

Application No: 11/0899C

Location: LAND SOUTH OF POCHIN WAY AND CLEDFORD LANE, EAST OF BOOTH LANE (A533), MIDDLEWICH

Proposal: Extension to Time Limit - 07/0323/OUT (Midpoint 18 Phase 3: Proposed development for B1, B2 and B8, appropriate leisure and tourism (including hotel) uses, the completion of the Southern section of the Middlewich Eastern bypass & associated landscaping mitigation and enhancement works.)

Applicant: Pochin Developments Ltd

Expiry Date: 06-Jun-2011

Date Report Prepared: 22<sup>nd</sup> June 2011

**SUMMARY RECOMMENDATION:** Approve with conditions

**MAIN ISSUES:**

- Scope of the Application
- Material Changes in Policy/Circumstances Since Previous Application
- Ecology
- Time Limit for Commencement of Development
- Landscaping

**REASON FOR REFERRAL**

This application is only before Strategic Planning Board as it is for an extension of time to an approval that was for a significant major employment site.

**DESCRIPTION AND SITE CONTEXT**

The site is situated immediately east of Middlewich and two miles west of Junction 18 of the M6. Phase 3 occupies a site south of Pochin Way and Cledford Lane and to the east of Booth Lane (A533). It is entirely within land allocated for employment, leisure and tourism use, as defined in the adopted Congleton Borough Local Plan First Review 2005.

The site, with an area of 91.7 hectares is used for grazing of livestock (grade 3 farmland). The northern boundary of the site is defined by the existing Midpoint 18 development and by Cledford Lane, to the east by Sandersons Brook and to the west by the Sandbach – Middlewich – Northwich railway line and the existing development to the south of the site.

**DETAILS OF PROPOSAL**

This application is for an extension of time to planning permission reference 07/0323/OUT, which relates to a significant major employment site. The details of the original approval are laid out below.



### **Phase A (Unit 101 and the Bypass)**

Unit 101 would be located to the west of the bypass, between it and the railway line. The gross internal area of this unit would be 59,260sqm.

The bypass would link the A533 to Pochin Way (existing section of the bypass) and would follow the line identified in the local plan by Policy DP10(M1) and that shown in Appendix A 'Context Plan' of Supplementary Planning Document 15: Development Brief for Midpoint 18 Phase 3 Development. The bypass would be elevated above the railway to the south of unit 101 by a bridge. The detail of the bridge, along with its methodology for construction would be controlled by condition. Indicative routes are shown off the bypass to Phases B and C.

### **Phases B and C**

The size of the proposed buildings would generally range from small units of approximately 454sqm grouped in terraces, to large units of approximately 2,880sqm to 59,260sqm. A hotel (121 beds approximately) is also proposed. The overall gross floorspace (including allowance for first floor in B1(c), B2 and B8 units other than unit 101 where the upper floors are already defined) would be approximately 143,000sqm within the overall site area of 91.7ha.

### **RELEVANT HISTORY**

07/0323/OUT	2005	Outline approval for Midpoint 18 Phase 3 extension
08/0557/REM	2009	Reserved matters approval for landscaping

### **POLICIES**

#### **National Guidance**

PPS	Delivering Sustainable Development
PPS4	Planning for Sustainable Economic Growth
PPS7	Sustainable Development in Rural Areas
PPS9	Biological & Geological Conservation
PPG13	Transport
PPS5	Planning for the Historic Environment
PPG17	Planning for Open Space, Sport and Recreation
PPS22	Renewable Energy
PPS23	Planning and Pollution Control
PPG24	Planning and Noise
PPS25	Development and Flood Risk

#### **Regional Spatial Strategy**

DP1	Spatial Principles
DP2	Promote Sustainable Communities
DP3	Promote Sustainable Economic Development
DP4	Making the Best Use of Existing Resources and Infrastructure
DP5	Manage Travel Demand: Reduce the Need to Travel, and Increase Accessibility
DP7	Promote Environmental Quality
DP9	Reduce Emissions and Adapt to Climate Change
RDF1	Spatial Priorities
RT2	Managing Travel Demand
RT9	Walking and Cycling



## EM1 Integrated Enhancement and Protection of the Region's Environmental Assets

### **Congleton Local Plan 2005**

DP1	Employment Sites
DP3	Mixed Use Sites
DP5	Recreation, Leisure and Community Use Sites
DP7	Development Requirements
DP10	New Road Schemes
PS4	Towns
PS8	Open Countryside
PS12	Major Employment Development
PS13	Strategic Transport Corridors
GR1	General Criteria for Development
GR2	Design
GR4 & GR5	Landscaping
GR6	Amenity
GR7 & GR8	Pollution
GR9	Accessibility, Servicing and Parking Provision
GR11	New Roads
GR13, GR14 & GR 15	Sustainable Transport Measures
GR17	Car Parking
GR18	Traffic Generation
GR19	Infrastructure
GR20	Public Utilities
GR21	Flood Prevention
NR1	Trees and Woodlands
NR2, NR3, NR4 & NR5	Nature Conservation
E12	Distribution & Storage Facilities

### **Supplementary Planning Guidance/Documents**

SPD15 Midpoint 18 Phase 3 Development Brief

### **CONSIDERATIONS**

#### **Highways Agency:**

No objection to the application subject to a condition relating to travel planning. There will be no significant impact upon the operation or safety of the strategic road network.

#### **Environment Agency**

No objection.

#### **Environmental Protection:**

Comments reiterate those given for the previous application, namely conditions requested relating to land contamination, noise hours of working, external lighting and air quality.

#### **Natural England:**

We have adopted national standing advice for protected species. As standing advice, it is a material consideration in the determination of the proposed development in this application in



the same way as any individual response received from Natural England following consultation and should therefore be fully considered before a formal decision on the planning application is made.

#### **VIEWS OF TOWN/PARISH COUNCIL**

No objection.

#### **OTHER REPRESENTATIONS**

None received at the time of report writing.

#### **APPLICANT'S SUPPORTING INFORMATION**

Supporting Planning Statement

#### **KEY ISSUES**

##### **Scope of This Application**

Extensions to the time limits for implementing existing planning permissions was introduced in order to make it easier for developers to keep planning permissions alive for longer during the economic downturn. It is the Government's advice for Local Planning Authorities to only look at issues that may have changed significantly since that planning permission was previously considered to be acceptable in principle. In short, it is not intended for Local Planning Authorities to re-open debates about principles of any particular proposal except where material circumstances have changed, either in development plan policy terms or in terms of national policy or other material considerations such as Case Law.

##### **Material Changes in Policy/Circumstances Since the Previous Application**

The application was determined under the adopted Congleton Borough Local Plan First Review (2005). As such, in determining the original application, regard was had to the current policies in the current development plan. That said, there were protected species identified on site during the assessment of the original application. As such it was considered necessary to update the information submitted in order to ensure that necessary mitigation measures were taken.

##### **Ecology**

The original application was submitted with an Environmental Statement which contained a detailed assessment of the impacts of the proposed development on ecological features identified on the site. The site includes a number of plant and animal species and habitats which vary in their conservation value and interest. A network of ponds on the site was originally identified as a habitat for Lesser Silver Water Beetles which are considered of regional importance. These ponds were also identified as supporting a number of Great Crested Newt Colonies. Other species of county value using the site include Barn Owls and Green Sandpipers.

The pond network and the brooks (Sanderson's and Small Brook) are considered to be of local conservation value. The impact upon these and the impact this has on the valued species on the site will cause the greatest impact. A Strategic Ecological and Landscape Plan was submitted with the original application. This plan put forward measures designed to avoid or mitigate against adverse impacts on protected species and other ecological features present on the site. This plan has been amended to explicitly state that the detailed



ecological mitigation proposals submitted in respect of each subsequent reserved matters application at this site will be informed by detailed updated ecological surveys.

To inform the determination of this extension of time application an ecological 'walk over' survey of the site has been undertaken. No detailed surveys have been undertaken in respect of great crested newts, bats or lesser silver diving beetle all of which are protected species known to be present during the previous ecological survey undertaken at the site. The walk over survey did however assess any changes that have taken place at the site that may have affected the abundance and distribution of these species. Updated detailed surveys were undertaken in respect of otters, water vole and barn owls.

As a result of the updated surveys it can be concluded that the impacts of the proposed development on barn owl and water vole are unchanged since the original consent was granted and no significant impacts on badgers are anticipated. There is potential for the development to have an adverse impact on otter as this species is known to use Sanderson's Brook, However no confirmed evidence of this species was recorded during the most recent survey. Additionally, it is advised that the impact of the development on otters is not likely to be significant in terms of the legal protection of the species and mitigation appropriate for this species was already incorporated into the original scheme.

In respect of great crested newts and bats the updated assessment concludes that as there have been no significant land use changes at the site it is unlikely that the status of these species will have changed significantly since the original consent was granted. The exception to this is lesser silver diving beetle. The dry spring this year and the lack of current grazing of the ponds may have reduced the distribution and abundance of this species. If this species has declined on site the adverse impact of the development will be lower than originally anticipated when the original consent was granted.

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places,

- in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment

and provided that there is

- no satisfactory alternative and
- no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK implements the Directive in the Conservation of Habitats & Species Regulations 2010 which contain two layers of protection

- a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and
- a licensing system administered by Natural England.



Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. "This may potentially justify a refusal of planning permission."

PPS9 (2005) advises LPAs to ensure that appropriate weight is attached to protected species "Where granting planning permission would result in significant harm .... [LPAs] will need to be satisfied that the development cannot reasonably be located on any alternative site that would result in less or no harm. In the absence of such alternatives [LPAs] should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where ... significant harm ... cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused."

PPS9 encourages the use of planning conditions or obligations where appropriate and again advises [LPAs] to "refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm."

The converse of this advice is that if issues of detriment to the species, satisfactory alternatives and public interest seem likely to be satisfied, no impediment to planning permission arises under the Directive and Regulations.

Having regard to this proposal there is no satisfactory alternative and its approval would lead to significant economic benefits in the public interest. The mitigation proposals put forward in the Strategic Ecological and Landscape Plan would address issues relating to protected species.

### **Time Limit for Commencement of Development**

The original consent (07/0323/OUT) required that the development should commence either before the expiration of 3 years from the date of permission or 2 years from the date of approval of the reserved matters, whichever is the later. The developers have been unable to commence development as yet due to the current economic climate. It is considered that in order to ensure that an extant consent is in place to facilitate the development of this important employment allocation, an extended time limit for commencement of development should be included in the conditions attached to the grant of planning permission. This extended time limit should be 5 years.

### **Economic Benefit**

A change since the consideration of original application is the recent Ministerial Statements around growth and sustainable development to assist with the economic recovery. Statements about 'Planning for Growth' and a 'Presumption in Favour of Sustainable Development' have emphasised the Government's priority to promote sustainable economic growth and jobs. The clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise key sustainable development principles.

The Planning for Growth statement states that when deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing,



economic and other forms for sustainable development and that they should consider the range of likely economic, environmental and social benefits of proposals.

Midpoint 18 is a key employment site within Cheshire East and, from an economic development perspective, the completion of its third phase will play a key role in the economic growth of the borough as a whole and the town of Middlewich in particular.

The town has struggled recently with some of its key employers making redundancies that have had a negative impact on the labour market of Middlewich and the surrounding towns, including Northwich and Winsford in the Cheshire West & Chester Council area.

It is vital that easily accessible, modern and flexible business accommodation is available for new investors and growing businesses to locate, generating opportunities in terms of employment for the local workforce, supply contracts for local businesses, and a wider multiplier benefit for Middlewich's economy.

The completion of the southern section of the Middlewich Eastern Bypass is key to this. Whilst, in the current funding climate there is increased uncertainty over how and when this will be delivered with resulting impact on the timescales for the completion of Midpoint 18 Phase 3, developer Pochin are actively seeking funding to bridge the funding gap, including through the Government's Regional Growth Fund.

The application is therefore fully in compliance with the growth and sustainable development agenda and as such should be supported.

### **Landscaping**

In 2009 reserved matters approval was granted for the landscaping of the site. As these details were considered to be acceptable it is recommended that the conditions attached to this permission refer to this consent and do not require further submission of these details.

### **CONCLUSIONS**

It is considered that there have not been any significant, material changes since application 07/0323/OUT was permitted. The Strategic Ecological and Landscape Plan and subsequent update will provide adequate mitigation against any adverse impacts on ecological features on the site. Therefore, it is recommended that the application to extend the period of permission should be approved, subject to the following conditions.

### **RECOMMENDATION:**

**Approve subject to the following conditions:**

#### **Draft Conditions 11/0899C Midpoint 18 Phase 3**

1. The development hereby approved shall be implemented as follows:  
Phase 1: Unit 101 and the whole of the bypass  
Phase 2: The remainder of the development or part thereof
2. The landscaping of the site shall be carried out in complete accordance with the plans approved under application number 08/0557/REM, numbered 3824.2.001 – 0010 Rev F, date stamped received on 8<sup>th</sup> January 2008. The landscaping of the Phase 1



development shall be implemented as follows:

The approved landscaping works within 9 months of the commencement of the Phase 1 development

The remainder of the approved landscaping works within 9 months of the substantial completion of the Phase 1 development.

Any trees or plants within the approved advance landscaping scheme which, within a period of 5 years from the completion of the development die, are removed or become seriously damaged, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

3. Any further matters applications for the approval of reserved matters relating to the landscaping of the Phase 1 development shall be submitted to the Local Planning Authority before the expiration of five years from the date of this permission.
4. The Phase 1 development hereby approved shall be commenced before the expiration of five years from the date of this permission, or before three years from the date of the approval of the last reserved matters to be approved for this phase, whichever is the later.
5. Approval of the details of the layout, scale and appearance of the buildings, the means of access thereto and the landscaping of the phase 2 development (hereinafter called "the Phase 2 reserved matters") shall be obtained from the Local Planning Authority in writing before the development is commenced.
6. Application for approval of the Phase 2 reserved matters shall be made to the Local Planning Authority before the expiration of ten years from the date of this permission.
7. The Phase 2 development hereby approved shall be commenced before the expiration of ten years from the date of this permission, or before the expiration of two years from the date of approval of the last reserved matters to be approved for this phase, whichever is the later.
8. None of the buildings hereby approved, shall be occupied until the whole of the Middlewich Eastern bypass has been opened to traffic.
9. Prior to the commencement of the development of each phase of the development hereby approved, a scheme for the protection of those trees proposed to be retained, shall be submitted to and approved in writing by the Local Planning Authority. The approved tree protection scheme shall be implemented prior to construction and retained during the construction work on each phase.
10. An Ecological and Landscape Management Plan shall be prepared for each phase of the development and shall be in accordance with the Strategic Ecological and Landscape Plan (SELP) and the amendment to Paragraph 5.2, hereby approved and dated March 2008 and June 2011.
11. Within the period of 6 months prior to the commencement of the ecological mitigation and enabling works for each phase of the development hereby approved, an



Ecological and Landscape Mitigation, Enhancement and Management Plan (ELMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. Each ELMP shall be in accordance with the framework established in the approved SELP (as amended in 2011), shall accord with, update and implement the mitigation strategies proposed for protected species in the Environmental Statement submitted with application number 07/0323/OUT, have specific regard to the particular issues related to that phase of development and include details of the habitat creation, enhancement scheme, ecological mitigation and implementation and monitoring programmes required. The ecology and landscape shall be implemented and managed in accordance with the approved Ecological and Landscape Mitigation, Enhancement and Management Plan.

12. Prior to the commencement of the development hereby approved, details showing where soils and aggregates are to be stored on the site, shall be submitted to and approved in writing by the Local Planning Authority and thereafter soils and aggregates shall be stored in accordance with the approved details.
13. Prior to the commencement of development of the bypass hereby approved the design of the railway bridge and a method statement for its construction, shall be submitted to and approved in writing by the Local Planning Authority. The construction of the bridge shall be carried out in accordance with the approved details unless otherwise agreed in writing.
14. Prior to the commencement of each phase of the development hereby approved an air quality management plan covering the period of construction shall be submitted to and approved in writing by the Local Planning Authority. Construction shall be carried out in accordance with the approved air quality management plan.
15. Prior to the commencement of each phase of the development hereby approved a noise management plan covering the period of construction shall be submitted to and approved in writing by the Local Planning Authority. Construction shall be carried out in accordance with the approved noise management plan.
16. Prior to the occupation of any building hereby approved a scheme for the acoustic enclosure of any fans, compressors or other equipment with the potential to create noise shall be submitted to and approved in writing by the Local Planning Authority. The development of the scheme shall be implemented in accordance with the approved details prior to the first occupation and retained thereafter.
17. During the construction of B1, B2, and B8 units and hotel in any phase of the development hereby approved, foundation and other piling should only take place between the following hours, except as otherwise agreed in writing with the Local Planning Authority:

Monday to Friday	0730hrs to 1730hrs
Saturday	0730hrs to 1300hrs
Sunday & Public Holidays	Nil

During the construction of B1, B2 and B8 units and hotel in any phase of the



development hereby approved, 'floor floating' should only take place between the following hours, except as otherwise agreed in writing with the Local Planning Authority:

Monday to Friday	0730hrs to 1730hrs
Saturday	0730hrs to 1300hrs
Sunday & Public Holidays	Nil

18. Within 3 months of the commencement of development, samples of the external materials and finishes to be used on the buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
19. All boundary treatments shall be in accordance with details which have been submitted to and approved in writing by the Local Planning Authority prior to first occupation. The details shall include the position, size, design, colour and implementation for all boundary treatments.
20. No construction shall take place until details of an archaeological watching brief have been submitted to and approved in writing by the Local planning Authority. Construction shall take place in accordance with the approved details.
21. No construction shall take place until an archaeological survey dig has been undertaken on the area identified as Site 9 on the Environmental Statement submitted with application number 07/0323/FUL, the scope and methodology of which shall be approved in writing by the Local Planning Authority. A written report of this survey shall be submitted to the Cheshire Archaeology Planning Advisory Service in A4 format within one year of the completion of the dig unless otherwise agreed in writing with the Local Planning Authority.
22. The occupier of each of the buildings hereby approved shall, within 6 months of occupation, prepare and submit a travel plan for approval in writing by the Local Planning Authority. The travel plan shall be based upon staff travel survey data and include targets and an action plan. Each occupier shall nominate a member of staff to act in the role of travel plan co-ordinator to liaise with the Highway Authority and oversee implementation of the travel plan.
23. Prior to first occupation of any unit a scheme detailing all external lighting shall be submitted to and approved in writing by the Local Planning Authority. All external lighting shall be implemented in strict accordance with the approved details.
24. Prior to the occupation of Unit 101 hereby approved, the flood attenuation associated with Phase 1 of the development shall be constructed in accordance with the plans approved under application number 07/0323/OUT for the storage lagoon reference numbers CL(50)01 and CL(50)05 and the Midpoint 18 Phase III Flood Risk Assessments Volumes one and two dated April 2007.
25. Where identified in the Environmental Statement submitted with application number 07/0323/OUT, flood attenuation schemes for each other building shall be submitted to



and approved in writing by the Local Planning Authority and shall be carried out in accordance with the approved details.

26. No development approved by this permission shall be commenced until a scheme for the disposal of foul and surface waters has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be constructed and completed in accordance with the approved plans.
27. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from impermeable parking areas, roadways and hardstandings for vehicle, commercial lorry parks and petrol stations shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
28. No development approved by this permission shall be commenced until a scheme for the storage, handling, loading and unloading of fuels, oils, chemicals or effluents has been approved in writing by the Local Planning Authority. The works shall be constructed and completed in accordance with the approved scheme and programme.
29. Prior to first occupation of Unit 101 a scheme detailing the sprinkler tanks shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail an implementation programme. The development shall be undertaken in accordance with the approved scheme and programme.
30. Prior to the first occupation of Unit 101 a scheme detailing the electricity sub stations shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail an implementation programme. The development shall be undertaken in accordance with the approved scheme and programme.
31. Unless otherwise agreed in writing by the Local Planning Authority, the development hereby approved shall not exceed the heights indicated in Section 6.2 of the Design and Access Statement (March 2007), which was submitted with application number 07/0323/OUT.
32. The general site mitigation measures during the construction and operational phases of the development as identified within Paragraphs 6.2 and 6.8 of the Environmental Statement: Technical Annex 1. Geology, Soils and Land Contamination (March 2007) submitted with application number 07/0323/OUT, shall be implemented in full unless otherwise agreed in writing with the Local Planning Authority.
33. The mitigation measures proposed to limit the potential for water contamination during the construction and operational phases of the development as identified within Sections 5.2 – 5.4 of the Environmental Statement: Technical Annex 4. Water Quality (March 2007) submitted with application number 07/0323/OUT, shall be implemented in full unless otherwise agreed in writing with the Local Planning Authority.
34. On or prior to each application for the approval of reserved matters for Phase 2, a statement detailing:



- (a) The design principles and design concepts of those aspects of the development to which the application for the approval of reserved matters relates;
- (b) How such principles and concepts are reflected in the proposals for development set out in the reserved matters application; and
- (c) The relationship of the portion of the development to which the reserved matters application relates, to the development site as a whole and to the wider context

Shall be submitted to and approved in writing by the Local Planning Authority and the approval of reserved matters shall be in accordance with that approved statement.

- 35. Car parking spaces shall be provided in accordance with the approved details under application number 07/0323/OUT before the building to which they relate is occupied and shall be retained at all times for car parking, except as otherwise agreed in writing with the Local Planning Authority.
- 36. Secure cycle spaces shall be provided in accordance with the approved details under application number 07/0323/OUT before the building to which they relate is occupied and shall be retained at all times for cycle storage, except as otherwise agreed in writing by the Local Planning Authority.



