

Application No: 11/2164C

Location: BOOSEYS GARDEN CENTRE, NEWTON BANK, MIDDLEWICH, CW10 9EX

Proposal: REDEVELOPMENT TO PROVIDE A CLASS A1 RETAIL BUILDING, CAR PARK AND SERVICE YARD

Applicant: RADCLIFFE DEVELOPMENTS (CHESHIRE) LTD

Expiry Date: 21-Sep-2011

**SUMMARY RECOMMENDATION - Grant Permission subject to conditions and the prior signing of a S106 Agreement**

**MAIN ISSUES**

Principle of Development  
Retail Impact and Town Centre Considerations  
Design, Character and Impact  
Residential Amenity  
Environmental Health Related Issues  
Highway Safety and Accessibility  
Trees and Landscape  
Flood Risk and Drainage  
Archaeology  
Ecology

**UPDATE SINCE LAST MEETING**

At the 5<sup>th</sup> October 2011 Southern Planning Committee, Members resolved to defer the planning application pending further consideration and assessment of the points raised within the GL Hearn objection letter, submitted on behalf of Tesco, dated 4<sup>th</sup> October 2011.

This update report therefore deals with the additional comments raised within the GL Hearn letter dated 4<sup>th</sup> October, and provides a number of other updates on matters including proposed hours of operations and HGV deliveries as well as updates on additional consultation responses.

The report should be read in conjunction with the original committee report from the 5<sup>th</sup> October committee.

**Comments Received**

**Middlewich Town Council:**

The Town Council wish for it to be clarified that they support the application subject to maximising the opportunities for connectivity to Middlewich Town Centre and not that they have no objection as stated in the officer's report to the Planning Committee.

### **Environmental Health**

Environmental Health has confirmed that they are willing to amend their original conditions in respect of hours of delivery and the scheme for noise mitigation.

### **Cheshire Police (Crime Reduction Officer)**

Has provided a formal response which recommends a range of measures to ensure the site is safe and secure. Measures include CCTV, gates, bollard and lighting.

### **GL Hearn (On behalf of Tesco)**

GL Hearn has submitted a further letter expressing concern on two counts.

Firstly that whilst their clients are pleased that the application was deferred, they do not consider that a 3-week deferment is sufficiently long-enough for proper consideration of the new scenario or for their clients to have meaningful input.

Secondly, now that Tesco's application has been submitted, a cumulative highways assessment will clearly be required for the Booseys application. Without such an assessment, it will not be possible to determine whether the Booseys scheme will prejudice Tesco's town centre scheme, in conflict with the Government's town centres first policy. They argue that the application should not therefore be assessed at the next planning committee until a legal and technically robust assessment of the outstanding issues has been completed.

### **Retail Assessment**

#### **Tesco 'Town Centre' Application and Proposed Larger Store**

Following deferral of the application, further advice was sought from the Council's retail experts on the specific issue of whether the proposed foodstore could be accommodated alongside a potentially enlarged store within Middlewich town centre.

For the sake of completeness, and for the benefit of Members, we have inserted below the conclusion from the White Young Green advice note:

*Based on the information set out [in the assessment], WYG advise that on balance, we believe that whilst there may be inevitably an impact on the retail trading of the enlarged or even the smaller Tesco scheme (LPA Ref 09/1686C) there needs to be balanced against the benefits of the proposed Morrisons.*

*We believe the introduction of Morrison's to Middlewich will bring enhanced competition and consumer choice through qualitative as well as quantitative benefits which will significantly outweigh this impact on an individual operator. We believe that on balance the introduction of either an enlarged Tesco store with a Morrison store, or the extant Tesco permission with a new Morrisons store will bring positive economic benefits to Middlewich.*

*It is evident that the Council is faced with a decision in relation to two potential foodstore developments within Middlewich. On the one hand, if the proposed Morrisons is approved*

*then Middlewich would have two consented schemes for two new foodstores (one edge-of-centre and one in-centre). If, on the other hand, the Council were to support Tesco's proposed larger store and refuse the Morrisons the outcome would simply reinforce Tesco's position in the town.*

*WYG believe that in seeking to address the need to claw back lost expenditure and provide greater competition and choice, then the combination of two new foodstores (including one enlarged Tesco) would have the greatest positive impact. Clearly, even with a larger Tesco store within Middlewich this would still only provide local residents with one operator and one brand. As evidenced people are leaving Middlewich due to preference for other brands, and therefore an enlarged Tesco store is unlikely to arrest this leakage of local expenditure.*

*Therefore, WYG believe that both schemes could exist without any significant harm being caused overall. As a result, WYG still conclude that the proposed Morrisons would not prejudice the planned investment by Tesco, and as envisaged with Morrisons entering the market has only helped to re-energise Tesco to progress their investment plans, which will also be to the benefit of the town.*

*If Tesco can secure a larger store within the town centre (despite the development of a new Morrisons on the edge of the centre) then this is clearly a positive step forward for the town centre and will help secure the future vitality and viability of the centre as a whole, as well as bring wider economic benefits that would not have been delivered.*

*Therefore, on balance, WYG believe that the proposed development at Boosey's Garden Centre satisfies the key retail tests set out in PPS4 as well as wider government objectives.*

Having considered this advice, Officer's concur with the assessment and recommendation that the proposed scheme would not adversely affect the potential for an enlarged Tesco scheme within the Town Centre.

G L Hearn (on behalf of the Tesco) comment that Transport Assessments need to consider both the Boosey's scheme and the proposed Tesco store. However, Highway Officers are already aware of the existing situation including the extant permission for the previously approved Tesco scheme and other developments around Middlewich. It is not considered that a decision on this proposal needs to be delayed any further.

### **Hours of Operation and Delivery**

Following the preparation of the original report, further discussions have taken place in respect of the proposed hours of operation and delivery at the site. In this respect, the applicant's agent expressed some concern over the proposed restriction on delivery hours (which they felt were overly restrictive) and that they were willing to consider a wider package of noise mitigation measures to address our concerns by, for example, including features such as rubberised floors within the delivery area and electric points for vehicle refrigeration units (in addition to the proposed acoustic screen to the HGV delivery day).

On that basis, Environmental Health have indicated that they are now happy to agree to a more flexible hours condition than suggested within the original report (see condition 27) to allow deliveries at the site between the hours of hours of 0700 and 2100 Monday to Saturday,

0800 and 1700 on Sundays, Bank or Public Holidays. The proposed wording of condition 28 within the original report has also been amended to include the additional range of noise mitigation measures.

Furthermore, the original report did not include any suggestion in respect of the hours of operation for the proposed store. A further condition is therefore recommended to ensure that the store only operates between 07.00 – 22.00 Monday to Saturday and 10.00 – 17.00 on Sundays and Bank Holidays.

## **Recommendation**

**APPROVE** - as per the original report (below)

---

### **REASON FOR REPORT**

The application proposes a small-scale major development in excess of 1000m<sup>2</sup> floorspace.

### **DESCRIPTION OF SITE AND CONTEXT**

The application site extends to include three separate parcels of land comprising Booseys Garden Centre, Middlewich Auto's and a residential dwelling at no 65 Chester Road known as 'The Bungalow'. In total the site amounts to approximately 1ha comprising for the most part, previously developed land with the exception of curtilage associated with the Bungalow.

The site is located within the Settlement Zone Line and lies to the northwest of Middlewich Town Centre. In retailing terms, there are a number of different perspectives as to whether the site falls to be considered as 'edge of centre' or 'Out of Centre' site; however this is discussed in more detail later into the report. At present, both Booseys Garden Centre and Middlewich Auto's remain in active commercial use and the Bungalow in residential use.

In terms of built form, the site contains a broad mix of building types. In the case of Booseys, buildings principally comprise large commercial greenhouses and canvas awning structures but also extend to include a number of small brick built units as well as a large conservatory extension. Middlewich Autos meanwhile comprises a range of brick built commercial buildings that serve to provide a showroom area, vehicle service area and small valet bay; there is also a large outdoor display sales area. 65 Chester Road being a small post-war bungalow set within a sloping plot that contains a number of trees including a large TPO Beech.

In the wider context, the site frontage faces northeast adjoining both Chester Road and Newton Bank which in turn form part of the larger gyratory system controlling traffic entering the town from Winsford off the A54 and both Northwich and Crewe off the A530. Properties adjacent to site frontage comprise two storey terraced housing, two and three storey Victorian Villas and the three storey 'Golden Lion' public house.

The sites southeastern boundary directly adjoins the side garden boundary of 29 Newton Bank and the rear garden boundaries of residential properties within The Crescent; two-storey post-war semi detached properties that directly overlook the site.

The southwestern boundary of the site directly adjoins the side garden boundary of 5 Buckfast Way and rear garden boundaries of properties within Lindisfarne Close (no's 4, 6, 8 & 10). Similarly, the site's northwestern boundary directly adjoins the side boundary of Acer House, 67a Chester Road and rear garden boundary of Culver House, 67 Chester Road.

Site levels vary significantly across the site manifested by a series of slopes and terraced platforms across the site. More generally, the site could be described as having a southwest to northeast slope but with a prominent east to west slope to the site frontage along Newton Bank into Chester Road. As a result Booseys Garden Centre sits on a higher, but gently sloping platform above Middlewich Autos that is cut into a terraced platform approximately 1-3m below the Booseys site.

In terms of landscaping, the site currently has a high level of tree coverage with mature hedges around the site boundary. In the case of both 29 Newton and 11 The Crescent, these are screened by a substantial Leylandi hedge with Buckfast Way and Lindisfarne Close being screened by Beech and Holly Hedges respectively. In the northwestern section of the site is a large TPO Copper Beech that is particularly prominent within the wider area.

## **DETAILS OF PROPOSAL**

The application seeks permission for redevelopment of site to erect one A1 retail unit with mezzanine level and associated engineering works, car parking, landscaping and Service Yard Area.

In overall terms, the scheme would comprise a single, two-storey retail unit approximately 60m wide (across the site frontage), 42m deep with a roof height 12m in height on the corner features and 9.6m along the majority of the roof.

The design is such that the new building would comprise two glazed corner features interspersed with red terracotta rain screen cladding with the main body of the building in between comprising red brick walls, smooth, flat grey panels and aluminium framed windows. A simple glazed cantilever canopy is also attached to the building to create a covered walkway around ground floor level. The building would have a flat roof hidden behind raised eaves around the outer perimeter of the building.

Internally, the store would provide a Gross Internal Area (or GIA) of 2489m<sup>2</sup> comprising the sales floor, warehouse area, customer facilities along with element of ancillary staff accommodation on a first floor mezzanine level. In retail floorspace terms, the store would provide a Net Sales Area (or NSA) of 1390m<sup>2</sup> that would be split/disaggregated to provide 1110m<sup>2</sup> for the sale of convenience goods (food and drink etc) and 280m<sup>2</sup> for the sale of comparison goods (clothes and footwear etc).

Access to the store for both customers and delivery vehicles would be gained from Newton Bank utilising the existing garden centre access. This would lead into a 166-space car park area, which wraps around the northern and western elevations of the store, and the service yard road that runs along the eastern elevation and into the service yard area at the rear, or southeast, of the building. A further pedestrian access is also proposed via a staircase leading from the site down onto Chester Road

The redevelopment of the site would also see the existing site levels substantially altered in order to create a level development platform across the site. As a result, levels would be

reduced at the rear of the site, through the construction of a service yard area 1.8–2m below Buckfast Way and Lindisfarne Drive, but raised substantially along the Newton Bank and Chester Road site frontage (by 4m at the highest point) thereby necessitating erection of a large brick retaining structure with integral landscaping.

A detailed landscape plan has also been submitted including various details of new, replacement planting, boundary treatments and external works detailing.

## **RELEVANT HISTORY**

Whilst the site has an extensive history, the following planning applications are relevant to the determination of this application:-

29830/1 (1998) Booseys Garden Centre - Construction of Retail Foodstore - WITHDRAWN

08/0071/FUL – Booseys / Middlewich Autos / The Bungalow, Booseys Garden Centre, Newton Bank, Middlewich. Redevelopment to provide a terrace of class A1 retail units and a stand-alone unit suitable for A class uses. APPROVED 20<sup>th</sup> August 2010.

10/3951C – Booseys / Middlewich Autos / The Bungalow, Booseys Garden Centre, Newton Bank, Middlewich. Redevelopment of site to erect one A1 retail unit with mezzanine level and associated engineering works, car parking, landscaping and Service Yard Area. WITHDRAWN.

Also, for reference due to its retail nature: -

09/1686C PACE Centre, Wheelock Street, Middlewich. Proposed foodstore development with associated parking, servicing and landscaping, & additional A1, A2, A3 Units at Land adjacent to Wheelock Street and St Anns Road. Approved 21<sup>st</sup> August 2009.

## **POLICIES**

### **National Policy**

PPS1 'Delivering Sustainable Development' and supporting documents  
PPS4 'Planning for Sustainable Economic Growth'  
PPS4 'Practice guidance on need, impact and the sequential approach'  
PPS5 'Planning for the Historic Environment'  
PPS9 'Bio-diversity and Geological Conservation'  
PPG13 'Transport'  
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 'Make the Best Use of Existing Resources and Infrastructure'  
DP5 'Manage Travel Demand; Reduce the Need to Travel, and increase accessibility'  
DP6 'Marry Opportunity and Need'  
DP7 'Promote Environmental Quality'  
DP9 'Reduce Emissions and Adapt to Climate Change'  
RDF1 'Spatial Priorities'  
W5 'Retail Development'  
RT2 'Managing Travel Demand'  
RT9 'Walking and Cycling'  
EM1 'Integrated Enhancement & Protection of the Regions Environmental Assets'  
EM2 'Remediation Contaminated Land'  
EM5 'Integrated Water Management'  
EM11 'Waste Management Principles'  
EM16 'Energy Conservation and Efficiency'  
EM18 'Decentralised Energy Supply'  
MCR4 'South Cheshire'

### **Local Plan Policy**

PS4 'Towns'  
GR1 'New Development'  
GR2 'Design'  
GR4 'Landscaping'  
GR6 'Amenity and Health'  
GR7 'Amenity and Health'  
GR8 'Amenity and Health'  
GR9 'Accessibility, Servicing and Parking Provision'  
GR10 'Accessibility, Servicing and Parking Provision'  
GR14 'Cycling Measures'  
GR15 'Pedestrian Measures'  
GR17 'Car Parking'  
GR18 'Traffic Measures'  
GR19 'Infrastructure'  
GR20 'Public Utilities'  
GR21 'Flood Prevention'  
NR1 'Trees and Woodlands'  
NR4 'Non-statutory Sites'  
NR5 'Enhance Nature Conservation'  
S1 'Shopping Hierarchy'  
S2 'Shopping and Commercial Development Outside Town Centres'  
S11 'Shop Fronts'  
S12 'Security Shutters – Solid Lath'  
S13 'Security Shutters – Lattice/Mesh Grilles'  
S16 'Environmental Improvements and Traffic Management Measures'  
DP4 Retail Sites 'Middlewich M1 - Wheelock Street / Darlington Street'

### **Other Material Considerations**

- Cheshire Retail Study Update 2011
- The Cheshire Replacement Waste Local Plan March 2010
- Cheshire and Warrington Market Town Investment Prospectus
- English Partnerships Employment Densities Manual
- Circular 11/95 'Planning Conditions'
- Circular 05/05 'Planning Obligations'
- Chief Planning Officer Letters re the abolition of RSS.
- Advice Produced by the Planning Inspectorate for Use by its Inspectors. Regional Strategies – Forthcoming Abolition
- Planning for Growth – Ministerial Statement
- Draft National Planning Policy Framework

### **CONSULTATIONS (External to Planning)**

#### **Environment Agency:**

No objection to the proposed development subject to a number of conditions.

#### **United Utilities:**

No objection

#### **Brine Subsidence Board:**

Recommend strengthened foundations.

#### **Highways:**

No objection to the proposed development subject to conditions to secure off-site highway works for footpath improvements to, and part signalisation of, the Newton Bank gyratory and the signing of a S106 Agreement in order to secure a Travel Plan and contribution towards the improvement/addition of local bus services.

#### **Environmental Health:**

No objection subject to conditions relating to contaminated land, air quality and noise by way of acoustic mitigation and restrictions on the hours of operation.

### **VIEWS OF MIDDLEWICH TOWN COUNCIL**

No objection subject to maximising the opportunities for connectivity to Middlewich Town Centre.

### **OTHER REPRESENTATIONS**

A total of 17 representations (from 12-sources) were received. Of these representations, 9 local residents and Tesco object to the proposal whilst 2 local residents support of the proposal.

The main areas of objection can be summarised as follows: -

### **Retail Impacts**

- Concern over the impact of the proposed development on retailing within the town in particular Wheelock Street.
- That the town is well served by supermarkets already (Tesco & Lidl)

### **Highway Safety and Congestion**

- Concern over existing levels of congestion and that the area cannot accommodate the proposed traffic.
- Concerns over the nature and volume of construction traffic.
- Concern over accident risk to both pedestrians and vehicles

### **Impact on Residential Amenity and Character**

- Impact of the development in terms of loss of views, size and impact of the proposed structure and its relationship with existing dwellings.
- Concern over the impact of additional lorry movements and times of operation associated with the proposed development over and above those at which Booseys currently operates.
- Concern over operational and HGV noise.
- Concern over the impact of external lighting and security fencing.
- That the area is predominantly residential and any such development would not be in keeping with the area.
- Loss of landscaping

### **Impact on Trees and Landscaping**

- Concern over the impact of the scheme on trees and hedges

### **Other Matters**

A number of other comments were also made by the objectors in relation relating to loss of property value, concern over structural issues and concern over ownership of land within the application site boundary. However these are not planning matters and cannot therefore be taken into account in the determination of the application.

### **Tesco Objection (Submitted by GL Hearn)**

The objection from Tesco can be summarised as follows:

- That Tesco currently occupy a store on Southway in Middlewich Town Centre and have an extant permission from 2009 for a new supermarket on land off Wheelock Street;
- The application proposal is likely to undermine Tesco's future plans for a new supermarket on land off Wheelock Street
- Tesco have been considering their options in light of the outflow (32%). They consider that a much larger store, rather than another smaller supermarket, would be better in order to compete with Morrison's and Asda in Winsford;
- Tesco are therefore preparing an application for approximately 3500sq.m store which they consider will better retain levels of trade in the town than two smaller supermarkets;

- The Tesco site and proposal is within the town centre, the first choice location, and conforms with the Local Plan. Tesco consider this is not the case with the Booseys site which they consider to be an out of centre location and physically detached from the town centre;
- Given the significant levels of outflow to Winsford, there is an urgent need for a 'superstore' in the town to stem leakage;
- Surplus expenditure required to support a new Tesco superstore in Middlewich of a size that can compete with Winsford; If the Booseys proposal is approved, insufficient expenditure remains to support the Booseys proposal;
- There is clearly a quantitative need for a superstore only and the Tesco site is the sequentially preferable site.
- Booseys fails the sequential test identified at EC15 of PPS4.

### **Letters of Support**

- That they consider most residents shop out of town and that Tesco have a monopoly in the town and that this results in higher prices (which they consider will be exacerbated by the new permission for Tesco) and that a new operator in the town can only be beneficial;
- That encouraging residents to stay in the town for their main food shop would benefit existing residents and may well encourage further shops in the town with less people shopping out of town;
- Middlewich residents have asked for improvements for a long time and that the scheme should be approved.

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

Plans, Elevations and Design & Access Statement

PPS4 Retail Impact Assessment

Transport Assessment

Land Contamination Report,

Air Quality Assessment

Noise Assessment and Update

Tree Survey Report and Update

Heritage Statement

Site Waste Management Plan

Ventilation and Extraction Statement

Flood Risk Assessment

PPS4 Addendum Note (12<sup>th</sup> August 2011)

Amended Elevations and Site Layout Plan (18<sup>th</sup> August 2011)

Supplementary Site Level Info (18<sup>th</sup> August 2011)

Pedestrian and Linkage Improvement Plans (22<sup>nd</sup> August 2011)

### **OFFICER APPRAISAL**

#### **Principle of Development**

Whilst the principle of retail development in the manner proposed has not been established, the presence of the extant 2008 permission does establish the fact that the Council has previously been prepared to allow some form of retail development on application site.

Similarly the application site is currently in use as a garden centre which, whilst a sui generis use, does comprise predominantly retail sales.

Whilst the applicant seeks to place significant weight on both the existing use and extant 2008 permission, officers do not share this view because the nature of the retail use now proposed is so markedly different to either of the existing use or extant permission in terms of both intensity and impact. Similarly, the extant permission was subject to numerous conditions which strictly controlled the type and nature retailing that could take place on the site which, whilst allowing up to 1380sq.m convenience retailing, would not allow a supermarket within any of the units.

Notwithstanding this however, in the time that has passed since the 2010 application was withdrawn (an application which Members will recall was recommended for refusal solely on retail policy grounds) there have been a number of major changes to matters to retail position in Middlewich and also in terms of the Governments approach to planning with the result that it is necessary for the Council to consider afresh whether the principle of retail development in the manner proposed is acceptable.

In terms of retail policy, the Council has published an updated Town Centre Report (TCR) which identified additional quantitative and qualitative need in respect of convenience goods within Middlewich in order to improve choice and competition for local residents and in order to address the high levels of convenience trade leakage to other towns, and in particular Winsford. The applicant's revised PPS4 assessment now factors in this additional need as well as providing new evidence (following further survey work) within a revised catchment area which identified additional need over and above that within the TCR.

Members' will also be aware of the Coalition Government Ministerial Statement re 'Planning for Growth Agenda' which states that where possible 'the default answer to economic growth should be yes'

Moving onto more general considerations, a number of other factors weigh in favour of the proposals, notably the sites previously developed classification and position within the settlement zone, although these are only general considerations and carry only less weight than the main policy requirements identified within policy S2 of the local plan and EC17 of PPS4.

In short however, notwithstanding the previous recommendation, it is clearly necessary for the Council to consider afresh the proposal for a food store on the site against the requirements of local plan policy S2 and policy EC17 of PPS4; something now covered in more detail.

### **PPS4 and Retail Impact**

Because the proposed development falls to be considered as main town centre use that is not in a centre and not in accordance with an up-to-date development plan, it is necessary to consider the application against the assessment criteria set out in policy EC17 of PPS4.

For the benefit of Members, policy EC17.1 advises that planning applications should be refused where the applicant has not demonstrated compliance with the requirements of the sequential test (policy EC15) and where there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of anyone of the impacts set out in policies EC10.2 and EC16.1.

Policy EC17.2 then states that if no significant adverse impacts are identified these tests that the planning application should be determined by:

- a) Taking into account the positive and negative impacts under EC10.2 and EC16.1 and any other material considerations; and*
- b) Having regard to the likely cumulative effect of any recent permissions, development under construction and completed developments.*

Further advice is then provided at EC17.3 in respect of information that can be considered when assessing impacts which includes recent local assessments; in this case, the findings of the Town Centre Update Report.

These policy tests are now considered in more detail below.

#### EC15 'Sequential Assessment'

In overall terms officers consider that the applicant has satisfied the requirements of EC15 and that the site represents the next best available option for delivering the additional food store necessary to meet the identified qualitative and quantitative need within the town.

There are a number of reasons for reaching this view. Firstly, with confirmation that Morrisons is the end occupier, we agree that the allocated town centre site is unlikely to be available to the developer in the short to medium term because of Tesco's current interest in the site. Whilst PPS4 is clear that this is not justification for dismissing the site in its own right, we consider that with the clear quantitative and qualitative need identified within Middlewich in the short term, the application site represents the next sequentially best option for delivering both the choice and competition required in order to benefit residents and consumers within the catchment area and in order to claw back lost trade.

Similarly, the fact that the existing Tesco site is unlikely to become available before 2019 (and is ultimately dependent upon whether the Briden site is implemented) rules out the possibility of this site becoming available to the applicant. In the case of the only other potential site, unallocated land off Mill Lane and to the rear of King Street, we consider that access arrangement to this site and its position within the town mean this site is unsuitable to accommodate the proposed development and does not therefore fall to be considered as sequentially preferable.

Clearly however Tesco object to the proposed development on the grounds that the application site fails against the sequential test and argue that the best option to meet and address qualitative and quantitative need within the town would be for a single larger 'superstore' within the town centre. They also point to the fact that they are currently preparing a new planning application for a 3500sq.m store combining the existing and approved sites. However, whilst it is possible that a single larger store would be more attractive to shoppers, it is not considered that it would bring about the same qualitative

benefits for residents that two, albeit smaller, stores would offer in terms of competition and choice; two of the main objectives for delivering prosperous economies as identified within PPS4.

In any case, and something discussed in more detail further into the report, the expert advice to the Council is that a new food store on the application site (if operated by Morrison's for example) delivered alongside the proposed new Tesco in the town centre would be likely to attract even more shoppers back from Winsford simply due to the fact that many shoppers already visit the Morrison's in Winsford.

Therefore, taking into account all these factors, we are satisfied that the applicants have satisfied the requirements of EC15.

### EC10 'Impact Considerations'

Policy EC10.2 also sets out five criteria against which all planning applications for economic development must be assessed.

#### **EC10.2 (a) Impact on CO2 emissions**

In general terms it is accepted that the proposed building will be more energy efficient than those currently found on site. Its credentials could be further enhanced through imposition of a 10% energy condition (RSS policies EM17 & EM18) and through imposition of a condition requiring the building to achieve a BREEAM Very Good Standard.

The main concern however is the potential for the store, in this location, to encourage a modal shift from foot, cycle or bus (in the case of visitors to the town centre) to car use to visit this proposal which would clearly adversely affect emissions. In this respect however, it is considered reasonable to conclude that clawed back trade could potentially reduce car journeys out of the town because more residents choose to shop within Middlewich itself with the resultant decreases in carbon emissions. Furthermore, through a combination of measures proposed by the applicant and additional conditions that would be imposed on any permission (to improve links between the town centre and the site) it is likely that more linked trips can be encouraged with a view to further reducing carbon emissions.

#### **EC10.2 (b) Accessibility**

In general terms the Strategic Highways Manager (SHM) is satisfied that the site is accessible. The tests applied by the SHM however are different to those considered in terms of the retail impact and in this respect it is clear that the site lacks the accessibility of those within the town centre, is more difficult to access by bike or foot because it is located in the northwest of the town when the majority of the population reside to the south of Middlewich.

Whilst the site is not therefore as accessible as those within the town centre, the range of measures proposed by the applicant, in conjunction with measures proposed by officers in terms of enhancing pedestrian links with the town centre to improve accessibility and the physical attractiveness of the route, mean that the accessibility between the site and the town centre can be greatly enhanced. As a result, it is considered that the impact can be appropriately managed and mitigated.

### **EC10.2 (c) Design**

Whilst matters relating to design are covered in more detail within the next section, we are now satisfied that the design of the scheme has been enhanced over the previous 2010 proposal and constitutes an appropriate design solution which serves to improve the character of the area and the way it functions in accordance with the requirements of PPS1.

### **EC10.2 (d) Impact on Economic and Physical Regeneration**

The scheme will secure the removal of the existing, somewhat unsightly buildings associated with the garden centre site and bring about the beneficial re-use of the site thereby offering benefits in terms of the economic and physical regeneration of the area.

However the main issue for consideration here is the impact that the scheme would have on the planned investment and physical regeneration of the town centre through the delivery of the site allocation DP4 M1.

Dealing with this matter is far from straightforward however. On the one hand, the findings of the TCR coupled with evidence from the applicant in respect of greater expenditure, demonstrate that the proposed development could be delivered alongside the proposed town centre allocation without undermining it in any way and that this approach could actually benefit the town through much greater retention of leaked trade and resultant linked trips with the town centre. On the other, is the risk that the proposed occupier of the town centre site (Tesco) decides to move onto the application site prejudicing the ability to deliver the allocated town centre site for the foreseeable future; something which would have substantial, unacceptable consequences for planned economic and physical regeneration of the town centre.

Whilst this possibility is clearly a major concern, we consider the likelihood of it happening to be low in light of the evidence presented by the applicants to indicate that a contract has been entered into with Morrison's on the site (which Morrison's confirm). Nevertheless, Members need to be aware of this risk in reaching their decision because the Council would have no control over the future occupants of the proposed given that a personal permission restricting occupation to Morrison's would fail against Circular 11/95.

### **EC10 (e) Impact on Local Employment**

In overall terms the applicant's suggest that the scheme is likely to generate 100 full time equivalent (FTE) jobs where as the expert advice to the Council is that a figure of 70-80 FTE jobs is more realistic. Whatever the final figure however, should permission be granted, the creation of 70-80 or 100 jobs is clearly desirable, particularly as this proposal could sit alongside a further new store within the town centre.

In order to secure maximum benefits for the local labour market within Middlewich (particularly for the long-term unemployed), we recommend that a local labour condition be attached to any permission to ensure that local residents are encouraged to secure work at the proposed supermarket thereby maximising the impact on local employment.

### EC16 'Impact Assessment'

In overall terms, and following the submission of a PPS4 Addendum Note with the applicant's, overall methodology and approach to assessing the impacts from the proposed development in terms of the requirements of EC16 of PPS4. The main findings and considerations are now discussed in more detail below.

#### EC16.1 (a) Impact on Investment and EC16.1(c) Impact on Allocated Sites

As explained in an earlier paragraph, there was some initial concern that the grant of permission for a supermarket on the application site could undermine town centre regeneration and the delivery of the proposed Tesco store on the site allocation DP4 M1. However, for reasons discussed in the sequential section, it is clear that there is both quantitative and qualitative need within Middlewich for the town to be able to accommodate both the approved town centre store and the proposed store on the application site. Whilst we have discussed the scenario of the town centre site being left undeveloped in favour of the application site, we consider that the likelihood of this scenario unfolding to be slim, albeit whilst identifying the risks associated with this particular scenario. The more likely and positive scenario is that a new food store on the application site, occupied by a rival supermarket, is likely to motivate Tesco to deliver the town centre scheme which would further enhance vitality and viability of the town centre. Nevertheless if Members were not prepared to accept this risk, and have substantial concerns that the scheme would adversely impact the ability to deliver the town centre scheme, this would amount to grounds for refusal of the application (although it must be recognised that this would be against Officer advice).

#### EC16.1 (b) Impact on Vitality and Viability.

It is clear that Middlewich is suffering from not being able to retain its main food shopping expenditure; a clear indicator being the level of vacancies within the town which has remained consistently above the national average. In recent years however the re-branding of Somerfield to Tesco has made a marked difference to the town with shoppers are now visiting the town centre which is considered to have a had a positive impact in recent years. This is likely to increase further with the implementation of the Tesco / Briden Investment planning permission and increase the level of retained expenditure in the town

Clearly, if the scenario existed whereby the application site undermined the planned investment in the town centre, the impact on vitality and viability would be significantly adverse. This would be because the main food shop would be in an edge or out of centre location (depending which view you take), significantly reducing the number of people visiting the primary shopping area through reduced linked trips. Furthermore, the quantitative and qualitative need of the town would not be met. However, in the previous section we outlined how this scenario is unlikely to happen and that in reality a new operator will be introduced into the town with the resultant trade benefits which would serve to enhance the vitality and viability of the town centre.

#### **EC16.1 (d) Impact on Trade / Turnover**

In terms of impact on trade and turnover, the evidence submitted and advice to the Council is that the largest impact would occur on the existing Tesco store. However, if the proposed store is constructed and the New Tesco store implemented then the convenience goods turnover of the town centre will remain at a similar level to that currently achieved.

Furthermore, people will be shopping at the new stores who previously did not shop in Middlewich at all and it is therefore reasonable to suggest that some of those new shoppers will undertake linked trips with other facilities in Middlewich (which reinforces the importance of ensuring improved pedestrian links and public realm treatment between the two sites). In summary therefore, whilst some trade would be diverted away from the town centre, we do not consider this would result in a significant adverse impact on the future vitality and viability of the centre as a whole.

#### **EC16.1 (e) Appropriate Scale**

Based on the advice of the Councils retail experts, who have considered the findings of the TCR and the applicants PPS4 Assessment, we are satisfied that the proposed development is both comparable and appropriate for Middlewich both in terms of its physical scale and the available expenditure within the local catchment area.

#### *Summarising the PPS4 and S2 considerations*

Whilst the circumstances and considerations surrounding this application are clearly complex, we consider that the proposed development is acceptable having particular regard to the fact that the scheme will help to claw back lost expenditure and provide greater choice and competition for residents in the town; two of PPS4's key objectives.

Whilst there is clearly a risk that the food store could undermine the planned investment in the town, which would significantly adversely affect vitality and viability of the town centre, we consider the likelihood of this scenario occurring to be limited. The more likely scenario being that two competing food stores are delivered within the town with resultant benefits in terms of retained expenditure, increased choice and competition and the likelihood of increased linked trips with the town centre to the benefit of vitality and viability.

In summary therefore, we are satisfied that the applicant has satisfied the sequential test (EC15) and appropriately addressed the impact considerations at EC10 & EC16 and therefore meets the requirements of policy EC17 and local plan policy S2.

#### **Design, Character and Impact**

The design of the scheme as originally submitted was considered to be poor and discussions have therefore taken place with a view to securing an enhanced design and layout. The scheme has now therefore been revised resulting in better symmetry, more visual interest to the facades (with two glazed corner features, additional glazing at ground floor and more sympathetic canopy) and a more attractive retaining wall with additional landscaping that now relates more appropriately to the street and wider area.

The opportunity to provide a more prominent and attractive pedestrian entrance onto the street has also been taken with the result that the scheme now has opportunity to create better links back into the town centre. This can be further enhanced by appropriate conditions in respect of public art, lighting and landscaping to ensure that the scheme can be further enhanced.

We are therefore satisfied that the design and layout represents an improvement over the scheme as originally submitted and that the requirements of PPS1 and local plan policies GR1 and GR2 have been addressed.

## **Residential Amenity**

In overall terms, we are now satisfied that the relationship between the proposed development and adjoining neighbouring properties is acceptable and meets the requirements of GR1 (iii), GR2 (I) (D), GR6 and GR7 subject to the imposition of appropriate conditions.

## **Visual Amenity, Light and Privacy**

In terms of visual impact, the scheme largely replicates the scale, mass and positioning of the extant 2008 permission but with a reduced width and loss of the building fronting Chester Road. The scheme is therefore acceptable from a visual amenity perspective and would in actual fact have a lesser impact than the approved scheme whilst also representing an improvement for residents in Lindisfarne Close and no67a Chester Road.

Whilst concerns were previously expressed in respect of the loss of existing hedges along the sites southern boundary, more particularly the attractive Beech hedge located adjacent to no5 Buckfast Way, the scheme has now been amended to ensure that this hedge can be retained to ensure an attractive boundary treatment between the two properties. This now allows for a degree of 'soft' screening between the application site and dwelling which will screen the proposed service yard area. Furthermore, the existing Holly Bushes adjacent to the rear gardens of properties on Lindisfarne Close is also now proposed for retention in line with residents' requests even though officers considered that its removal and replacement with more appropriate landscaping would have potentially improved light and amenity for residents. These hedges will therefore be covered by appropriate conditions to ensure their protection during any construction period.

Members will note that the biggest impact from the proposed development is likely to occur as a result of the service yard area. However this largely replicates the replicates the layout of the extant scheme albeit now with a greater degree of landscaping due to the retained hedgerow around the site.

## **Service Yard, Delivery and Car Park Noise and External Lighting**

The main concern in terms of impact on amenity however relates to the potential for noise from the service yard area and the impact this could have on the amenity of nearby residents, particularly dwellings at 5 Buckfast Way and 8 & 10 The Crescent.

In dealing with this mater, it is important to note that the extant 2008 permission related principally to the sale of comparison goods which would have been less intense and would require less deliveries than a solely convenience goods store. In addition, the service doors on the extant 2008 scheme were spread across the rear elevation at regular intervals thereby avoiding a concentration of activities in any one spot.

In the case of the scheme now proposed, it is considered the store will require more deliveries of fresh produce such as bread, milk and vegetables on a daily basis. Whilst this may not have been drawn out within the applicants Transport Assessment, or referred to by the highways engineer, this is based on experience of other food store schemes. In dealing with this issue, the applicant asserts that a restriction on delivery times (between 7am & 10pm), coupled with a 3m acoustic fence would protect amenity. Environmental Health are more

cautious however indicating that the hours restriction needs to be more tightly controlled if amenity is preserved having specific regard to intensification, the single delivery point (with scissor lift access) and potential for significant noise from the steel cage pallets more commonly used for the delivery of frozen and refrigerated foods.

Taking all the factors into consideration, Environmental Health would have no objection to the scheme providing that the delivery hours were controlled and restricted to 7am – 8pm and that a series of measures were put in place to control noise particularly from the service and delivery doors at the rear of the building and external lighting to the service yard and car park areas.

In terms of the car park area, we are satisfied that the scheme will have an acceptable relationship with adjoining properties, particularly in terms of its relationship with no67a. The car park will be separated from the curtilage of no67 by a band of retained trees with the car park area itself being set back on a higher level and, for the most part, screened by a decorative balustrade; the details of which are secured by condition to ensure an attractive design and appropriate mechanisms to screen car lights from the garden areas.

In overall terms therefore, it is considered that subject to a range of appropriate condition, the scheme can comply with the requirements of policies GR1 (iii), GR2 (I) (D), GR6 and GR7.

### **Environmental Health Related Matters**

***In terms of remaining Environmental Health considerations, it is considered that the proposed development is acceptable. In the case of air quality, whilst it would be necessary to secure a number of measures to mitigate the potential impact of development traffic on an area close to being designated as an AQMA, these could be secured by way of condition on any permission.***

***In terms of contamination, whilst further investigations are needed, it is considered that a suitably worded condition could be attached to cover the requirements for assessment and remediation. Similarly, whilst the site is likely to require the installation of plant and equipment, Environmental Health is satisfied that a detailed scheme could be secured by way of condition prior to installation. The requirements of Local Plan policies GR6, GR7 and GR8 would therefore met subject to imposition of conditions.***

### **Highway Safety and Accessibility**

Following detailed consideration of the proposed scheme and Transport Assessment, the Strategic Highways Manager is satisfied the proposed scheme is acceptable from a highway safety and accessibility perspective.

Whilst the proposed access leads directly onto the Newton Bank gyratory, which objectors consider cannot accommodate the development, the Strategic Highways Manager (SHM) is satisfied that the gyratory has capacity to accommodate development traffic albeit subject to the requirement for off-site highway that would be secured by way of Grampian condition. This would involve part signalisation of an arm of the gyratory, installation of pedestrian

crossing point adjacent to the site frontage with Chester Road and various improvements to pedestrian crossing points and pavements along Chester Road.

In terms of accessibility more generally, rather than the more detailed considerations associated with PPS4, the SHM is satisfied that the site is sufficiently accessible by a range of transport modes including pedestrian and cyclists. It would however be necessary for the applicants to enter into a S106 in order to secure the proposed Travel Plan along with a financial contribution towards the improvement of/or addition to local bus services to secure quality partnership standard bus-stops (totalling £25,000).

As explained in the retail impact section, officers will also be imposing a range of conditions to secure improvements to the route between the site and the town centre to ensure a greater likelihood of linked trips.

It is therefore considered that the proposed development would satisfy the requirements of Local Plan policies GR1, GR9 and GR18.

### **Trees and Landscaping**

Following the submission of additional information, the concerns in relation to the impact of the scheme on the protected trees within the curtilage of No67 Chester Road (Shown as 65 on maps and plans) have been addressed with the plans clearly demonstrating that the retaining wall can be delivered outside the root protection zones (RPZ) thereby avoiding harm to the trees.

Members will also have identified that the scheme results in removal of the majority of trees from within the site, in particular the large TPO Beech tree which is extremely prominent both from within the site and more immediate areas around the site. However, in this respect, the submitted scheme simply reflects what has already been approved under the extant 2008 permission and it is not therefore considered a reason for refusal could be sustained.

Existing hedgerows to Buckfast Way and Lindisfarne Close are however now proposed for retention which is a marked improvement over and above the previously withdrawn 2010 application.

It is considered that proposed development meets the requirements of Local Plan policies GR1 (II), GR2 (II) and NR1.

### **Flood Risk and Drainage**

The applicant's Flood Risk and Drainage Assessment has demonstrated that the proposed development would avoid adverse impact upon flood risk within the area and complies with the requirements of PPS25 'Development and Flood Risk'. The Environment Agency concur with this view and advise that they have no objection to the proposed development although a number of conditions would be required to secure precise details of the proposed surface water and foul drainage strategies. It is therefore considered that the proposed development would comply with the requirements of PPS25 as well as local plan policies GR1, GR20 and GR21.

### **Archaeology**

Similarly, following an assessment of the applicants statement by the Archaeological Unit, it is considered that a condition imposed on any permission would allow for the sites

archaeological remains (an ice house on the western boundary) to be fully investigated and recorded prior to its destruction. The scheme could therefore comply with the requirements of PPS5 'Planning for the Historic Environment'.

### **Ecology**

The applicant's ecological assessment serves to demonstrate that there are no ecological issues that would prevent the grant of permission with the scheme. The site has limited ecological value and no adverse impacts would arise through its redevelopment in terms of protected species. The scheme therefore complies with the requirements of PPS9 and Local Plan policies GR1 (ix), NR3, NR4 and NR5.

### **CONCLUSION AND REASON FOR THE DECISION**

The proposed development will meet the identified quantitative and qualitative need identified for Middlewich and its catchment area and will serve to increase competition and choice for residents of Middlewich, one of the main objectives within PPS4. The proposed development can be accommodated alongside the proposed town centre scheme on site allocation DP4 M1 and it is not therefore considered that the scheme would undermine the delivery of the planned private investment into the town centre or the vitality and viability of the town centre.

Whilst there is clearly risk associated with approving this scheme, in terms of the potential to jeopardise the delivery of the approved town centre site, this risk is considered to be minimal with the more likely outcome that the permission will act as a stimulus to drive forward the delivery of the allocated town centre site and deliver the increased choice and competition that the town needs.

The layout and design of the scheme has now been amended since the previously withdrawn 2010 application and is now considered to offer an acceptable design solution which is appropriate to the character of the area and which is likely to offer greater opportunity for access the town centre.

In terms of residential amenity, we are satisfied that potentially adverse impacts associated with the scheme in terms of noise and external lighting can be addressed by way of planning conditions. The revised scheme now also seeks retain existing hedgerows around the rear of the site which will address some of the concerns raised by residents in respect of visual screening and amenity.

Matters relating to highway safety / accessibility, archaeology and flood risk have been adequately addressed by the applicants and the scheme therefore satisfies the relevant policies of the adopted Local Plan, RSS and national planning policy.

### **Recommendation**

That planning permission is granted subject to the prior signing of S106 Legal Agreement and subject to the following conditions:

#### **S106 Agreement Heads of Terms**

- Secures a financial contribution of £25,000 (prior to the commencement of development) towards local bus services;
- Secures the submission and implementation of a travel plan and an associated financial contribution of £5000 towards a monitoring

## **Conditions**

### **Standard**

1. 3-year time limit.
2. Approved Plans and Site Levels.
3. Materials to be submitted.

### **Landscaping and Public Realm**

4. Landscape plan.
5. Landscape implementation.
6. Tree and Hedgerow Protection Measures.
7. Scheme for Public Art.
8. Scheme for External Lighting.
9. Boundary Treatment and Materials.
10. Town Centre Signage Scheme.

### **Retail Restrictions**

11. Restriction of net retail floorspace.
12. Restriction on convenience and comparison split.
13. No subdivision of units.
14. Local Labour Agreement.

### **Highways**

15. Detailed scheme and implementation of part signalisation of gyratory system (based on submitted scheme) including proposed pedestrian crossing.

16. Scheme for pedestrian improvements to Newton Bank Gyratory for dropped kerbs and tactile paving.

17. Detailed scheme for public realm enhancements between the application site and Middlewich Town Centre (along Newton Bank and Chester Road) extending to include pavement surfaces, new trees and street furniture, enhanced lighting and new directional signage. Details agreed prior to commencement of development and implemented prior to first occupation.

18. Site access fully constructed prior to first occupation.

19. Pedestrian access fully constructed prior to first occupation.

20. Car park surfaced, laid out and available for use prior to first occupation.

21. Cycle hoops to be fully installed and available for use prior to occupation.

22. Service yard to be surfaced and available for use prior to occupation.

### **Environmental Health**

23. Contaminated Land.

24. Air quality mitigation implemented during construction.
25. Restriction on hours of construction to  
08.00 – 18.00 Mon – Fri and  
09.00 – 14.00 Sat (no work Sundays or Bank Holidays).
26. No piling works outside the hours 9am – 5pm Monday to Friday.
27. Restriction on deliveries:  
0700 and 2100 Monday to Saturday, 0800 and 1700 on Sundays, Bank or Public Holidays.
28. Scheme for noise mitigation measures (including acoustic screening to loading/delivery bay area, rubberised floors within the delivery area and electric points for vehicle refrigeration units) to be submitted and agreed before development commences and fully implemented prior to first occupation.
29. Implementation of the acoustic screening around the site perimeter prior to first occupation.
30. Scheme for the acoustic enclosures of fans, compressors and air conditioning equipment.
31. Programme of archaeological investigations submitted and fully implemented.
32. Proposed Store Opening Hours  
07.00 – 22.00 Monday to Saturday  
10.00 – 17.00 on Sundays and Bank Holidays.
33. 10% Decentralised / Renewable Energy / Low Carbon Energy.
34. Scheme for security measures to be submitted and agreed inc gates and CCTV.



SITE LOCATION PLAN