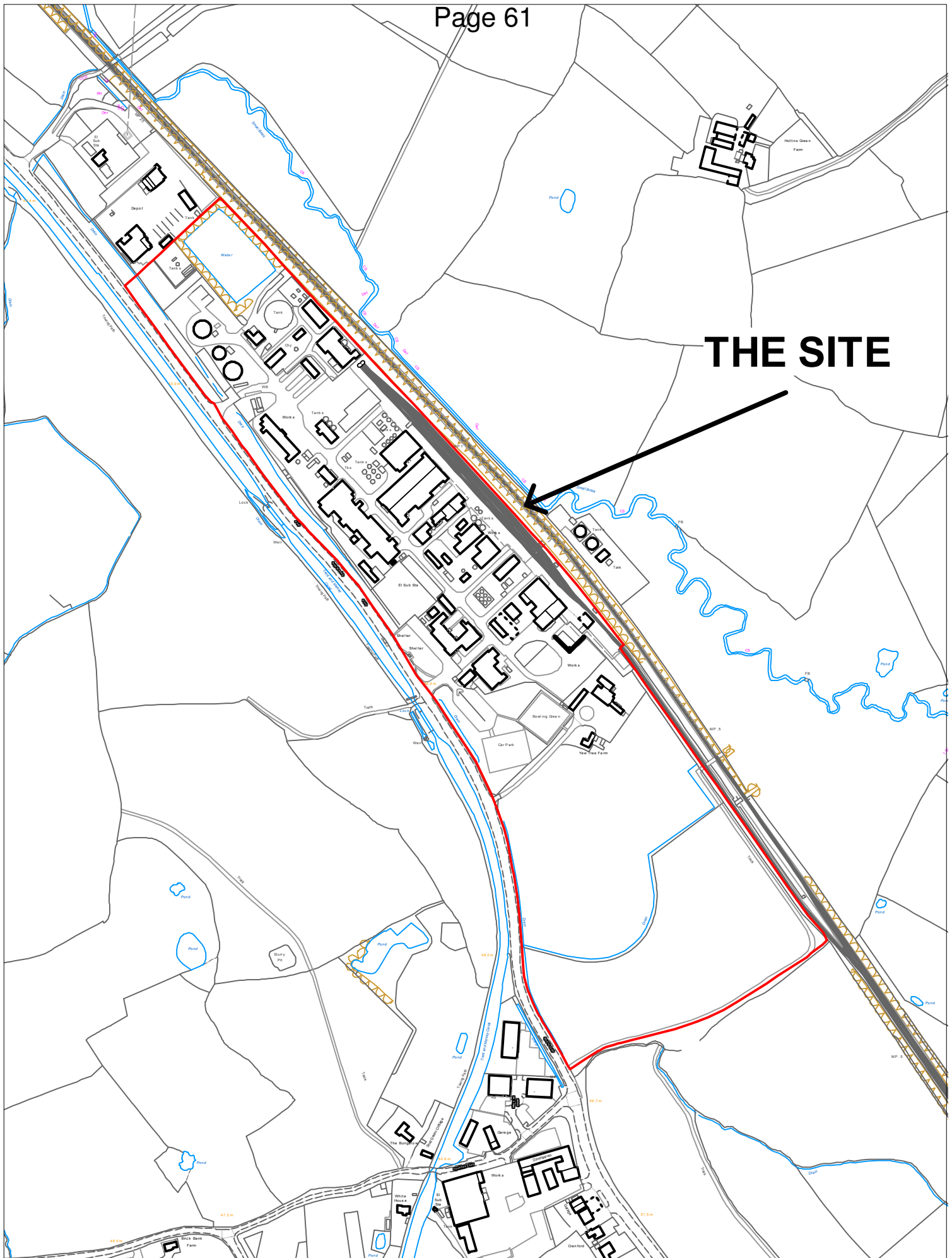
The reserved matters to make provision for the Public Open Space within the development site, details of grading, drainage, layout, landscape, fencing, seeding and planting of the public open space to be agreed in writing with the Council.

And the following conditions

- 1. Standard outline**
- 2. Submission of reserved matters**
- 3. Approved Plans – location and zoning**
- 4. Notwithstanding detail shown – no approval of indicative residential masterplan.**
- 5. Submission of Landscape Design principles**
- 6. Submission of Landscape framework**
- 7. Submission of Landscape and ecological management plan**
- 8. Retention of trees and hedgerows**
- 9. Submission of Arboricultural Impact Assessment**
- 10. Submission of Arboricultural Method Statement**
- 11. Submission of Comprehensive tree protection measures**
- 12. Submission of assessments under the Hedgerow Regulations with each reserved matters application, for any hedgerows to be removed as part of that phase of development.**
- 13. Submission of topographical survey as part of reserved matters.**
- 14. Use of farmhouse as site office**

15. geophysical survey in order to establish the need, if any, for further archaeological mitigation and submission / implementation of mitigation.
16. Submission of travel plan with each reserved matters application
17. Contaminated land assessment
18. A scheme for the provision and implementation of a surface water regulation system
19. A scheme for the management of overland flow
20. A scheme to be agreed to compensate for the impact of the proposed development on the two drainage ditches within the development boundary.
21. A scheme for the provision and management of compensatory habitat creation
22. Wetland creation, for example ponds and swales.
23. A scheme to dispose of foul and surface water
24. Submission of contaminated land investigation / mitigation
25. Submission of revised air quality impact assessment / mitigation
26. South west facing facades of dwellings to be attenuated by close-boarded wooden fencing along the south west site boundary in order to provide a 5 dB reduction.
27. The north western boundary shall be attenuated by a landscaped buffer zone which shall be 2m high and a minimum surface density of 15/20 kg/m³. Along the top of the bund shall be a 2m acoustic fence in order to provide further attenuation.
28. Submission of scheme for protecting the proposed dwellings from railway noise and vibration
29. Submission of a scheme for protecting housing from noise from all the commercial and industrial activities
30. Each reserved matters application for commercial activities to be accompanied by submission and approval of proposed hours of operation
31. Each reserved matters application for commercial activities to be accompanied by a noise impact assessment has been submitted to and approved by the Local Planning Authority. The noise impact assessment shall address;
 - All hours of operation;
 - noise from moving and stationary vehicles;
 - impact noise from working activities;
 - noise from vehicles moving to and from the site in terms of volume increase; and
 - current background levels of noise.Any recommendations within the report shall be implemented prior to the development being brought into first use.
32. Prior to commencement of development of any commercial building scheme for the acoustic enclosure of any fans, compressors or other equipment with the potential to create noise, to be submitted

- 33. Prior to commencement of development of any commercial building details of any external lighting shall be submitted to and approved**
- 34. Prior to commencement of development of any commercial building details of security for the car parks to prevent congregations of vehicles late at night to be submitted**
- 35. Prior to commencement of development of any commercial building details of the specification and design of equipment to extract and disperse cooking odours, fumes or vapours**
- 36. The hours of construction (and associated deliveries to the site) of the development shall be restricted to 08:00 to 18:00 hours on Monday to Friday, 08:00 to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays**
- 37. Details of the method, timing and duration of any pile driving operations to be approved**
- 38. Details of the method, timing and duration of any floor floating operations connected with the construction of the development hereby approved to be approved**



09/2083C - ALBION INORGANIC CHEMICALS BOOTH LANE MOSTON
NGR; -373.120 - 362.980

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Appendix Two

STRATEGIC PLANNING BOARD UPDATE – 16th February 2011

APPLICATION NO: 09/2083C

PROPOSAL: Outline application for comprehensive redevelopment comprising of up to 375 residential units (Class 3); 12,000 sqm of office floorspace (Class B1); 3810 sqm of general industrial (Class B2), warehousing (Class B8), car dealerships and petrol stations (Sui Generis) and fast food restaurant (Class A5) uses; 2600 sqm of commercial leisure uses incorporating hotel (Class C1), restaurant/pub uses (Class A3/A4) and health club (Class D2); retention and change of use of Yew Tree Farm Complex for local centre use (Classes A1, A2, A3, B1 and D1); public open space; together with access and associated infrastructure.

ADDRESS: Albion Inorganic Chemicals, Booth Lane, Moston, Sandbach, Cheshire, CW11 3PZ

APPLICANT: Bluefield Sandbach Limited and Countryside homes

Erratum

On the first page, the applicant is listed as Countryside homes. This is incorrect. The application is a joint between Bluefield Sandbach Limited and Countryside homes.

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Planning Reference No:	10/4977C
Application Address:	Horseshoe Farm, Warmingham Lane, Moston, Middlewich, Cheshire, CW10 0HJ
Proposal:	Extension to existing gypsy caravan site including laying of hardstanding, stationing of 9 caravans for residential purposes and, erection of 6 utility buildings.
Applicant:	Mr Oliver Boswell
Application Type:	Full
Grid Reference:	370941 362636
Ward:	Congleton Rural
Constraints:	Open Countryside

SUMMARY RECOMMENDATION: Approve

MAIN ISSUES

The scale of the development in the context of the open countryside location.

The impact of the development on the character and appearance of the locality.

REASON FOR REFERRAL

This application has been referred to Strategic Planning Board because it is a re-submission of a previous application (09/3918C) which was refused by the Board on the 5th May 2010.

The Committee resolved to defer a decision pending further information relating to:

- (a) Current planning status of the site;
- (b) The extent to which current activities are unauthorised;
- (c) Establishment of a community liaison group to be investigated.

The information is provided towards the end of this report.

DESCRIPTION OF SITE AND CONTEXT

The site is an area of 0.5 hectare on the westerly side of Warmingham Lane with access 220 metres north of the junction with Forge Mill Lane in the Parish of Moston.

The site is within an area identified as open countryside in the Congleton Borough Local Plan First Review. It is situated close to a former agricultural building and a small

set of stables. The immediate surrounding area is characterised by agricultural fields enclosed by traditional hedgerows.

DETAILS OF PROPOSAL

Extension to existing gypsy caravan site, including laying of hardstanding, stationing of 9 caravans for residential purposes and erection of 6 utility buildings.

The Authority received an amended plan on 18th January 2011 following officer comment regarding the site layout. The plan indicated a relocation of one of the residential pitches and the introduction of an amenity block. A full re-consultation exercise has been carried out.

RELEVANT HISTORY

- 1989 (8/20706/3) Temporary permission for wooden sectional building providing loose boxes and storage.
- 1991 (8/22907/3) Temporary permission for wooden sectional building providing two loose boxes.
- 1994 (8/26098/6) Renewal of planning permission 8/20706/3 – wooden sectional building providing loose boxes and storage.
- 1994 (8/26099/6) Renewal of planning permission 8/22907/3 – wooden sectional building providing two loose boxes.
- 1999 (8/30970/6) Renewal of planning permission 8/26098/6 – wooden sectional building providing loose boxes and storage.
- 1999 (8/30971/6) Renewal of planning permission 8/26099/6 – wooden sectional building providing two loose boxes.
- 1999 (8/31265/3) Permission for the exercising of horses.
- 2002 (8/34297/3) Application for removal of temporary condition relating to stables and barns on permission 8/30971/6 – withdrawn.
- 2002 (8/34471/3) Permission for removal of temporary conditions relating to stables and barns on permissions 8/3030970/6 and 8/30971/6.
- 2003 (8/36153/3) Permission to replace existing timber stables and barn with steel frame and block building to include tack room, fodder and implement store and toilet.
- 2008 (07/0647/FUL) Permission granted on appeal for gypsy caravan site for 3 families, together with 2 transit pitches, including the laying of a hardstanding and erection of toilet blocks.
- 2008 (EA829) Enforcement Notice upheld on appeal in respect of the change of use of the land from keeping of horses to a mixed use for keeping of

horses and stationing of residential caravans/mobile homes together with associated works, structures and paraphernalia including the deposit of broken bricks, broken concrete, demolition materials, crushed stone and road planings to create a hardstanding, the installation of kerbs, construction of toilet block and sheds, erection of close boarded timber panel fencing and lighting columns.

2010 (09/3918C) Extension of existing Gypsy caravan site including laying of hard standing, stationing of 9 caravans for residential purposed (including 3 static caravans) storage of 2 touring caravans, erection of 9 utility buildings and installation of lighting. This application was refused by Board on 5th May 2010. However, due to a clerical error the Decision Notice was not sent out until the 7th September 2010.

POLICIES

Cheshire 2016: Structure Plan Alteration

Saved Policy HOU6 – Caravan Sites for Gypsies

Local Plan Policy

PS8 Open Countryside
GR1 General Requirements for All Development
GR2 Design Requirements for All Development
GR6 Amenity and Health
H7 Residential Caravans and Mobile Homes
H8 Gypsy Caravan Sites

Other Material Considerations

Circular 01/2006 – Planning for Gypsy and Traveller Caravan sites
The Gypsy and Traveller Accommodation Assessment 2007 (GTAA)

Designing Gypsy and Traveller Sites – Good Practice Guide, Communities and Local Government 2008.

Model Standards 2008 for Caravan Sites in England, Communities and Local Government.

Appeal ref. APP/B0610/A/08/2071405 Horseshoe Farm, Moston. Change of Use to Use as a Residential Gypsy Caravan Site for 3 Families and 2 Transit Pitches.

Appeal ref. APP/R0660/A/10/2131930: New Start Park, Wettenhall Road, Reaseheath, Nantwich. Change of Use to Use as a Residential Caravan Site for 8 Gypsy Families.

Planning Policy Guidance (PPG) 18: Enforcing Planning Control.

CONSULTATIONS (External to Planning)

Highways: No objection

Environmental Health: If planning permission were granted a site licence would be required under the Caravan Sites and Control of Development Act 1960.

VIEWS OF THE PARISH / TOWN COUNCIL:

Parish Council objects to the application on the following grounds:

1. The council believes that there is no proven need to double the area of this site.
2. That Traveller allocation for the area has already been met and there is no requirement to approve this application.
3. That the Parish Council understands that this site does not have legal status and that any further approval would exacerbate the issue.

OTHER REPRESENTATIONS:

Objections from:

- Warmingham Parish Council (Adjacent Parish);
- Anonymous letter and email correspondence from a person who failed to provide an address,
- The occupiers of Home Farm, Warmingham Lane, Brook Farm, Clay Lane and the Old Hough, Forge Mill Lane all in Warmingham.
- Additional anonymous email objections have been received on behalf of a Local Residents Group and Cheshire Residents' Concerns

An email has been received asking a number of questions relating to consultation letters, the officer recommendation, enforcement history and questions the accuracy of comments made by the planning agent for the application.

An anonymous letter has been received objecting to the application in principle and suggesting that Travellers do not by their nature require permanent sites

The material planning points raised are:

- Conditions attached to the previous permission have been consistently ignored and there is no confidence that any new conditions will have any effect on the activities;
- The scale of the new site is unsuitable to the location;

- The proposed Localism Bill intends to close loopholes relating to retrospective planning applications such as this. Therefore, refusal of this application and enforcement of the original conditions would be in line with government policy;
- The site is not an official Gypsy site and the occupiers have continually ignored the original planning permission. Also, there are always more vehicles/caravans than permitted;
- The Agent for the applicant states that the approval would contribute 6 pitches towards the (alleged) unmet need. The extension would do nothing to add to the existing totals and consequently his reasons for granting permission are not valid and should be disregarded.
- The latest Gypsy and Traveller count indicates that there is a downward trend in the number of caravans within Cheshire East.
- The scale of this application is the same as the previous application and therefore in the interests of consistency the application should be refused.
- The Middlewich area CW10 has a disproportionate number of Gypsy and Traveller to residents compared to other areas in Cheshire East.
- There is already too much light pollution and noise coming from the site.

Additional comments have been received by email relating to typographical errors in the report. This error in the wording of Condition 3 has now been corrected.

Letters of support have been received from the occupier of West Farm, Warmingham Lane; 24 Booth Lane, Middlewich; 21 Coppice Drive, Middlewich and Snip Inn Barbers, Middlewich Road, Sandbach.

APPLICANT'S SUPPORTING INFORMATION:

Design and Access Statement

The Design and Access Statement dated 20th December 2010 submitted by Philip Brown Associates with this application states that the application is designed to meet the reasons for refusal of the previous application ref 09/3918C.

The salient points of the statement are as follows:-

The revised application provides for 3 residential pitches and 2 transit pitches (as amended).

The statement describes that this application is for an extension of the authorised site including re-organisation of the existing site. The site would still only accommodate 9 caravans including 3 static mobile homes for use as living accommodation.

A manege is proposed, utilising part of an existing, and lawful, hard standing area. However, this area has been excluded from the application site, but is in the ownership of the applicant and its use can be made the subject to a planning condition.

The proposed layout of the site includes grass amenity areas, parking facilities for 14 vehicles and turning facilities.

Although the provision of the manege, amenity open space, boundary landscaping has resulted in the western extension of the caravan site beyond its previously approved boundary, such extension ensures that:

- Firstly, all horse related activity is kept separate from the residential area where children may be playing,
- Secondly, that all residential activity is contained within well defined boundaries.

The site is already well screened by existing buildings and hedgerows. These would be supplemented by tree and hedge planting along the western and northern boundaries of the site. In addition, tree, hedge, and shrub planting would be carried out either side of the site access, and between caravan pitches. This will screen and break up the mass of caravans on the site, and help assimilate them into their landscape setting.

The area occupied by hard standing has been substantially reduced since the last application. In particular, each residential pitch would now have a private grassed garden area, and a large communal open space would be created in the middle of the site for children's play.

In terms of planning policy, the development plan pre-dates Circular 01/2006 and hence fails to reflect up-to-date Government advice. The Circular makes clear that in principle Gypsy sites are acceptable in the countryside.

In the case of the site at Horseshoe Farm, the extended site would contribute 5 pitches towards meeting the unmet need within the timescale envisaged by Circular 01/2006 (i.e. before the end of February 2011). I therefore trust that you look favourably on my client's proposals, which will assist the Council in meeting its obligations to the gypsy/traveller communities.

OFFICER APPRAISAL

Introduction

Permission was granted on appeal (ref APP/B0610/C/08/2073155) for the use of the part of the land as a residential caravan site comprising:

- 3 pitches for permanent residential occupation,
- 2 pitches for visitors in transit
- an overall maximum of 9 caravans.

However, the occupiers increased the physical size of the site prior to the decision date, giving rise to issues relating to the enforcement of the conditions attached to the appeal decision.

The extended part of the site is covered by an enforcement notice which prevents its use as a residential caravan site. The area of the site granted consent is not covered by the enforcement notice but is being occupied contrary to controlling conditions in the previous permissions: specifically Condition 3 which requires the approval of a development scheme, by the Local Planning Authority, within 3 month of the date of the permission. Failure to meet this requirement or to submit an appeal required the site to be vacated.

This report is not designed to provide an in-depth assessment of the expediency and course of enforcement action that may be taken. However, it is appropriate to confirm that, for the reasons stated above, that the occupation of the site is unauthorised and in breach of planning control at present.

When considering breaches of planning control, guidance contained with PPG.18 (Enforcing Planning Control) suggests where development can be made acceptable, local planning authorities should invite a planning application in order to impose controlling conditions.

Given that:

- the appeal Inspector considered the site to be acceptable location for this land use
- the fact that the development does not include additional caravans or pitches
- the traveller site need circumstances for Cheshire East remain the same as those considered at the last appeal relating to a Gypsy and Traveller caravan site (New Start Park, Reaseheath),

it is considered that the unauthorised development can be made acceptable by the imposition of conditions to a planning approval.

An earlier planning application to regularise the situation (09/3918C) was refused for the following reason:

The scale of the development to which this application relates is inappropriate in this location within an area of predominantly open rural countryside and as such is contrary to criterion (III) of Local Plan policy

H8. In particular the extension of the site further westwards and the parking area and associated 1.8 metre high earth mound projecting from the northerly end of the site into part of the adjacent field would have a detrimental effect upon the character and appearance of the surrounding locality contrary to policies GR1 and GR2 of the adopted Congleton Borough Local Plan First Review.

The above application proposed that the site be used to accommodate 9 residential pitches and the storage of 2 towing caravans (11 caravans in total).

The assumption that the site could be used to accommodate for 9 pitches was the applicant's interpretation of the Planning Inspector's decision notice (they believed consent was granted for the use of the site for a Gypsy caravan site for 3 families, together with 2 transit pitches and that no more than 9 caravans, of which no more than 3 shall be a static or mobile home).

This interpretation was contrary to that of the Authority which was that the permission allowed for 5 pitches in total of which 2 were to be transit.

In order to achieve an improved scheme and limit the impact on the landscape character of the surrounding area, negotiations took place with the occupiers which resulted in the submission of this revised application.

The current application returns the number of pitches to 5 (3 permanent residential and 2 transit) and the maximum number of caravans to 9 and it deletes the westward extension and mound which were the substance of the refusal in 2010.

Planning Policy

When considering the appeal against the Authority's refusal of planning permission in 2008, the Inspector indicated that Local and Structure Plan policy relating to the Gypsy and Traveller sites was based on guidance contained in Circular 1/94. However, this document has now been superseded by Circular 01/2006. Therefore, he gave particular regard to the new document.

In a recent appeal decision against the Authority's refusal of planning permission for use of land as a residential caravan site for 8 Gypsy families in Reaseheath, Nantwich, the Inspector stated that:

"The Secretary of State has recently announced an intention to revoke Circular 01/2006, describing it as "flawed". No timing of such revocation has yet been announced and he has indicated that an impact assessment is required. The Secretary of State's announcement is clearly a material consideration which must be taken into account, and effects the weight that can be attached to the Circular as a statement of Government policy, albeit that it remains in place for the time being with, as yet, no draft replacement."

The Inspector went on to describe 01/2006 as the most up to date and authoritative document. Since then Bob Neil MP, Parliamentary Secretary of State, has written to Stephen O'Brien MP and has further emphasised that both

Circular 01/2006 and Circular 4/2007 will be replaced. Furthermore decision makers are “entitled to have regard to the fact it is proposed to withdraw them”. This further reinforces a somewhat unsatisfactory policy position whereby Circular 01/2006 remains extant but there is a firm intention to replace it with as yet unknown new guidance. Accordingly we advise that the Council must take account of the Circular guidance but accord it less weight than a fully fledged and up to date Government Circular.

Human Rights and Race Relations

Circular 01/2006 advises that Local Planning Authorities should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of the individuals concerned.

Article 8 of the Human Rights Act 1988 states that everyone has the right to respect for his private and family life, his home and his correspondence. It adds there shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals or the protection of the rights and freedoms of others.

The applicants are Irish Travellers, a racial group protected from discrimination by the Race Relations Act 1976. Further, Article 14 of the Human Rights Act states that the enjoyment of the rights and freedoms set forth in that Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

In this particular case, the determination of this application will not have a direct impact on the occupier's rights given that the application is for the most part retrospective. Should the application be refused, any resultant enforcement proceedings would only be taken following due consideration of the aforementioned rights.

The impact of the development on the rights of the local residents has been fully assessed, both in this report and the previous appeal decision relating to a Gypsy caravan site in this location and accordingly any impact is considered acceptable.

Principle of Development

There is some debate as to whether the planning permission granted on appeal has been implemented or whether the development that has been carried out 'on the ground' is actually a different development. However, it is clear that the majority of the proposed site has genuinely been occupied as a Gypsy caravan site, in line with the 2008 appeal decision, albeit in breach of conditions attached to this permission.

To attempt to refuse the current application on matters of land use principle would almost certainly be unsustainable at appeal, since it would be contrary to the 2008 appeal made to the Planning Inspectorate when the land use issues

were considered. The Council would be at significant risk of a successful claim for costs if it chooses to refuse the application on these grounds.

Comments have been received claiming that this area of Cheshire East has a disproportionate number of Gypsy and Traveller sites. This issue is not considered material to this particular application because the appeal decision previously considered the number of pitches and location of the site to be acceptable.

Need

The residential accommodation need for the three former Boroughs now comprising Cheshire East was summarised in the GTAA as follows:

Former Authority	Current authorised provision (pitches)	Total additional residential need (pitches) 2006 – 2011	Supply of pitches (1 pitch per year allowance for turn over)	Total additional residential need (pitches) 2011 – 2016	Estimated supply of pitches 2011 - 2016	Total additional residential need (pitches) 2006 – 2016
Congleton	74	22 – 30	5 + 5 Horseshoe Fm + 3 Five Acre Fm	14 – 16	5	26 – 36
Crewe & Nantwich	27	5 – 11	Nil + 3 at Wybunbury	5 – 6	Nil	10 – 17
Macclesfield	0	0 – 1	Nil	*0*	Nil	*1*

The revised application now under consideration indicates that the total number of caravans stationed on the site will be 9, which is inline with the maximum allowed by the aforementioned appeal.

Given that there is no additional pitch provision proposed by this application, issues relating to need and sustainability do not require consideration as these matters were addressed by the Inspector when granting permission in 2008 and remain unchanged.

Member's attention is also drawn to the recent appeal decision involving 8 residential caravan pitches for Gypsy families at New Start Park, Reaseheath, Nantwich. The Inspector concluded that the figures referred to in the GTAA and the Panel Report in respect of the Partial Review of the North West Plan, Regional Guidance provide a good starting point to the assessment of need as referred to in the Questions and Answers section of the Chief Planners (DCLG) letter to Chief Planning Officers in England dated 6th July 2010 informing that regional strategies were being revoked. The Panel's report concluded that the need in Cheshire East to 2016 is for an additional 74 permanent pitches and the requirement to 2011 would be for a minimum of 27 additional permanent pitches.

The Inspector then went on to say that the new sites approved in the Cheshire East area since the GTAA was published in 2007, including Horseshoe Farm, have made little inroad in satisfying the identified need.

The Inspector stated that there was little or no prospect of the Council being able to successfully address the challenge in Circular 01/2006 to increase significantly the number of Gypsy and Traveller sites in appropriate locations

and concluded that there was urgent and substantial unmet need for permanent residential pitches for Gypsy and Travellers in Cheshire East.

This statement confirms that the pitch provision at Horseshoe Farm was included in the assessment and therefore the loss of this provision would result in a reduction in the already deficient pitch provision in Cheshire East.

Scale

The previous application ref. 09/3918C was refused predominantly due to the increased size of the site to facilitate the additional pitches. The size of the site is similar to that previously refused, although the small intrusion into open countryside on the northern boundary has been removed and the manege area omitted because the manege was granted consent by virtue of a previous permission ref. 8/31265/3. These omissions result in a site which measures approximately 4000m², which equates to 800m² per pitch based on five pitches. This ratio is similar in comparison to a recently approved residential caravan site for Gypsies in Reaseheath ref. 09/4331N which equated to 814m² per pitch.

The size and number of caravans which make up a pitch is not defined and can vary upon the size of the dependant family in the same way as a settled household varies. However, the GTAA concluded that the average was 2 caravans per pitch. Although 5 pitches are proposed here, the maximum number of caravans would be limited to 9.

Design

The layout of the site consists of:

- Three caravans, (each on a concrete base) adjacent to the boundary with Warmingham Lane (2 transit pitches).
- Three mobile caravans (each on a concrete base), one adjacent to the southern boundary, one adjacent to the western boundary and one adjacent to the northern boundary. Each of the mobile homes is accompanied by a smaller towing type caravan to make up the pitch.

The site also contains 5 utility buildings (3.7m x 2.2m x 2.8m high) with a concrete pebble dash finish to the walls and a profiled steel roof. The proposal also includes an amenity block comprising 2 units (6m x 4m x 3.9m high) placed side by side. This building would be located in the south west corner of the site and would be of rendered finish with light weight roof covering to give a tile like finish.

3 grassed areas would be provided which could be utilised as garden space, 2 adjacent to two of the residential pitches and the third close to the amenity block. A fourth amenity area would be provided within the centre of the site with a 0.5m high trip rail around the parameter to help prevent children from inadvertently coming into contact with vehicles manoeuvring around the site. The remainder of the site would retain the current gravel finish, which will also provide for the on-site parking. The submitted plan indicates 11 parking spaces. However, it is envisaged that these will not be formally laid out.

The layout of the site with a central play area surrounded by the caravans and the provision of the amenity and utility buildings is in line with advice contained within *Designing Gypsy and Traveller Sites – A Good Practice Guide*. The guidance also recommends the inclusion of individual garden areas for each pitch where space permits.

The size and layout of the site as approved on appeal failed to meet the criteria set out in the Good Practice Guide in terms of layout design and lack of amenity space. The absence of amenity space would have also been contrary advice contained within Model Standards for Caravan Sites document.

The southern and eastern boundaries are well defined by substantial native hedging. The southern boundary also includes a 1.8m concrete post and wooden panel fence. However, the remaining boundaries have a more open character with low ad hoc walls and post and rail fencing defining the limits of the site.

The previous application (09/3918C) was refused due to, amongst other things, the detrimental effect upon the character and appearance of the surrounding locality. The removal of the parking area and earth mound to the north greatly reduces the effect on the character of the surrounding area. The design of the site would now follow a similar rectangular pattern to that of other parcels of land within the vicinity.

The introduction of trees and hedgerows of a native variety can help sites to blend into their surroundings, give structure and privacy, and maintain amenity. However, enclosing a site with too much hard landscaping, high walls or fences can give the impression of deliberately isolating the site and its occupants from the rest of the community and should be avoided.

The submitted plan indicates that landscaping will be provided both on the inside of the site and along the northern and western boundaries. Nevertheless, further detail, including species and planting density will be required. It is considered that this issue can be dealt with by the use of a planning condition.

The revised application does not specify the number, location, or type of lighting to be used. However, once again this can be controlled through the use of an appropriate planning condition.

Amenity

The impact of the development on the amenity of nearby residents was considered by the previous appeal Inspector. Even though the site is larger than that approved by the Inspector, the additional area is to the rear of the site and the nearest residential properties are still a considerable distance away. Consequently, it is not considered that adjacent occupiers would be unduly disturbed as a result of the larger development.

Ecology

The previous application did not raise any concerns relating to ecological impact of the development. No additional hard standing

areas are proposed by this application therefore, it is considered that there will be no material change in circumstances.

FURTHER INFORMATION

The application was originally presented to Board on the 9th March 2011. The Committee resolved to defer a decision pending the receipt of further information relating to:

1. The Current Legal Status of the Site, including the Enforcement Position

Use of part of this site and the subject of part of this application was granted consent on appeal. However, a number of conditions attached to this permission were not met meaning that the occupation of that part is currently unauthorised.

The area of the residential caravan site which is outside the area granted consent previously is within an area covered by an enforcement notice. Therefore, the use of the land is liable to enforcement action. However, the service of additional enforcement notices and prosecution proceedings was not considered appropriate in this case because it was felt that the harm caused could be remedied by conditions attached to a planning approval if granted.

Once this application was received, further action was put on hold until the final outcome of this application is decided.

2. The Impact of the Development on the Human Rights of the Settled Community

Circular 01/2006 requires a Local Planning Authority to consider the consequences of granting permission on the rights of the local residents.

The impact of the development was considered by the Inspector as part of the appeal procedure and found to be acceptable. Whilst this application relates to the formation of a physically larger site, the proposal is not considered to have a materially greater impact on the human rights of the settled community within the vicinity of the site.

3. Liaison Group

The applicant has confirmed through his agent that he is will to enter into a unilateral undertaking to participate in a liaison group which has the remit of discussing issues relating to the running of the site. This offer has been welcomed by Planning Officers.

However, Legal has pointed out that this type of agreement would fail to meet the criteria set out in Circular 05/2005: Planning Obligations because it does not:

- (a) Resist use or development,

- (b) Require specific operations or activities,
- (c) Require the land to be used in a specific way
- (d) Require the payment of money.

Paragraph B3 of Annex B to the Circular explains that the objective of a planning obligation is 'to make acceptable development which would otherwise be unacceptable in planning terms. This advice was reinforced in Annex B of a letter to Chief Planners for DCLG dated 31 March 2011 which states: *obligations must be necessary to make the development acceptable; directly related to the development; and fairly and reasonably related in scale and kind to the development.*

They add that they don't consider that this issue can be dealt with by a condition because such an undertaking is not material to the planning merits of the proposal.

4. Intensification of Gypsy and Traveller Sites in the CW10 Area

Whilst this issue was not part of the reason for deferral, it was a matter raised by the Committee during debate of the item.

A plan showing the location of Gypsy and Traveller sites throughout Cheshire is reproduced within the key plans. It does not show an over-concentration of traveller sites in the CW10 area sufficient to warrant a reason for refusal on these grounds. Moreover, any site chosen for traveller use must be assessed against the criteria set out in Circular 01/2006. In this particular case, the site was assessed against these criteria by a Planning Inspector as part of an earlier appeal. He found the land use to be acceptable. Consequently, again this indicates that a reason for refusal based on land use grounds would be difficult to sustain as there is known need for traveller sites in the Borough and the site has been found suitable for this use by the Planning Inspectorate previously.

CONCLUSIONS

As set out above the current activity on the site is unauthorised. However, it is also evident that the primary intention of the previous appeal decision has also been carried out. The predominant element of that permission - the use of the land as a residential caravan site for the occupation of 3 Gypsy families - has taken place, albeit contrary to a number of planning conditions.

This application, if approved, would result in new stand alone permission together with the introduction of a new set of enforceable conditions. As such it will make a valuable contribution to meeting the need for gypsy and traveller provision in the Borough at a time when that provision is not being adequately met.

It is considered that the additional space for the occupiers is justified in order to provide acceptable levels of amenity space for the occupants, especially the

children and safe manoeuvring room for vehicles associated with occupation of the site.

The visual intrusion of the site can be mitigated by the introduction of appropriate landscaping both within the site and along the northern and western boundaries which will help to screen and soften the visual impact of the caravans and associated buildings.

Given that the proposal does not introduce additional pitch requirement over that already approved, subject to the introduction of appropriate conditions in line with those attached to the previous consent, via appeal, ref. 07/0647/FUL, the proposal is considered to satisfy the appropriate adopted local plan policy, and guidance contained within circular 01/2006 and is recommended for approval.

RECOMMENDATION

APPROVE subject to the following conditions:

- 1. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.**
- 2. There shall be no more than 3 permanent residential pitches and two transit pitches on the site and on each of the 3 residential pitches hereby approved no more than two caravans shall be stationed at any one time, of which only one caravan shall be a residential mobile home. No more than 9 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time.**
- 3. The stationing and or occupation of any caravan(s) located on the transit pitches as identified on the approved site plan ref 10/4977C/1 shall be limited to a period not exceeding 13 weeks in any calendar year.**
- 4. The use of the land as a caravan site hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use (including the areas of hard standing /surfacing) shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-**
 - i) within 3 months of the date of this decision a Site Development Scheme (the scheme) shall have been submitted for the written approval of the local planning authority indicating (a) the layout of the site including the siting of caravans/plots, hard standing areas for roads/parking, storage and recreational/open space areas, (b) the means of foul and surface water drainage, (c) the landscaping of the site including the retention and enhancement of the existing hedgerow along the highway boundary, the creation of earth mounds parallel to the western boundary and at the entrance to the site together with proposals for the maintenance thereof and, (d) external lighting (whether fixed to a building or freestanding). The**

scheme shall include a timetable for its implementation.

ii) within 11 months of the date of this decision the scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

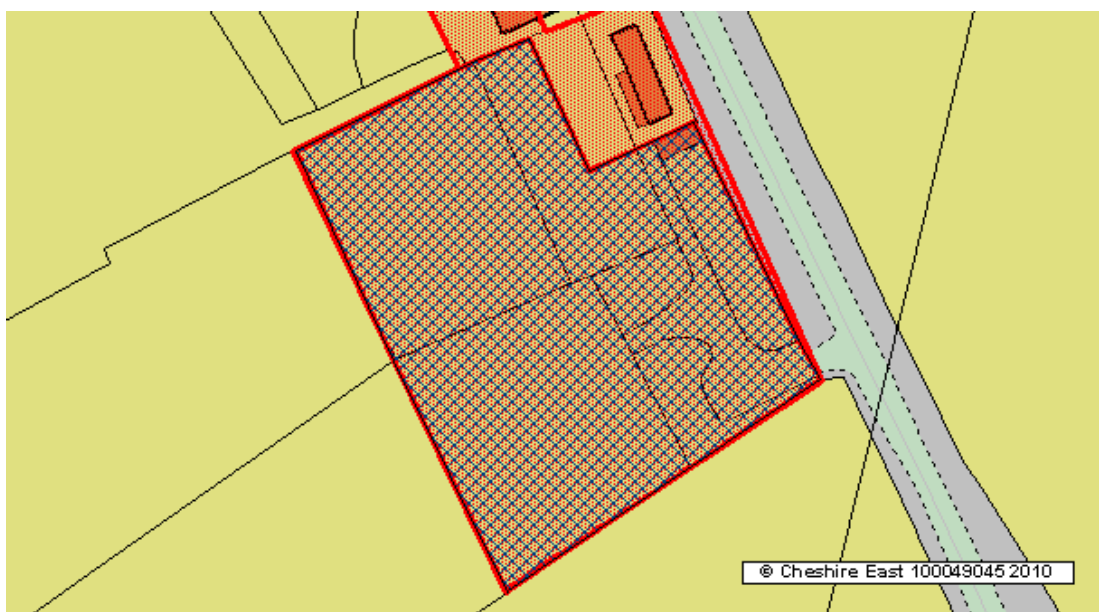
iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the date of this permission and any trees or plants which within a period of tree years from the completion of the development die, are removed , or become seriously damaged or diseased shall be replaced the next planting season with other of similar size and species unless the local planning authority gives written consent to any variation.

6. No commercial activities, including the storage of materials, shall take place on the land.

7. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site without the prior written agreement of the local planning authority.



Planning Reference No:	09/2806W
Application Address:	Mere Farm Quarry, Chelford Road, Nether Alderley.
Proposal:	Extension to sand workings
Applicant:	Hanson Quarry Products Europe Ltd, Hanson House, 14 Castle Hill, Maidenhead, Berkshire, SL6 4JJ
Application Type:	Major mineral application
Grid Reference:	382310 375011
Ward:	Bucklow Alderley
Expiry Dated:	13 Dec 2009
Constraints:	Manchester Airport Safeguarding, Wind Turbine consultation area, Green Belt

SUMMARY RECOMMENDATION:

Approve subject to conditions and amended Section 106 legal agreement

MAIN ISSUES:

Validity of application

Need for sand extraction

Impact on hydrology

Loss of agricultural land

Protected species

Ecological enhancement and restoration

1. REASON FOR REFERRAL

This application was deferred from Strategic Planning Board on 5th January 2011 for the following reasons:

- (a) For more detailed information regarding proposed mitigation and restoration measures, plus public access to the area after the quarry ceases working; and
- (b) Further consideration to the establishment and operation of a Liaison Committee on the site

2. DESCRIPTION OF SITE AND CONTEXT

The site is located approximately a kilometre east of Chelford, to the north of the A537 and east of the A535, and 8km west of Macclesfield. Access to the quarry is by a dedicated tarmac road with deceleration and acceleration lanes directly off the A537. This access road connects with the processing plant, stockpile area, site offices and car park.

The proposed site is a 6 ha extension to the north west of the existing quarry. This land is currently improved pastureland surrounded by hedges and fencing with occasional mature trees. The land has been classified as grade 2 and 3a agricultural land which is considered best and most versatile.

Immediately to the south of the extension lies the active excavation of the existing quarry with previously quarried areas to the south east now consisting of a large lake. The processing plant, settling lagoons, stockpiles and offices lie approximately a kilometre east of the proposed extension. Beyond a 60 metre wide strip of agricultural land to the west of the site lies the A535.

The closest properties on the A535 are approximately 350m to the south west, whilst Roadside Farm lies 300m to the north with the land falling to Pedley Brook a further 450m north. To the north east of the site and north of the quarry are a number of isolated properties all gaining access off Bollington Lane, with most set within existing woodland. The nearest of these properties to the site is Sandewood Farm which lies approximately 250m to the east. Public footpath Chelford No 2 has been diverted to the north of the existing excavation and currently runs through the proposed site in an east west direction.

Existing screen mounding and tree planting ensures that the majority of active workings or site infrastructure are not visible from either the west (A535) or the south (A537) and existing woodland to the north and east also aid to screen activity.

The quarry has generally been worked from east to west exploiting a sand body that has varied in thickness between 10 and 25m and consists of two deposits separated by a clay band varying from 2 to 4 metres thick. Soils and clay overburden tends to vary in depth between 0.4 to 1.5m. Historic extraction rates for the sand vary between 250,000 and 280,000 tonnes a year, although this rate has dropped in recent years due to the downturn in the economy. The maximum production is equivalent to 42 HGV's a day.

From 1988, the local water table has been reduced by continued pumping to enable sand to be removed down to 60m AOD although recent depths are between 63 and 65m AOD, equal to a working depth of less than 20m. Ground levels outside the quarry vary from 90m AOD to the east of the quarry to 78m to the west.

Sand is excavated by wheeled front loaders and taken by conveyor to a pump house where oversized material (stone) is sieved out and the sand is mixed with water and then pumped by pipeline to the processing plant. Sand is then settled out and the surplus water further settled in lagoons and a large lake, ready for reuse or discharge via pipeline crossing third party land to Pedley Brook.

3. DETAILS OF PROPOSAL

A 6 ha extension to the quarry is proposed in a northern direction. Of the 6 ha, 3.5 ha would be excavated and the remaining 2.5 ha used for screening and soil storage. An additional 500,000 tonnes of sand would be extracted from the area.

There is now less than a year of permitted reserves remaining and the applicant considers the proposed reserves, which are the last available, should provide an additional three years of production, taking working up to the permitted completion date for the quarry of 2014. Six on-site jobs, together with servicing and HGV driving jobs would be safeguarded for the duration of the additional excavation works.

Soils would be stripped from the excavation area and stored in mounds up to 3m high for topsoil and 5m high for subsoil along the north, east and west boundaries of the site or partially used directly to restore other parts of the quarry. Overburden would be relocated to the existing working area to create an island within what would become one of a number of restored lakes.

Existing hours of quarry working are 0730 to 1800 Monday to Friday and 0730 to 1230 on Saturdays, with no working on Sundays or Bank Holidays. The proposed extension would retain these hours.

Restoration of the site is proposed and would result in an additional 3.5 ha of lake, 0.2 ha of marginal habitat and 2.3 ha of woodland. An amendment to the existing proposed restoration of the quarry immediately adjoining the proposed extension would also be required. It is proposed to separate a lake to the south west of the existing quarry, from that now proposed, with a land bridge along which the diverted public footpath No 2 would be relocated (its original route). To the north would be the new lake containing an island and significant marginal habitat. Land to the west, north and east of the new lake would be planted to woodland.

4. RELEVANT HISTORY

Mere Farm Quarry is a large established sand quarry that has operated since the 1970's under several planning permissions, the latest of which is 5/06/02940 granted in June 2008 and permits extraction until April 2014 followed by a comprehensive restoration scheme. The sand extracted, has been used for concrete and building purposes.

5. POLICIES

Regional Spatial Strategy

DP1: Spatial Principles

DP4: Make the best use of existing resources and infrastructure

DP7: Promote Environmental Quality
EM7: Mineral Extraction

Local Plan Policy

Cheshire Replacement Minerals Local Plan

Policy 1: Sustainability

Policy 2: Need

Policy 9: Planning Applications

Policy 15: Landscape

Policy 17: Visual Amenity

Policy 20: Archaeology

Policy 23: Nature Conservation

Policy 25: Ground Water/ Surface Water/ Flood Protection

Policy 26/27: Noise

Policy 28: Dust

Policy 29: Agricultural Land

Policy 31: Cumulative Impact

Policy 33: Public Right of Way

Policy 34: Highways

Policy 37: Hours of Operation

Policy 41: Restoration

Policy 42: Aftercare

Policy 47: Sand and Gravel Area of Search

Macclesfield Borough Local Plan

NE 2: Protection of Local Landscapes

NE 3: Landscape Conservation

NE 11: Nature Conservation

GC 2: Green Belt

RT 8: Access to Countryside

DC 19: Water Resources

Other Material Considerations

Mineral Planning Statement 1

6. CONSULTATIONS

Manchester Airport has raised concerns regarding the possible increased risk of bird strikes and would wish to see a number of conditions added to any permission.

Natural England has not objected to the application but does recommend a condition to protect breeding birds and draws the Council's attention to the regulations governing protected species.

The Environment Agency have been significantly involved with issues relating to surface and groundwater on and around the site, partially in response to complaints and objections received. They originally objected to the proposed development but have, based on further information and negotiation, withdrawn that objection. See later comments on ecology.

The Archaeological Officer has no objection to the proposal subject to conditions relating to a watching brief including advanced notification of commencement and access by the archaeologist to the site.

The Environmental Health Officer raises no objection to the proposal.

The Public Rights of Way Officer raises no objection to the proposal and notes the affect on Public Footpath No 2 Chelford. The standard advisory note covering work on public rights of way is recommended for inclusion within any decision notice.

The Highway Engineer notes that the existing access is to be used and the proposal would not generate more traffic than existing. Therefore, as the existing development has not caused any significant highway issues, he has raised no objection.

The **Council's Ecologist** has no objection to the proposed development subject to conditions to ensure;

- no development within 30m of badger setts
- that a further badger survey is undertaken immediately prior to commencement
- that a standard condition is applied to protect breeding birds
- barn owl boxes are provided
- a detailed landscaping plan is provided
- a management plan is submitted and agreed.

Overall, it is considered the restoration of the quarry is likely to secure significant gains for nature conservation.

The Council Landscape Officer notes that there would be a loss of hedgerow and mature trees and that this would have a moderate impact in terms of landscape impact. Proposed screening, using soils, would effectively screen the site except for users of footpath No 2 during operations. No objections are raised.

7. VIEWS OF THE PARISH / TOWN COUNCIL:

Nether Alderley Parish Council has no objection to the proposed development, but considers it should receive benefits from a Section 106 legal agreement.

8. OTHER REPRESENTATIONS:

Objections have been received from 9 local residents, some of which relate to ongoing neighbour and third party disputes, one of which has now been resolved leading to the withdrawal of an objection. The issues raised were:

- The application is invalid as no ownership (blue line) information has been provided.
- The application boundary doesn't cover the whole development as the full quarry and any discharge routes should be included and owners notified accordingly
- The application should be accompanied by an Environmental Impact Assessment.
- The quarry has caused ponds and brooks to dry out and affect wildlife including great crested newts.
- Great crested newts have been inadequately surveyed.
- The quarry has caused flooding.
- There is no need for the sand. The quarry is big enough already and further green belt and farmland would be lost.
- Noise.
- Promised benefits in terms of restoration are not being delivered.
- The site isn't being adequately maintained

Further representation from Emery Planning Partnership was received in a letter dated 16th March 2011. The salient points were:

- Public access and recreational facilities provided at other quarries in Borough.
- Clarification on mitigation and restoration in terms of planning gain required.
- Liaison group should be set up before committee.
- Hanson's should be responsible for final restoration and future maintenance.
- A statement of future intentions is required.
- Condition required to deal with provision of public access and soft recreational facilities accessible by the public, and replication of current conditions
- When will quarrying cease?
- Minerals Policy Guidance/Statements refer to providing opportunities for communities, conservation and increased public access.

9. APPLICANT'S SUPPORTING INFORMATION:

The application was accompanied by;

- supporting statement,
- revised restoration plan,

- Assessment of Environmental Impact of Noise, prepared by Vibrock Ltd and dated 29/05/2009,
- Ecology Report dated 06/03/2009,
- Agricultural Land Classification and Soil Resource Survey, dated 05/01/2008,
- Landscape and Visual Assessment, dated June 2009,
- Water Issues Assessment, prepared by Entec 20/07/2009, to which were later added;
- Water Features Survey, prepared by Entec dated 14/04/2010
- Flood Risk Assessment prepared by Entec dated 14/04/2010.
- Letter from applicant dated 12 May 2010 enclosing a note on translocation (of GCN's) from ponds within existing permitted area.

10. OFFICER APPRAISAL

Principle of Development

The application is valid as the appropriate forms and plans have been submitted.

It is not necessary to include within the application the remaining currently consented quarry and plant, nor long existing off-site water discharge arrangements as raised by an objector. Moreover, it is not included in this application. The Council therefore has no jurisdiction to look at this.

Prior to the submission of the application, the proposed development was subjected to screening under the Town and Country (Environmental Impact Assessment) (England and Wales) Regulation 1999, and the then Cheshire County Council provided an opinion that an Environmental Statement was not required. This opinion was challenged by a local resident and the views of the Government Office for the North West were sought. The Government Office concurred with the Council that no Environmental Statement was necessary to accompany the application and the application was therefore valid.

Mere Farm Quarry has produced building and construction sand for use in the local economy since the 1970's. The use of the quarry for sand production has therefore been established.

The current planning permission (5/06/2940) requires the completion of extraction and final restoration of the site by 28 April 2014. Reserves of sand in the currently consented area are now becoming exhausted and the operator is now seeking consent to work an additional 3.5 ha area that

would provide 500,000 tonnes of sand over a three year period. The additional extraction would be undertaken within the existing time limits for completion and are proposed to be worked in accordance with existing conditions attached to the quarry's operation.

Whilst the demand for sand is linked to economic activity and therefore has declined in recent years, there is still a need. Mineral Planning Statement 1 emphasises the need to ensure there is an adequate and steady supply of minerals, such as sand, utilised by society and the economy. To meet need, the Statement provides guidance on the provision and maintenance of landbanks, which for sand is set at 7 years supply. The North West Aggregates Working Party established the Cheshire sand reserves at 31st December 2008 as 16.4 million tonnes, which was equivalent to 8.3 years historic supply. Consequently, there is considered to be a need for further reserves to be released.

The proposed extension is located within an Area of Search as identified within the Cheshire Replacement Minerals Local Plan and therefore subject to policy 47 of the Plan which states:

Any additional reserves required to maintain the landbank for sand and gravel will only be permitted from within the Area of Search as defined on the Proposals Map, unless exception circumstances prevail.

The extension site therefore has policy support.

Green Belt and Agriculture

The quarry is within the Green Belt.

Planning Policy Guidance 2: Green Belts, identifies that:

- minerals can only be worked where they are found,
- their extraction is a temporary activity
- mineral extraction need not be inappropriate development or conflict with the purposes of including land in Green Belts provided that high environmental standards are maintained and that the site is well restored.

It is considered that the proposed extension is not contrary to Green Belt policy.

The proposed development will entail the permanent loss of some grade 2 and 3a agricultural land, this being considered the best and most versatile. However, this loss is balanced by the prudent use of a mineral resource

and the restoration of the site to provide biodiversity and the creation of a number of valuable habitats, primarily open water, reedbeds, and tree planting.

Ecology

The site is within the consultation zone for Manchester Airport where development likely to result in increased bird strikes on aircraft can be of concern.

The Airport Authority has made a number of recommendations to be applied as conditions that would reduce any hazard, including:

- constructing the proposed island so that it remains sparsely vegetated,
- reduce shallow margins and plant reeds or emergent vegetation,
- require marginal fencing should Canada Geese become established,
- prohibit feeding and produce a bird management plan.

All are recommended as conditions and could be incorporated within a revised restoration and management plan.

The Council's Ecologist has also recommended conditions, including a detailed landscape plan, that can pick up on the issues above together with a management plan.

In order to access sand below the water table, the quarry workings have been pumped dry since 1988. This has artificially reduced the water table within the area of pumping and surrounding areas. The pumping is only necessary within the area of extraction, so pumping has ceased in those areas worked out, and the water table has returned to approximately original levels.

Surface water flows have also been affected over the life of the quarry. Where surface water originally would have flowed out of the quarry site, it now flows internally into the ponds and lakes created. Therefore, there has been a small impact on watercourses since quarrying commenced.

An existing Section 106 legal agreement attached to the quarry development requires:

- monitoring boreholes to be regularly checked
- flows within Bag Brook to the south of the quarry to be augmented if necessary.

Further augmentation of local ponds is carried out by the operator voluntarily on landowner's requests.

The Environment Agency has noted some discrepancy between existing water discharge consents and actual discharges and is in discussion with the operator to vary or regularise these consents. These are not planning matters.

Waterflows

Surface water on the proposed extension site flows eastwards to a small intermittent watercourse that runs along the east boundary of the extension site. This watercourse then runs in a northerly direction to feed Pedley Brook. The loss of surface water flow from the majority of this 6ha site is not considered to be significant. There will be no impact on surface waterflows within Bollington Pits which is over a kilometre to the east.

Pumping

Objections have been received claiming existing ponds are affected by the pumping exercise and down-draw of the water table and this will be made worse by a further extension to the quarry.

As the underlying geology in this area is sand, ponds can only exist if they are on a perched water table, which in this area is provided by fluvial and glacial clays. Providing the water table isn't in continuity with these clay drift deposits (which doesn't appear to be the case), movements in the water table caused by pumping are not likely to impact on ponds.

Water loss from ponds occurs through evaporation and transpiration and or leakage through an imperfect seal. Water levels within ponds may also be affected by reduced surface flow into them. Historic reduction in surface flows are likely to be related to past excavation. It is considered that the temporary further pumping to the extension site is unlikely to have any additional impact on local ponds.

Flooding

The objection relating to flooding was investigated and found to be caused by woodland clearance unrelated to quarry activity.

Great Crested Newts

The proposed development is not likely to result in an adverse impact upon great crested newts. Whilst earlier phases of the quarry development have encountered the species and mitigation ponds and habitats have been created, it is not considered they are present within the area now applied for.

Badgers

A number of badger setts have been recorded around the site and it is recommended that no disturbance takes place within 30 metres of them. There will also be a slight loss of foraging area and although tree planting is proposed as part of the restoration it is considered an element of fruiting trees should be planted as mitigation. These matters can be controlled by condition and incorporated within detailed landscape and management plans.

Promised Restoration

Local residents have complained that promised restoration and amenity facilities have yet to materialise. However, it should be noted that whilst the restoration will provide such facilities, the site is still an active quarry and subject to health and safety constraints. As such, public access can not at this time be provided within the quarry working areas. The proposed extension would not extend the workings or restoration of the site beyond the consented completion date of 2014.

The Parish Council consider that planning gain should be delivered through a Section 106 legal agreement but have not indicated what is necessary or why. Operators of large facilities, such as quarries, do at times voluntarily offer planning gain and this is often incorporated into a legal agreement. However, Local Authorities can only impose such agreements in cases where the development would be unacceptable without the agreement. That is not the case here.

The existing permissions for the operation of the quarry, including the latest 5/06/02940, granted in June 2008, have approved comprehensive restoration schemes that will return the land to a mix of agriculture, woodland, nature conservation and series of lakes.

The current application would increase the quarry area by 6ha and entail an amendment and addition to the existing restoration within the north-west part of the quarry. An additional 3.5ha of lake, 0.2 of margin habitat (mainly reedbed) and 2.3ha of woodland would be created as part of the overall restoration of the quarry. A detailed restoration plan has been submitted with the application and minor amendments to it, as recommended by Manchester Airport Authority, to minimise the likelihood of bird strike, can be achieved to it by the conditions recommended, namely the submission and approval of a detailed landscaping plan and a habitat and management plan. As indicated in the original committee report, the restoration proposals are considered acceptable.

The restoration scheme does provide significant habitat gain: it is principally for nature conservation, amenity and agricultural use. Aftercare and maintenance of the restored site can be controlled by condition

requiring a 5-year scheme, in view of the nature conservation uses proposed it is recommended this be extended by Section 106 to a total of 15 years, that is an additional 10 years beyond that required by condition.

An existing Section 106 legal agreement requires the monitoring of hydrology in accordance with an approved scheme and augmentation of flows in Bag Brook. These agreements will need to be reviewed within an updated agreement by way of a deed of variation should permission be granted.

Residents have also raised issues over site maintenance and noise. These are issues that have and will continue to be investigated by the monitoring and enforcement officer. The Environmental Health Officer has no objection to the proposed extension, subject to existing conditions including those dealing with noise being applied.

An initial objection regarding a disputed water discharge pipe that has operated since 1988 and handling the flow of surplus water from the site to Pedley Brook has now been resolved between the quarry operator and landowner and the objection removed.

Future Public Access

Existing public rights of way crossing the site and subject to diversion orders, will be reinstated as part of the restoration. The land owners (The Chester Diocesan Board of Finance and Astle Estate) to whom the land will revert once restoration and aftercare periods finish, have indicated they are not prepared to allow public access on their land other than the re-establishment of public rights of way. Furthermore, there are currently no proposals for the future leisure or other recreational use of the site and its lakes. Future uses would need to be subject to further planning applications, should any proposals come forward. There will be public access to the site through the reinstatement of the existing public right of way which would pass through the restoration scheme.

In its previous deliberations the Committee made it clear that there was an expectation that public access should be improved as part of the ultimate restoration scheme. The Council therefore needs to consider the reasonableness of either refusing the application on the lack of access provision or imposing a condition that achieve this objective.

In considering proposals for new mineral extraction, Mineral Policy Statement 1 (MPS1) indicates that local Authorities should:

“Have regard to the positive or negative effects that minerals operations may have on rural communities and the extent to which adverse impacts of such operations could be moderated, but recognise that such developments can often also offer

opportunities for these communities especially at the restoration stage” [Paragraph 14].

When contemplating restoration, Paragraph 19 indicates the Local Planning Authority should:

“take account of the opportunities for enhancing the overall quality of the environment and the wider benefits that sites may offer, including nature and geological conservation and increased public accessibility, which may be achieved by sensitive design and appropriate and timely restoration”

and

“maintain or improve the Public Right of Way network around restored mineral sites as far as practicable”;

Policy 41 of the Minerals Local Plan also underlines that amenity and recreation are important considerations in the restoration of mineral sites.

Given this policy context it appears appropriate to require an enhancement in public access as part of the restoration of the proposed development. The land owners will stand to benefit from the extraction of additional aggregate from the site and this will prolong and extend the life of the quarry; it does not appear at all unreasonable to seek to mitigate this by meeting some of the communities aspirations for better restoration.

In accordance with advice in Circular 11/95 it is only appropriate to link improvement to the development now being considered – it would not be reasonable to revisit the restoration conditions of the wider site. Never the less the proposed extension will create opportunities in the vicinity of the new lake on the northern fringe of the site. A circular walking route could easily be created around this lake by linking up to the restored public footpath and the path within the broad verge of Alderley Road. It is therefore recommended that a scheme for improved public access be required by condition.

Community Payment

The applicant has indicated that they are not prepared to offer a community payment in mitigation for the quarry extension, but will consider any application for community projects made to them under the aggregate tax provisions, independent of the application. There are no grounds upon which a community payment can be required.

Liaison Committee

Further discussion with the applicant (Hanson) has taken place and steps are in hand to establish a Liaison Committee for the site. Members will be aware it is common practice to establish and operate such committees on major mineral and waste sites. Indeed, the nearby Dingle Bank Quarry has an effective committee that has operated for several years.

Whilst Hanson's have indicated a willingness to voluntarily operate a liaison committee, it can and should be the subject of a condition that requires the operator to submit and agree the terms of reference for such a committee and thereafter operate the committee until the site is restored or such earlier time as may be agreed between the operator and the Council.

11. CONCLUSION

The proposed extension to Mere Farm Quarry would enable an additional half million tonnes of sand to be extracted over the remaining three years of the quarry's existing consent. The extension area lies to the north-west of the existing quarry and would involve the progressive excavation of 3.5 ha of agricultural land within a 6 ha field; the remaining land being utilised for soil storage. The extension is proposed to be worked in accordance with the existing conditions applied to the quarry. The existing restoration plan for the quarry, which includes a number of lakes and ponds, tree planting, areas for nature conservation and agriculture, would need to be amended. This will result in additional areas of lake, woodland and habitat creation.

Whilst there would be a small loss of quality agricultural land this is compensated for by the release of sand reserves and restoration that will provide significant biodiversity. It is not considered the extension would adversely impact on protected species.

Development of the quarry over past decades has entailed the local water table being affected by continuous pumping and also led to localised reductions in surface flow. Whilst the water table will rebound once quarrying is completed in 2014, historic impacts on surface flows will remain. It is not considered that the extension will significantly impact on either surface or groundwater flows.

Opportunities for limited additional access exist within the area of the extension - and this can be governed by condition. In addition an appropriate Liaison Committee can be secured through the suggested condition which the applicant is willing to establish.

12. RECOMMENDATIONS

APPROVE subject to entering into a deed of variation to update the existing Section 106 agreement and enter into further agreement to secure an additional 10 year aftercare scheme beyond the five years required by condition and subject to the following conditions:-

1. The replication where relevant of the existing 68 conditions attached to the current permission for the quarry that deal with:

**Duration of working
Hours of working
Traffic
Method of working
Plant and machinery
Noise
Dust
Drainage
Pollution control
Archaeology
Site maintenance
Soil stripping and storage
Restoration
Aftercare
Plus additional conditions;**

2. **No working within 30 metres of badger setts**
3. **Additional badger survey in advance of working**
4. **Protection of breeding birds**
5. **Provision of barn owl boxes**
6. **Submission of detailed landscaping plan**
7. **Submission of a habitat and management plan**
8. **Submission of a proposed scheme for enhanced public access in the vicinity of the extension**
9. **Submission of details of a Liaison Committee to be agreed by LPA, which shall operate until the Quarry is fully restored, unless otherwise agreed**

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CHESHIRE EAST COUNCIL

REPORT TO: Strategic Planning Board

Date of Meeting: 20th April 2011
Report of: Monitoring Officer and Head of Planning and Housing
Subject/Title: The Planning Protocol

1.0 Report Summary

- 1.1 This report attaches as Appendix 1 an amended version of the Planning Protocol that has been developed by a sub-committee of the Constitution Committee. The Strategic Planning Board are asked to review and comment on the revised version.

2.0 Recommendations

- 2.1 That the Strategic Planning Board review the amended version of the Planning Protocol and recommend the amended Planning Protocol to the Standards Committee and the Constitution Committee for inclusion in the Constitution.

3.0 Reasons for Recommendations

- 3.1 Since the adoption of the original version of the Planning Protocol by the Council, updated versions of guidance for Planning Councillors have been published, and additionally the Planning Protocol has been reviewed by the Chairmen and Vice Chairmen of the Strategic Planning Board and Planning Committees, in conjunction with Officers. The Constitution Committee considered that the Planning Protocol should be reviewed more fully, and a Sub-Committee was set up by the Constitution Committee to re-draft the Planning Protocol, and undertake a more comprehensive review of the document.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All Strategic Planning Board and Planning Committee Members

6.0 Policy Implications including - Climate change - Health

- 6.1 None

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

7.1 None

8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)

8.1 None

9.0 Legal Implications (Authorised by the Borough Solicitor)

9.1 There is a risk of legal challenge to the decisions made by the Strategic Planning Board and Planning Committee's if robust and consistent procedures are not in place in line with current national guidance.

9.2 There is also a greater risk of a Local Government Ombudsman complaint being upheld if the Authority does not provide clear, consistent and up to date advice to Councillors on carrying out their duties and responsibilities when determining Planning Applications and considering planning matters.

10.0 Risk Management

10.1 The Planning Protocol, in order to operate effectively, needs to be a document that is reviewed and updated regularly, and those amendments reported to the members of the relevant Committees so that members involved in the planning process are fully aware of the contents and their responsibilities.

10.2 If the reviews and updates do not take place, and members are not made aware of them, a number of risks can be identified:

- Generally, a lack of up to date advice aimed at ensuring the integrity of the planning system for those Councillors involved as Members of the Board or Committees and for those involved as Local Ward Members
- Personal and prejudicial interests and fettering of discretion not being identified and declared at the required times and the appropriate actions carried out as a result
- lack of, or inconsistent, up to date advice concerning how Councillors respond to requests for any meetings with developers, applicants, neighbours, Parish/Town Councils
- lack of, or inconsistent, advice regarding lobbying of and by Councillors and how to react to this
- lack of clarity and inconsistent procedures applied throughout Cheshire East with regard to decision making at Board/Committee meetings

- Complaints to the Local Government Ombudsman being upheld over conduct and matters that occur at Board/Committee meetings and during the conduct of planning applications.

10.3 The updated protocol provides updated guidance and requirements on these points, as well as including a contents page and summary to the document to assist Members understanding and reading of the Planning Protocol.

11.0 Background and Options

11.1 A Planning Protocol was adopted as part of the Constitution by the Council in February 2009, and was expected to be reviewed by both Officers and Members in light of any new Guidance that had been published and the operation of the Planning Protocol following the first few months of the Strategic Planning Board and Planning Committees taking decisions as the Local Planning Authority for Cheshire East.

11.2 Members of Strategic Planning Board may recall that a report was placed before them at their meeting on the 25th August 2010, with an amended version of the Planning Protocol attached for their comment that took into account updated guidance that had been issued since the adoption of the original Planning Protocol. The Planning Protocol was then to be referred, with some further minor amendments, to the Standards Committee and the Constitution Committee prior to final approval by Full Council.

11.3 At the Constitution Committee on the 30th September 2010, Members considered the Planning Protocol before them, and resolved that:

- “(1) The Planning Protocol not be referred to Council for approval at this stage; and
- (2) a sub-committee be appointed, the size, proportionality and membership to be determined in consultation with the Chairman and Group Whips, to be charged with examining the Protocol and, if necessary, redrafting it as a short sensible guide with the assistance of the Officer who drafted the amendments.”

11.4 the Planning Protocol Sub Committee was set up, and met on the 6th January 2011, 8th February 2011 and 7th March 2011. As a result of these meetings, an amended Planning Protocol has now been produced and approved by the Planning Protocol Sub-Committee, and is attached as Appendix 1 to this report.

11.5 The main changes to the Planning Protocol from that previously before the Strategic Planning Board are the form of the document and the inclusion of a Contents page, and Summary sheet.

11.6 The Planning Protocol Sub Committee acknowledged, and members of Strategic Planning Board should be aware that due to the introduction of the

Localism Bill by the Government, further amendments to the Planning protocol are likely to be required in the near future.

- 11.7 This amended version of the Planning Protocol, will be referred to the Standards Committee and then to the Constitution Committee, reporting the decision of the Strategic Planning Board to each of these Committee's.

12.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

None – all public documents

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PLANNING PROTOCOL OF CONDUCT IN RELATION TO THE DETERMINATION OF PLANNING MATTERS

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The aim of this Planning Protocol is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well-founded in any way and **applies to members of the Strategic Planning Board or Northern and Southern Committees when they are involved in the planning process.**

The Members Code of Conduct should be applied throughout the decision making process and this Planning Protocol seeks to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not follow this Planning Protocol you may put the Council and yourself at risk of proceedings on the legality or maladministration of the related decision.

If you have any doubts about the application of this Planning Protocol to your own circumstances you should seek advice early, from the Monitoring Officer, and preferably well before any meeting takes place.

In this Planning Protocol "planning meeting" covers all meetings of the Strategic Planning Board and the Northern and Southern Planning Committees.

SUMMARY

Important things to remember –

1. apply the rules in the Members' Code of Conduct first, which should be complied with throughout the decision making process, and disclose the existence and nature of any interest at the relevant meeting
2. understand what personal and prejudicial interests are, and the consequences and differences of a declaration of either
3. don't make your mind up on how you will vote on a matter prior to the formal consideration of the matter at the meeting
4. be aware that if you do lobby or campaign on a particular issue it may remove you from the decision making process
5. as a cabinet member, don't take part in a planning meeting in a matter that you are considered to be the advocate of a proposal
6. if you are approached for technical planning advice, refer the person to Officers
7. if you attend meetings individually with developers or lobby groups be careful not to put yourself in a position where you appear to favour a person or a group over another
8. if you do attend a meeting make sure it is clear that you do not bind the authority to a particular course of action, or views, and that the meeting is noted in your diary
9. you can ask that Officers attend and/or organise meetings
10. avoid accepting gifts or hospitality from anyone involved in a planning proposal
11. it is not advisable to become a member of a group or organisation whose primary purpose is to promote or oppose specific planning proposals in your area
12. a site inspection is the opportunity to seek information and observe the site not to start the debate into the merits of the application
13. you can call-in an application to be determined by Committee that would otherwise be delegated to Officers, and can seek advice from officers over the wording

14. you can discuss applications with Officers but the Officer must be able to reach their own conclusion
15. make sure you are present at the planning meeting for the entire item, including the Officers introduction and update, otherwise you cannot vote on that item
16. not to allow members of the public to communicate with you during planning meetings
17. you may exercise your public speaking rights at a planning meeting if you cannot attend the meeting as a member of the Committee
18. make sure your decisions at a planning meeting take into account the development plan and other relevant material planning considerations
19. put your and your local community concerns forward at the planning meeting, and consider whether planning gain requirements under s106 could help make acceptable development that would otherwise be unacceptable in planning terms
20. include the content of s106 agreements in the debate at a planning meeting
21. if you are proposing or seconding a decision that is contrary to Officer recommendation that you need to identify the planning reasons with the assistance of the Officers for doing so
22. you should try to attend all training sessions arranged by the Council

This summary provides a list of the main points to remember while the body of the Protocol provides more detailed information, explanation and assistance.

1 DEVELOPMENT PROPOSALS AND INTERESTS UNDER THE MEMBERS' CODE

- 1.1 It is your responsibility to declare the existence and nature of any interest, including any perceived interest, at the relevant meeting, including informal meetings or discussions with Officers and other Councillors. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. The requirements for you to declare any interest apply whenever you are in attendance at a meeting, regardless of whether you are a member of the Committee or not.
- 1.2 Where your interest is personal and prejudicial:-
- You cannot participate in, or give the appearance of trying to participate in, the making of any decision on the matter by the planning authority, including the processing of the application. You must withdraw from the meeting room when the matter is announced unless you are exercising your public speaking rights. Please see section 10 for your right to attend and make representations under the Public Speaking Protocol.
 - You shouldn't try to represent local, Ward or Area views, get another Member to do so instead.
 - Be careful not to seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a personal and prejudicial interest in a proposal, using your position to discuss that proposal with Officers or Councillors when other members of the public would not be able to do the same.
 - Whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal and prejudicial interest to an appropriate Officer, in person or in writing, be aware that the Code places greater limitations on you than would apply to a normal member of the public.
- 1.3 You do need to notify the Monitoring Officer and Head of Planning and Housing in writing if you are submitting your own application, or if you are employed as an agent and:-
- The notification to the Monitoring Officer and the Head of Planning and Housing should be made no later than submission of the application;
 - the proposal will always be reported to a planning meeting and not dealt with by Officers under the scheme of delegation; and
 - it is advisable that you employ an agent to act on your behalf on the proposal in dealing with Officers and any public speaking at the planning meeting (where appropriate) to avoid public criticism

- you can make written representations to Officers about the proposal and may address the planning meeting pursuant to the Public Speaking Protocol subject to certain additional restrictions.

2 PRE-DETERMINATION (FETTERING DISCRETION) IN THE PLANNING PROCESS

- 2.1 Councillors of the planning meetings should exercise an independent mind and decide proposals in accordance with the relevant planning considerations, so must not favour any person, company, group or locality or commit themselves to a particular point of view on a planning application prior to its full consideration at the Council's planning meetings. Not to do so puts the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- 2.2 In order to avoid pre-determination and therefore your ability to participate in planning decision-making wait until the formal planning meeting to hear the Officers presentation, any public speakers and arguments on both sides before expressing your view on an application.
- 2.3 Take care in the wording of your planning reasons on a call-in that you do not suggest that you have already formed a view on the application, if you have not done so, and have therefore pre-determined the application. Seek advice on this from Officers if necessary prior to completion of your form. Wording such as "I consider that this application may raise issues of ..." will help avoid claims of pre-determination if you have not done so.
- 2.4 If the Council is the landowner, developer or applicant and you have acted as, or could be viewed as being, a chief advocate for the proposal then you are likely to have pre-determined the application. (This is more than a matter of dual membership, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- 2.5 You are always free to listen to a persons point of view about a planning proposal, give basic procedural advice and can agree to forward any comments, but beyond this you should refer the person to the appropriate planning Officer.
- 2.6 If there are other ward Councillors available that do not sit as a member of the same planning meeting then they will not be subject to

the same restrictions regarding pre-determination and can therefore be an alternative contact for members of the public or lobby groups.

- 2.7 Political group meetings prior to the planning meeting should not determine how you or other Councillors should vote. There is no objection to a political group having a predisposition, short of predetermination, for a particular outcome or for you to begin to form a view as more information and opinions become available but you should not make up your mind until you have read the planning Officer's report and update and heard any further representations and the debate at the planning meeting.
- 2.8 You should not speak and vote on a proposal as a member of the planning meeting where you have pre-determined an application. You are not legally obliged to withdraw from the room but in most circumstances doing so will counter any suggestion that you influenced the remaining members by your continued presence. If in any doubt you should seek advice from the Monitoring Officer. If you do not withdraw, as a minimum you must withdraw to the public area of the meeting room for the whole of the consideration of the matter, whether or not you are also exercising your right to speak.
- 2.9 If you have pre-determined an application you should explain that you have, or could reasonably be perceived as having already made up your mind on an application so that this can be recorded in the minutes. You may then exercise separate speaking rights, where you do wish to speak:
 - advise the democratic services Officer or Chairman that you wish to speak in this capacity before the planning meeting;
 - remove yourself from the member seating area to the public gallery for all of that item and consider whether you need to leave the room; and
 - ensure that your actions are recorded in the minutes.

3 MEMBERSHIP OF PARISH COUNCILS AND OUTSIDE BODIES

- 3.1 The Members' Code of Conduct provides for a presumption that you may regard yourself as not having a personal interest in matters which relate to specific organisations and if you do not intend to speak on the matter at the planning meeting.
- 3.2 You do need to exercise your discretion in deciding whether or not to participate in each case and where you have been significantly involved in the preparation, submission or advocacy of a planning proposal on behalf of :`
 - (a) another local or public authority of which you are a member; or
 - (b) a body to which you have been appointed or nominated by the Council as its representative; or

(c) you are a trustee or company director of the body submitting the proposal and were appointed by the Council

you should always disclose a prejudicial as well as personal interest and withdraw from the planning meeting.

3.3 Where you do intend to speak on a matter at the planning meeting, or are unsure if you wish to do so, it is advisable to declare that interest at the start of the meeting, although you are not legally obliged to.

3.4 You can take part in the debate on a proposal when acting as part of a consultee body for a planning application (where you are a member of the Parish Council, for example), provided:

- the proposal does not substantially affect the well-being or financial standing of the consultee body;
- you make it clear to the consultee body at the time they consider the matter that:

(a) your views are expressed on the limited information before you only;

(b) you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Planning meetings and you hear all of the relevant information; and

(c) you will not in any way commit yourself as to how you or others may vote when the proposal comes before the planning meeting;

and you disclose the personal interest regarding your membership or role when the planning meeting comes to consider the proposal.

4 CABINET MEMBERS

4.1 There is no Constitutional or legal reason why a Cabinet member should not also be a member of the planning meeting and take part in the decision-making processes which are not part of the executive function.

4.2 You should not speak or vote as a member of any planning meeting on any matter which you have discussed at Cabinet unless you have demonstrated there, and can do so at the relevant planning meeting, that you have not predetermined the application.

4.3 At a planning meeting on a matter in which you may have been seen as advocating a proposal as a Cabinet Member, and so pre-determined the matter, do not take part in the debate, but you can exercise separate speaking rights under the Public Speaking Protocol provided you do not have a personal and prejudicial interest. Where you do wish to speak :

- advise the democratic services Officer or Chairman that you wish to speak in this capacity before commencement of the item;
- remove yourself from the member seating area to the public gallery for the duration of that item and consider leaving the room after you have spoken; and
- ensure that your actions are recorded in the minutes

5 CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS

- 5.1 If you are approached for technical planning advice you should refer the person to Officers, and can always refer a person to Officers if you are uncomfortable giving procedural or other advice.
- 5.2 Where you feel that a formal meeting would be useful in clarifying issues, you should request the Head of Planning and Housing to organise this. The Officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action and that views expressed are provisional, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the planning meeting.
- 5.3 If you are invited to attend a meeting with applicants, developers or groups of objectors you should exercise care particularly between the submission of an application and the planning meeting where it is to be determined. You can attend meetings but need to be careful not to express views or opinions on the application if you are intending to take part in the planning meeting.
- 5.4 In addition you should consider:
- the advice on lobbying;
 - whether or not it would be prudent in the circumstances to make notes when contacted;
 - notifying the Head of Planning and Housing of any significant contact with the applicant and other interested parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file;
 - asking relevant questions for the purpose of clarifying your understanding of the proposals but do not express any strong view or state how you or other Councillors might vote.
- 5.5 Don't attend a planning presentation unless an Officer is present and/or it has been organised by Officers, as it is a form of lobbying and you need to be careful not to express any views on the application or give the impression you have made up your mind.
- 5.6 Remember that a presentation is not part of the formal process of debate and determination of any application, this will be carried out by

the appropriate planning meeting of the planning authority, but you are able to ask relevant questions for the purposes of clarifying your understanding of the proposals.

6 PRE-APPLICATION DISCUSSIONS

- 6.1 It is recognised that pre-application discussions can be of great benefit to the planning process, however, this may create some risks for Councillors and for the integrity of the decision making process and therefore they should only take place within clear parameters and governance arrangements and always with Officers present and a written record of the discussions made and kept.
- 6.2 If you are involved by an Officer in pre-application discussions ensure that it is made clear that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional, as by their very nature not all relevant information will be available and no formal consultation will have taken place.
- 6.3 Officers should deal with any queries or give advice in pre-application discussions upon policies within the Development Plan and other material considerations that may be relevant to a particular proposal or be drawn into negotiations. This ensures a consistent and co-ordinated approach from the Council.
- 6.4 Where there is a legitimate reason justifying non-disclosure respect a request for confidentiality. Seek advice from the Officers present if you are unsure.
- 6.5 Make sure you provide information on matters of fact, local knowledge and geography to any pre-application meeting rather than dealing with the merits of any proposed application.
- 6.6 Make sure you do not use your position to improperly influence decisions in pre-application meetings.
- 6.7 You can ask an Officer for a briefing or update on the content of pre-application meetings if you are uncomfortable about attending those meetings yourself.

7 LOBBYING OF PLANNING COMMITTEE MEMBERS

- 7.1 While you can listen to those lobbying or attempting to lobby you, you should explain that it prejudices your impartiality and therefore your ability to participate in the planning meetings decision-making to declare an intention to vote one way or another or express such a firm point of view that it amounts to the same thing.

- 7.2 As a member of the planning meeting your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 7.3 You should not accept any gifts or hospitality from a person involved in or affected by a planning proposal. Where a degree of hospitality is entirely unavoidable, you must ensure it is of a minimum level, its acceptance is declared as soon as possible and remember the Code of Conduct provides that you register any gift or hospitality where its value is over £25.
- 7.4 Remember you can copy or pass on lobbying correspondence you receive to the Head of Planning and Housing, if relevant or raising new issues, or declare the receipt of lobbying information at the planning meeting.
- 7.5 If you receive any offers of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise, refer the person to the Head of Planning and Housing.
- 7.6 If you feel that you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), notify the Monitoring Officer who will in turn advise the appropriate Officers to follow the matter up.
- 7.7 Unless you have a personal and prejudicial interest, you will not have fettered your discretion or breached this Planning Protocol through:
- listening to or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Councillors or appropriate Officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

8 MEMBERSHIP OF LOBBY OR GENERAL INTEREST GROUPS

- 8.1 Avoid becoming a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals

or those within a limited geographical area, as if you do, you are likely to have fettered your discretion and have a personal and prejudicial interest and have to withdraw from the planning meeting.

- 8.2 Remember to register your membership of any lobby group and declare the existence and nature of your interest in any lobby group at planning meetings. Often this will be a personal interest and you can continue to participate but note that it can sometimes be a prejudicial interest or lead to allegations of bias or predetermination and in those circumstances you must withdraw from the meeting.
- 8.3 If a matter relates directly to the lobby group of which you are a member rather than to the views it holds, or is submitted by the group you should ordinarily consider that you have a personal and prejudicial interest and should act accordingly.
- 8.4 Where your lobby group has expressed a public view on a matter you need to consider whether a reasonable member of the public, knowing the relevant facts, would think that you appear biased. The factors you should consider are:
 - the nature of the matter to be discussed
 - the nature of your involvement with the lobby group
 - the publicly expressed views of the lobby group
 - what you have said or done in relation to the particular issue
- 8.5 If the local branch of a general interest group has been vociferous or active on a particular issue or you are closely associated with the management or decision making process of that organisation such as its Chairperson or a member of the planning meeting, it will become increasingly difficult to demonstrate your ability to judge the matter with an open mind and you may appear biased and therefore you should consider whether it is appropriate for you to take part in the decision making process.
- 8.6 Remember that if you publicly support a particular outcome on a proposal within your Ward or actively campaign for it, you will not be able to take part in the decision making process. It would be very difficult for you to demonstrate that you had the necessary degree of impartiality to properly weigh the arguments presented and the decision would be open to challenge. There is a fine balance between a predisposition where your mind is not totally made up and a predetermination. This would, however, not prevent you from expressing the views of your constituents provided you are capable of determining any application in accordance with the law.
- 8.7 You are able to join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or

a local civic society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the planning meeting that you have reserved judgement and the independence to make up your own mind on each separate proposal.

- 8.8 Don't excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken. It is difficult to define "excessively" but you need to consider whether a member of the public, knowing the facts, would think that, through your representations, the lobbied member was no longer able to take a view on the matter in the public interest but had predetermined it.
- 8.9 You should not ever decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Councillors should vote on a planning issue.

9 SITE INSPECTIONS

The Council has a separate protocol that deals with Site Inspections in more detail.

- 9.1 Site Inspections can play a legitimate part in the decision making exercise but must be limited to inspections by viewing and as a fact finding exercise. They are not to be used to determine a proposal prior to the meeting of the Planning meetings. It should be noted that this Section applies to both Councillors requests for a Site Inspection and those the Head of Planning and Housing may arrange without prior discussion where, in his professional opinion, there is a real benefit from viewing the site.
- 9.2 It is important to ensure that Councillors taking planning decisions are in possession of all the facts, including matters that may have been pointed out or come to light during a site visit. Attendance of Councillors at site visits will not only demonstrate that Councillors are fully informed but will also ensure that high quality consistent and sound decisions are made, and that the risks of legal challenge are minimised. The expectation is that all planning meeting members will attend all formal site inspections and a record of attendance will be maintained and monitored.
- 9.3 You should try to attend site inspections organised by the Council.
- 9.4 You can request a site inspection if you feel it is strictly necessary because:

- particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed; or
 - details of the proposed development cannot be ascertained from plans and any supporting information to Councillors satisfaction at the planning meeting; or
 - where design considerations are of the highest importance particularly in relation to the surrounding locality.
- 9.5 The site inspection is an opportunity for you to seek information and to observe the site, and therefore you can ask the Officers at the site inspection questions or seek clarification from them on matters which are relevant to the site inspection. Officers may seek clarification from the applicant or an objector on your question, but you should not do this directly.
- 9.6 Be careful not to be drawn into arguments or detailed discussions on the individual merits of an application or give the impression that you have made up your mind while on a site inspection by expressing opinions or views to anyone. The decision can only be made at the planning meeting and you should make this clear to any applicant or other party who approaches you and suggest that they make written representations or use of the Public Speaking arrangements and direct them to, or inform, the Officer present.
- 9.7 Information that you gain from the site inspection should be reported back to the planning meetings, so that all Councillors have the same information.
- 9.8 You should not enter a site, which is subject to a proposal other than as part of an official site inspection, even in response to an invitation, as this may give the impression of bias. If you feel it is essential for you to visit the site other than through attending the official site inspection you should speak to the Head of Planning and Housing about your intention to do so and give him the opportunity of an Officer accompanying you. If you do attend site on your own ensure you comply with these good practice rules on site inspections.

10 PUBLIC SPEAKING AT MEETINGS

The Council has a separate protocol that deals with the procedure for Public Speaking at meetings in more detail.

- 10.1 Members of the public and non-committee members should not communicate with you during the planning meeting (orally or in

writing) other than through the scheme for public speaking, as this may give the appearance of bias.

- 10.2 Make sure that you comply with the Council's Protocol for Public Speaking at planning meetings if you are attending the planning meeting other than as a member.
- 10.3 Councillors are entitled to speak at a planning meeting in accordance with the Public Speaking Protocol either as an individual, representative or ward member.
- 10.4 Where you have a personal and prejudicial interest in the application then you may attend and speak in accordance with the protocol but only for the purpose of making representations, answering questions or giving evidence relating to the matter in the same manner as would apply to a normal member of the public. Immediately after doing so you must leave the meeting room whilst the meeting considers the proposal even though members of the public may remain.
- 10.5 Planning Councillors who have pre-determined a matter may also exercise public speaking rights and should consider withdrawing from the meeting room having spoken on a matter to counter any potential suggestion that the remaining members were influenced by your continued presence.

11 OFFICERS

- 11.1 Councillors and Officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate whilst Officers are responsible to the Council as a whole. Their relationship is based upon mutual trust and understanding and this must never be abused or compromised. Instructions to Officers can only be given through a decision of the Council, the Cabinet, Board or Committee or under delegated powers and not by individual Councillors acting outside those powers.
- 11.2 You can submit views on current applications to the Head of Planning and Housing, which can be incorporated into any committee report.
- 11.3 Officers are part of a management structure and you can discuss a proposal, outside of any arranged meeting, with those Officers who are authorised by the Head of Planning and Housing to deal with the proposal at a Member level or the Head of Planning and Housing. However, you should not seek to do anything that would compromise, or is likely to compromise, the impartiality of Officers who must be free to reach their own conclusion.

- 11.4 Officers who are involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning Officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the planning meeting or its Councillors.
- 11.5 Remember the Council's Member/Officer Relations Protocol.

12 DECISION MAKING

The Strategic Planning Board has adopted a separate protocol that deals with the Call in of planning applications in more detail.

- 12.1 Ensure that the planning reasons in your request for a proposal to go before the planning meeting rather than be determined through Officer delegation are recorded and repeated correctly in the report to the planning meeting.
- 12.2 Comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless other material considerations indicate otherwise.
- 12.3 It is important that you reach your decision only after due consideration of all of the information reasonably required upon which to base a decision. You should come to meetings with an open mind and if you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information, and if necessary, defer or refuse the application.
- 12.4 It is vital that you have been present to hear the entire item, including the Officers' introduction to the matter before you vote or take part in the meeting's discussion on a proposal.
- 12.5 Check that the minutes of the meeting record correctly the reasons for the planning meeting's decision to grant, refuse or defer any proposal.
- 12.6 The planning meeting can delegate to the Head of Planning and Housing in conjunction with the Chairman, if necessary, the specific wording of conditions that the planning meeting may wish to add or amend when they are considering an application for approval. An explanation of why the change or addition is required should be given to the planning meeting.
- 12.7 Be aware that if you are proposing, seconding or supporting a decision contrary to Officer recommendations or the development plan that you

need to clearly identify and explain the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and will be recorded and Officers will be able to assist with formal wording. Be aware that you may have to assist in defending a resulting decision by giving evidence in the event of any challenge.

- 12.8 Where necessary, you can consider deferring the determination of sensitive applications that the planning meeting wish to approve against Officer recommendation to the next meeting of the planning meeting to allow Officers to formulate appropriate conditions and provide the planning meeting with any relevant further new information.
- 12.9 Where necessary, you can consider deferring the determination of an application to another meeting if there is a very strong objection from Officers on the validity of reasons for refusal against Officer recommendation, to allow the proposed reasons to be further investigated and form the basis of an updated report to a future meeting.
- 12.10 You should ensure that you are aware of, and comply with the Protocols adopted by the Strategic Planning Board.

13 TRAINING

- 13.1 You should attend the mandatory planning training prescribed by the Council before you participate in decision-making at meetings.
- 13.2 Try to attend any other specialised training sessions provided, as these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and assist you in carrying out your role properly and effectively.

14 INVOLVEMENT IN SECTION 106 AGREEMENTS

- 14.1 The guidance in respect of planning obligations is similar to that of planning conditions in that they must be relevant to planning and directly related to the proposed development if they are to be taken into account in making a decision on a planning application. Local Planning Authorities should not grant planning permission for unacceptable development because of unrelated benefits offered by the applicant and should not be unduly influenced by such benefits offered.
- 14.2 Remember that the purpose of Section 106 Agreements is to help make acceptable, development which would otherwise be unacceptable in planning terms, by prescribing the nature of the development, or

compensating for loss or damage created by the development, or to mitigate a developments impact. They must therefore be relevant to planning and relate fairly and reasonably to the development.

- 14.3 Requirements of Section 106 Agreements should be considered and discussed at pre-application stage. The Officers will provide advice on general requirements, but if you are aware of any additional potential requirements please refer these to the Head of Planning and Housing as soon as you become aware of them.
- 14.4 The content of Section 106 Agreements needs to be discussed at planning meetings, whether you are a member of the planning meeting or a visiting Member who wishes to speak on the application.
- 14.5 If you feel that a meeting would be useful to clarify issues of content of potential Section 106 agreements, you should ask the Head of Planning and Housing to arrange a meeting with relevant Officers. Participants can be made aware that the discussions will not bind the authority, and that the meeting can be properly recorded on the application file and the record of the meeting disclosed when the application is considered.
- 14.6 Do remember **that it is imperative that** a Ward Councillor's role continues after the completion of the Section 106 Agreement, by assisting Officers in ensuring that the Agreements are complied with. This includes noting when development is being undertaken and assisting Officers in ensuring triggers within Section 106 Agreements are complied with. Ward Councillors can contact Officers for any information required on completed Section 106 Agreements.

15 MONITORING AND REVIEW

- 15.1 The Head of Planning and Housing will report annually to the Portfolio Holder regarding compliance with the arrangements set out in this Planning Protocol and will identify any proposals for amendment in light of issues that have arisen, although any amendments would be required to go through the Council's formal process.
- 15.2 In particular, the Head of Planning and Housing shall monitor the following:-
 - (a) the number of complaints made about breaches of the Planning Protocol and the outcome of those complaints;
 - (b) the number of appeals upheld;
 - (c) any external inspection reports in respect of relevant issues;
 - (d) the level of awareness of the Planning Protocol among Councillors and Officers; and
 - (e) the number of Ombudsman reports finding maladministration by Councillors in the conduct of planning issues.

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