

Planning Reference No:	09/0809C
Application Address:	Land off Jersey Way, Middlewich
Proposal:	Outline application for the demolition of a dwelling house (numbers 3 & 5) and redevelopment of the site. Together with the adjoining haulage yard for up to 93 dwellings and the provision of public open space together with associated highway and landscaping works. The application seeks specific approval of the site access from Holmes Chapel Road, all other matters being reserved.
Applicant:	Daniel Kershaw, Russell Homes
Application Type:	Outline
Ward:	Middlewich
Registration Date:	26 March 2009
Earliest Determination Date:	29 May 2009
Expiry Date:	25 June 2009
Date report Prepared	15 June 2009
Constraints:	None

SUMMARY RECOMMENDATION

Approve subject to conditions and S106 Agreement

MAIN ISSUES

Principle of Development
Proposed Access - Highway safety and capacity
Affordable Housing
Nature Conservation & Trees
Flood Risk
Environmental Health

REASON FOR REFERRAL

The application is included on the agenda of the Southern Planning Committee as the scheme exceeds 10 residential units and is therefore a major development. It was deferred from the last meeting for Members to undertake a site visit.

DESCRIPTION AND SITE CONTEXT

The site lies wholly within the Settlement Zone Line for Middlewich and is not allocated in the Local Plan. However, the majority of the site has been identified within the Revised Preferred Options which allocated the site for up to 100 dwellings and public open space

The site is approximately 500m to the northeast of Middlewich town centre and is bounded by Sandbach to Northwich rail freight line along its western

boundary, Holmes Chapel Road to the south, Jersey Way and its wider environs to the east and King Street Industrial Park to the north.

The site measures approximately 2.6ha and is linear in shape running parallel with the railway line in a northwest to southeast direction with relatively even ground levels. A watercourse runs from the southwestern corner of the site along the western boundary into adjacent land which then cuts sharply back across the centre of the site to its eastern boundary and beyond.

Whilst the majority of the site was cleared prior to the submission of the previously approved application, 07/1452/FUL, the additional land included within this application site, i.e. that to the south contains 3 existing residential properties. In this case, the application proposes retention of 1a Holmes Chapel Road with a section of garden area incorporated as part of a visibility splay but that numbers 3 & 5 Holmes Chapel would be demolished entirely to be redeveloped within the wider scheme.

DETAILS OF PROPOSAL

This application is made in outline and seeks permission for demolition of existing dwelling houses at numbers 3 and 5 Holmes Chapel Road and redevelopment of the site for up to 93-dwellings, public open space and associated highway and landscaping works.

The application seeks detailed permission for means of access directly off Holmes Chapel Road and reserves layout, scale, appearance and landscaping reserved for future consideration.

In more detail, the proposed access would involve the following works: -

Creation of a new priority junction directly onto the A54 Holmes Chapel Road.

Widening of A54 to create two 3.25m lanes and 3m wide ghost right turn lane.

Visibility Splays of 2.4m x 70m.

Improvements to the footway width from approximately 0.9m to 2m wide.

Closure of the existing sub-standard access points onto the A54.

RELEVANT HISTORY

08/1933 & 08/1934 Co-joined outline applications for residential development (up to 93 dwellings) proposing access from the A54 Holmes Chapel Road. The applications were withdrawn on the 3rd March 2009 following an objection from the highways engineer.

08/1430/OUT Outline application for residential development up to 88 dwellings with associated public open space, highway and landscaping works. Withdrawn following an objection from the then County Highway Engineer.

07/1452/FUL Erection of 82 dwellings, public open space, and means of access.

Approved subject to S106 (signed 9th February 2009).

37596/3 Erection of 61 residential units, including 20 apartments, together with 16 office units totalling 1115sq.m B1 floorspace. Refused.

POLICIES

The development plan includes the North West of England Regional Spatial Strategy 2021 (RSS) and the Congleton Borough Local Plan First Review 2005 (LP).

Local Plan Policy

E-10 'Re-Use or Redevelopment of Existing Employment Sites'

GR1 'New Development'

GR2 'Design'

GR3 'New Residential Development'

GR4 & 5 'Landscaping'

GR6 & 7 'Amenity and Health'

GR9 'Accessibility, Servicing and Parking Provision'

GR10

GR21 'Flood Prevention'

GR22 'Open Space Provision'

H1 & H2 'Provision of New Housing Development'

H4 'Residential Development in Towns'

H9 'Additional Dwellings and Sub-divisions'

H13 'Affordable and Low Cost Housing'

NR1 'Trees and Woodlands'

NR2 'Statutory Sites'

RC1 'Recreation and Community Facilities – General'

SPG1 'Provision of Public Open Space in New Residential Developments'

SPG2 'Provision of Private Open Space in New Residential Developments'

SPD6 'Affordable Housing and Mixed Communities'

Other Material Considerations

PPS1 'Delivering Sustainable Development '

PPS3 'Housing'

PPS9 'Planning and Biodiversity'

PPG13 'Transport'

PPG16 'Archaeology and Planning'

PPS23 'Planning and Pollution Control'

PPG24 'Planning and Noise'

PPS25 'Development and Flood Risk'

Design Manual for Roads and Bridges

Manual for Streets

CONSIDERATIONS (External to Planning)

Environmental Health:

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

Environment Agency:

Representation received 2nd July 2009. No objection subject to the imposition of 4 conditions to cover the following areas: -

Flood risk and drainage
Long-term site landscape management plan
Development buffer zone adjacent to the brook
Contaminated land

The Environment Agency has then provided further comments for the benefit of the applicants in relation to construction and waste materials and in relation to permeability and surface water .

United Utilities

No objection to the proposed development providing that the site is drained on a separate system with only foul drainage connected into the foul sewer. Surface water should discharge to the watercourse /soak away/surface water sewer and may require the consent of the Environment Agency.

Network Rail

No objection in principle subject to the development. However, due to its close proximity to the operational railway, Network Rail have requested a number of issues be taken into consideration, and a number of conditions attached, if the application is recommended for approval.

Highways:

The Strategic Highways and Transportation Manager has undertaken a detailed assessment of the applicants Transport Statement and junction design and is satisfied that, on balance, the proposals are acceptable. He therefore recommends approval of the application subject to conditions and subject to the applicants entering into a S106 Agreement to secure a contribution of £10,000 towards off-site bus infrastructure improvements and which secures submission of a travel plan.

Senior Landscape Officer (SLO):

The SLO provided comments in relation to impact of the development on protected species, trees and watercourses. The SLO requested that the indicative layout be reviewed prior to determination of the application having regard to protection of existing trees but that remaining issues be addressed by appropriate conditions.

Nature Conservation Officer

The Nature Conservation Officer (NCO) noted that the bat survey found no field sign evidence of roosting bats but that the applicant's ecologist adopted a cautious approach in concluding that Common Pipistrelle Bats may roost within the outbuilding. The NCO was satisfied however that the proposed development would avoid adverse impact upon protected species and that the

outline mitigation strategy compiled by the applicant's ecologist is acceptable and should be secured by an appropriately worded condition.

Streetscape Section:

Revised comments were received from the streetscape section on the 2nd July 2009.

Children and Young Persons Provision

Streetscape have advised that a surplus in quantity of provision exists having regards to the local standards set out in the open space study. As such, whilst there is no requirement for new children's play facilities, a qualitative deficit has been identified in existing open space accessible to the development. A sum of £98,572.69 (*based on a revised calculations - 93 dwellings at an average 2.4 persons per dwelling*) has therefore been requested in order to increase the capacity of the existing LEAP at Angus Grove and to upgrade the facility at King Street.

Amenity Greenspace

Notwithstanding the proposed on-site amenity Greenspace, Streetscape have identified that a deficit in provision of amenity Greenspace exists. An opportunity has therefore been identified to either enhance the open space at Harbutts Field which, although just outside the 800m zone, is still reasonably accessible to the development, or alternatively, provide a contribution towards enhancements of Middlewich Town Wharf in order to increase its capacity. A sum of £14,199.64 has therefore been requested to cover these enhancements of amenity Greenspace.

Streetscape have also advised that should the quantity of on-site POS is reduced below the proposed 1400m² at reserved matters stage, or alternatively increased, then the financial contribution would need to be adjusted accordingly based on a figure of £17.11 per 10m² (split appropriately between provision and maintenance if further monies are required).

Cheshire County Archaeologist:

Requests that a condition be attached to any planning permission which would ensure that details of an appropriate archaeological study are submitted to and approved by the council prior to the commencement of any development on the site.

Education

The Education section have confirmed that, in both the Primary and Secondary sector, sufficient surplus places for the 'in-catchment area' to meet the potential 'child yield' generated by the potential building scheme, both currently and anticipated by our pupil place forecasts up to 2013. As such no financial contribution from the developer is required.

VIEWS OF MIDDLEWICH TOWN COUNCIL

Object to the application on the grounds that the proposed access is unacceptable on highway safety grounds, as traffic would be emerging on to the busy A54 in very close proximity to the bridge.

OTHER REPRESENTATIONS

Representation from occupiers of 38 Jersey Way, Middlewich.

- Query as to whether existing Leylandi trees on the site boundary adjacent to his property are to be retained.
- Also advised that his property has required works under the NHBC Guarantee scheme for subsidence.

Representation from occupiers of Marian House, Middlewich.

- Proposals would exacerbate existing problems with congestion.
- Concerns over the impact of the scheme on highway safety.
- Would make it more difficult to access their property.
- A scheme has already been approved with access from Jersey Way.
- A previous application seeking access from the A54 was deemed unsafe.

Representation from occupiers of Sportsvilla, 2 Holmes Chapel Road, Middlewich.

- Highways; increase in hazards and traffic to Holmes Chapel Road.
- The Middlewich by-pass has not been constructed.
- The scheme would be detrimental to the character of the area as a result of demolition of the two houses.
- Over development of land adjacent to Holmes Chapel Road.

Representation from occupiers of Baile-Na-Cora, Holmes Chapel Road, Middlewich.

- Object as it will make a dangerous congested part of the road even more so.
- The previous application could not be supported and we can see little difference with the new design and a puffin crossing is not shown on the plan.
- Permission has already been granted for this development off Jersey Way so we cannot see the sense in the application as it can only cause even more of a traffic nightmare to local people but also Middlewich as a whole.
- Over development of the worst kind.

Representation from Meronview submitted on the 1st June 2009 supplemented by an additional technical appraisal from their transport consultants, Denis Wilson Associates.

Meronviews objection covers the following areas: -

Summary of highway safety concerns identified by their transport consultants.

Concern at the message sent to the developers of Mid-point 18 if the council accepts that further development can be accommodated on the A54. (In relation to construction of the proposed Middlewich by-pass)

Expresses concern that the design and access statement states the junction design had already been approved by Cheshire County Council and that they

are surprised by this having regard to the previous refusal. Meronview supplement this by merging a number of text extracts from the previous 08/1934/OUT committee report in support of their argument.

They also raise 3 further points: -

1. Absolutely no junction detail works because of prevailing traffic conditions
2. The council don't need to compromise because a good solution has already been approved – why take the risk.
3. That nothing has changed since the previous committee report was written less than 3-months ago.

Finally they question whether a statement within the design and access statement (referring to the statement by the applicants that the easement precludes access off Jersey Way) is a material consideration because private property rights/breaches of covenant are not considered to be material.

Supplementary letter from Denis Wilson on behalf of Meronview

The supplementary letter provides a detailed technical assessment of the proposed access focusing on two main areas of concern: -

- That the junction modelling does not reflect likely conditions – as standing queues are present.
- That standing traffic queues through the proposed access area at peak times will create an unacceptable highway risk.

The main concern is that vehicles leaving the proposed site access joining westbound traffic during peak flow would be forced to wait in the carriageway for a gap in traffic thus causing standing traffic in an eastbound direction (from Middlewich). They argue that vehicles travelling eastbound out of Middlewich, and over the rail bridge, would therefore encounter the tail end of standing traffic and this would increase the risk of accidents.

They support these points by focusing on perceived deficiencies in relation to the applicants transport statement and junction design having particular regard to link capacity (i.e. the capacity of a road to carry traffic) and junction capacity and the resulting queue lengths waiting to egress the proposed junction.

They then summarise as follows. Whilst they consider the applicants have moved to address some of the previous objection points by reworking the transport statement and redesigning the proposed site access they still have a number of concerns; most noticeably: -

That the applicant's assessment and conclusion that the access is acceptable do not take account of the fact that at peak times there will be a standing queue of traffic stretching along Holmes Chapel Road through the junction.

That the presence of a standing queue and the practice of traffic merging from the site to join the queue will create highway safety risk. They argue traffic heading eastbound from Middlewich over the rail bridge will encounter standing traffic caused by motorists leaving the site and having to wait for a gap in the westbound traffic towards Middlewich.

APPLICANT'S SUPPORTING INFORMATION

Transport Statement
Planning, Design and Access Statement
Protected Species Survey
Desk Study and Ground Investigation Report
Tree Survey
Noise Impact Assessment
PPS25 Flood Risk Assessment
Archaeological Survey
Illustrative Layout

OFFICER APPRAISAL

Principle of Development

The majority of the site, more particularly vacant land to the north of 3 & 5 Holmes Chapel Road, already benefits from planning permission for residential development following approval by members of planning application 07/1452/FUL. The principle of residential development has clearly therefore been established and therefore the inclusion of small amount of additional previously developed land within the overall site is considered to be acceptable in principle having regard to PPS3 and policies H2, H4 and H9 of the adopted local plan.

Highways

Following detailed assessment of the applicants transport statement and junction design, the Strategic Highways Manager (SHM) is satisfied that on balance the design of the proposed junction, and its likely on its operation, to be acceptable and that no sustainable reason for refusal on highways grounds exists. A number of the key issues arising from this response are discussed in more detail below.

In overall terms, members will be aware that a number of applications have previously been submitted and subsequently withdrawn following objections from the highways section. The significant difference with this application however is that the applicants have secured additional land which has allowed for an acceptable design solution to be reached having particular regard to advice contained within the Design Manual for Roads and Bridges (DMRB).

In terms of highway capacity, the applicant's assessment shows good capacity; however it is a fact that peak traffic flows on the A54 often queue past the site frontage and would therefore impact upon the ability of traffic to emerge from the junction. As a result, whilst the left turn out of the site will be less difficult than right turns towards Middlewich, both movements will rely to some extent on other drivers giving way to allow vehicles to egress from the site. In this

regard however, and after detailed consideration, the SHM considers this situation to be similar to conditions experienced at many other congested urban locations and not sufficient to warrant refusal of the application.

Additionally whilst the junction design accommodates refuse and removal vehicles, the SHM recognises that it could not easily accommodate larger but less frequent heavy commercial vehicle movements and will have encroachment into the west bound through lane. Having considered this issue however, the SHM is prepared to accept this deficiency within this junction design and does not consider that it will have a detrimental impact upon highway safety.

On balance therefore, and the SHM would prefer access to be taken from the existing approved access off Jersey Way, it is considered that the proposed access is satisfactory and would preserve highway and pedestrian safety. The proposed development is therefore considered to meet the requirements of PPG13, the DMRB and policies GR1, GR3, GR9 and GR10.

Affordable Housing

The existing approved permission 07/1452/OUT was subject to a S106 which secured 30% affordable housing contribution (split 50/50 between social rented and shared ownership) and 25% low cost housing. The applicants have confirmed that they are willing to provide the same quantity of affordable housing as part of this outline application and the proposals therefore satisfy the requirements of policy H13 'Affordable and Low Cost Housing' of the local plan and SPD6 'Affordable Housing and Mixed Communities'.

Ecology - Protected Species & Nature Conservation

In overall terms the applicant's ecological survey found the site to have little ecological interest with the exception of a dilapidated garage sited within the curtilage of No.3 Holmes Chapel Road which could be utilised by bats as a roost. . The survey therefore contained a mitigation strategy to ensure that the conservation (protected species) status of the bats is not compromised.

Following a detailed assessment, the Nature Conservation Officer (NCO) noted that the bat survey found no field sign evidence of roosting bats but that the applicant's ecologist adopted a cautious approach in concluding that Common Pipistrelle Bats may roost within the outbuilding. The NCO was satisfied however that the proposed development would avoid adverse impact upon protected species and that the outline mitigation strategy compiled by the applicant's ecologist is acceptable and should be secured by an appropriately worded condition.

In terms of protecting commoner breeding birds within the site, it is also considered that these can also be protected by an appropriately worded condition relating to landscape clearance works.

It is therefore considered that, subject to appropriately worded conditions covering further survey work and design of a detailed mitigation strategy, along with a condition to protect breeding birds, that the requirements of the EC

habitats directive, Conservation (Natural Habitats etc) Regulations 1994, PPS9 'Planning and biodiversity' and Circular 06/05 have been satisfied and that the proposals would avoid detrimental impact to protected species. The requirements of policy NR2 'Statutory Sites' of the local plan would also be satisfied.

Trees

Whilst the proposed means of access would ultimately result in the loss of a number of the Grade A trees within the southern belt, which separate land within the existing approved site from the additional land within this current application, it is not considered that this would be sufficient to warrant refusal of the application particularly given that many of the trees could be designed into the development at reserved matters stage. It is therefore considered that the proposal satisfies policies GR1, GR2, GR5 and NR1.

Flood Risk

Despite being consulted, no representation has been received from the Environment Agency in relation to the proposed development. Notwithstanding this however, the site benefits from an existing full planning permission (07/1452/FUL), which had been subject to a detailed assessment by the Environment Agency and subsequently found to be acceptable.

In addition, the applicants flood risk assessment concluded that the site is unlikely to be affected by fluvial flooding from nearby rivers or from the two watercourses in the vicinity of and flowing through the site. Whilst the site would be at risk from some surface water flooding during storm events with a 1% or 2% annual probability, likely to be caused as a result of surcharging from the drainage system, the FRA suggests that a number of mitigation options exist. This could include use of underground storage or, alternatively, natural flooding of above ground area such as, for example, areas of POS or car parking. The FRA recommends however that these issues are addressed at the detailed design stage and it is therefore considered that a detailed drainage condition be attached to any planning permission which would also allow for further detailed consultation with the Environment Agency.

It is therefore considered that the requirements of PPS25 'Development and Flood Risk' can be satisfied.

Environmental Health

Noise Exposure Categories and PPG24

As a result of the fact that the sites lies adjacent to a railway line, King Street industrial estate and the A54, the applicants were required to submit a PPG24 Noise Assessment considering the impact of industrial and transport noise on future living conditions within any new residential environment.

The findings of this survey indicate that the in overall terms, noise levels within the site would be acceptable having regard to the noise exposure categories (NEC) contained within PPG24 but that two small areas on the site boundary,

on the northern and southern boundary require noise mitigation measures to protect from industrial and road traffic noise respectively.

In terms of industrial noise, the case is more straightforward. The survey indicates that an acoustic screen would need to be erected along a small section of the northern site boundary to protect against noise from a compressor unit adjacent to units 40- 50 on the indicative site layout which would need to be designed to meet the standards identified within BS8233.

In the case of road traffic noise, the findings are complicated by the fact that the site frontage falls within the daytime NEC C where planning permission should not normally be granted and nighttime NEC D where planning permission should normally be refused. In this case however, it is not considered that planning should not be refused for a number of reasons. Firstly, only a small section of the overall site area falls within NEC D; secondly, layout is reserved for future consideration thereby allowing more detailed consideration as to where new properties should be sited having regard to noise measurements (although this could mean a reduction in the number of units); and finally mitigation measures can be designed into the scheme to reduce noise levels to an acceptable level having regard to the requirements of BS8233 and World Health Organisation guidelines which can be secured by a suitably worded condition.

Contamination

The contaminated land survey submitted with the application identified that a number of contaminants exist on the site. It confirms however that none of levels identified exceed the thresholds within the CLEA guidelines before making a number of recommendations as to possible options for remediation. Following an assessment of this document, Environmental Health have confirmed that subject to the imposition of a condition to secure further information, they have no objection to the proposed development. It is therefore considered that the proposed development can satisfy the requirements of PPS23 'Planning and Pollution Control' along with local plan policies GR7 and NR6.

Over development and loss of buildings with character.

It is not considered that objection on the grounds of over development can be sustained. The proposed density is acceptable having regard to the existing character of the area and fully accords with the principles of PPS3. Similarly, it is not considered that the loss of any buildings on the site would harm the character of Middlewich. None of the buildings benefit from statutory protection and whilst a barn within the curtilage of no3 has some features of merit, it is in a very poor state of repair and could in effect be demolished without the need for planning permission.

Supplementary Information

A further supplementary memo has been provided by the Strategic Highways & Transportation Manager in response to Cllr McGrory's email of the 25th June 2009 having regard to comments regarding the issue of footpath links

and previously requested financial contributions towards pedestrian enhancements under application 07/1452/FUL.

The permission issued under 07/1452/FUL required pedestrians to access the A54 by negotiating the internal footpaths across POS and amenity areas within the existing development which were in parts unmade and unlit. There was therefore an identified need to improve these footpaths to improve: security, safety and amenity to a point which would encourage their sustainable use.

Clearly the current application does not require pedestrians to access the A54 via the existing development as the proposal offers direct access to the A54 via new footpaths which improve existing provision on the A54 to required standards.

Despite this, the Strategic Highways Manager determined that it would still be appropriate to require a provisional sum of £10,000 for improvements to sustainable modal choice locally, and to this end the provisional sum would be held for improvements to local bus stops as part of the ongoing scheme of upgrades to quality partnership bus stop facilities.

CONCLUSIONS AND REASONS FOR THE DECISION

The principle for residential development has already been secured. The critical issue with the application is the ability to demonstrate that the site can be accessed safely from the A54. In this respect it is considered that the proposed access would ensure appropriate vehicular and pedestrian safety. It is therefore considered that the scheme is acceptable on its merits.

RECOMMENDATION: Approve subject to the following conditions and the prior completion of a S106 Agreement.

Heads of Terms for Legal Agreement

1. Financial contribution of £112,772.33 towards public open space of enhancements split accordingly between amenity green space and children and young persons provision with an ability to adjust the sum should the amount of on-site POS be adjusted at reserved matters stage.
2. Contribution of £10,000 towards off-site improvements to bus stops
3. Submission of a Travel Plan
4. Provision of 30% Affordable Housing split equally between shared ownership and social rented.
5. Details of Management Company

General

1. 5 year reserved matters time limit.
2. Reserved matters – layout, scale, landscaping and appearance.
3. Submission of materials.

Environmental Health

4. Contaminated land condition.
5. Noise mitigation scheme.

6. Air quality study.
7. Hours restriction - construction.
8. Hours restriction - piling activity.

Network Rail

9. Details of vibro-impact machinery.
10. Details of earthwork activity.
11. No development within 2m of the railway boundary.

Highways and Drainage

12. Drainage - surface water and sewerage.
13. Flooding – overland flow, flood storage and mitigation design.
14. Access to be fully constructed in accordance with approved plans.
15. Junction constructed prior to any other works commencing.

Ecology and Trees

16. 5m bank top buffer zone and scheme for watercourse protection.
17. Breeding bird protection.
18. Detailed mitigation strategy for bats.
19. Scheme for tree protection measures.
20. Ecological enhancements scheme & landscape management plan.

Archaeology

21. Programme for archaeological work.

Sustainable Development

22. Site waste management plan.
23. Compliance with Code for sustainable homes

General Conditions

24. Existing and proposed site levels
25. Precise details of bin storage

Development Parameters

26. Maximum 93 dwellings
27. Minimum on site POS provision of 1400m² (excluding verges, service strips, visibility splays and area of land fronting the A54 Holmes Chapel Road) unless otherwise agreed by the LPA.
28. Provision of litter bins on on-site POS

