

Application No: 15/2576C

Location: PLOT 62, MIDPOINT 18, POCHIN WAY, MIDDLEWICH, CHESHIRE

Proposal: 14,402sq m Warehouse (B2 B8) with Office Accommodation to the First Floor, Associated Car Parking Service Yards, HGV parking and Gatehouse

Applicant: Pochin Developments Ltd

Expiry Date: 14-Sep-2015

SUMMARY:

This proposal would bring economic benefits through the delivery of new jobs within an established industrial park where the local plan allocates such uses. The proposal is compatible with the surrounding development and the design, scale and form of the building would sit comfortably with those within the locality.

The impact on neighbouring residential amenity would not be significant. Satisfactory access and parking provision can be provided and the development would not result in 'severe harm' on the local highway network.

Suitable provision has been made to enable the existing Middlewich Footpath no. FP19 to remain in situ. Subject to confirmation from the Council's Nature Conservation Officer that the submitted mitigation strategy is acceptable, the proposal is therefore considered to comply with the relevant policies of the adopted Congleton Borough Local Plan First Review 2005 and advice contained within the NPPF and emerging local policy.

The proposal is therefore found to be economically, socially and environmentally sustainable.

RECOMMENDATION: Approve with Conditions

PROPOSAL:

This application seeks full planning permission for the erection of a 14,402sq m distribution warehouse (B2/B8) with Office Accommodation to the First Floor, Associated Car Parking Service Yards, HGV parking and Gatehouse.

SITE DESCRIPTION:

The Proposed development will sit within an existing commercial estate off Pochin Way (accessed from the A54 Holmes Chapel Road), and to the north of ERF Way. The site presently comprises of scrubland but is situated on an established commercial / industrial trading estate at Midpoint 18 Industrial Park. The North East elevation will face onto an existing Tesco warehouse, the North West onto offices, to the West across open land is Brooks Lane industrial estate and to the South is a carpark and disused land. Middlewich Public Footpath no. FP19 passes across the site to the east.

RELEVANT HISTORY:

31306/3 - warehousing & distribution facility with associated offices – approved with conditions 10th January 2000

31584/1 - Development Of Land For Employment Uses (Use Classes B1, B2 And B8), Together With Open Space Along Sanderson's Brook And The Continuation Of The Middlewich Eastern Bypass – approved with conditions 29th April 2002

37737/3 - Modifications of conditions 1,2,3,5 and 8 of outline planning permission 8/31584/1 – approved with conditions 12th October 2004

NATIONAL & LOCAL POLICY

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs 17 and 28.

Development Plan:

The Development Plan for this area is the adopted Congleton Borough Local Plan First Review (2005), which allocates the site within the Middlewich Settlement Zone Line under Policy PS4.

The relevant Saved Policies are: -

PS4 Towns
GR1 New Development
GR2 Design
GR5 Landscaping
GR6 Amenity and Health
GR9 Accessibility, servicing and provision of parking
NR1 Trees
NR3 Habitats
E3 Employment Development in Towns

Cheshire East Local Plan Strategy – Submission Version

PG1 – Overall Development Strategy

PG2 – Settlement Hierarchy
EG1 – Economic Prosperity
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE1 – Design
SE2 – Efficient Use of Land

The relevant saved Local Plan policies are consistent with the NPPF and should be given full weight.

CONSULTATIONS:

Highways: The Strategic Highways Manager states that there are no highway objections raised to the application.

Public Rights of Way Unit: Amended plan received removes previous objection.

Environmental Protection: No objections, subject to conditions for piling details and method statement, floor floating method statement, travel plan, Electric vehicle infrastructure and informatives for contaminated land and construction hours

Natural England: Object on lack of information in relation to the SSSI – Sandbach Flashes and the impact on the bird habitat.

Environment Agency: No objections subject to a condition for remediation of unsuspected contamination

Ramblers, Congleton Group: We note that the submitted plans do not show the PROW, Middlewich FP19. Please let us have your assurance that this PROW will be respected before during and after the proposed development.

Health and Safety Executive: Do not advise against

Cheshire Brine Subsidence Compensation Board: As the site is located outside of the consultation area the Board would not normally make any comments. However please be aware that there may be stability considerations relating to natural dissolution which are relevant to sites outside the Board's consultation areas which may require suitable risk assessment and mitigation.

Flood Risk Officer: No objection subject to conditions all the buildings to located in flood risk zone 1, surface water drainage details, scheme for the management of overland flow from surcharging of the sites surface water drainage system.

United Utilities: No objection subject to a drainage condition.

TOWN COUNCIL:

The Town Council supports the application subject to the following concerns:

- The incremental impact on the traffic situation through the centre of Middlewich because of the additional vehicle movements both within and outside peak hours as identified in the planning application; for this reason the Town Council requests that any permission should include a condition that HGVs use Centurian Way as far as possible and also requests that the applicant be required to make a contribution towards the by-pass;
- The impact on the Public Right of Way (PROW) – the Council requests that a condition is added to any permission requiring a diversion to the PROW;

The impact on any breeding birds - the Council requests that any permission should be subject to an Environmental Report stating that there is no effect on breeding birds in the Sandbach Flashes as suggested by Natural England.

REPRESENTATIONS:

Representations have been received from the occupiers of 2 properties.

- Impact on A54 – inappropriate development and traffic
- Additional noise and pollution
- Numbers of vehicles movements (16 to 17) per day seem very low for the size of the proposed warehouse
- Incorrect information on the application form, PROW, moto cycle parking,
- Lack of sustainable energy features

APPRAISAL:

Principle of Development

The site is located within an existing employment area within the Middlewich Settlement Boundary. The site was allocated as an Employment commitment in the Local Plan under Policy E2, however this policy was not saved and therefore the sites designation reverts to the general settlement boundary policy. Local Plan Policy E3 allows for the redevelopment of sites for employment purposes providing that the development is appropriate to the local character in terms of its use, intensity, scale and appearance and complies with all other relevant local plan policies. The proposal is for 14,402sqm of floor space for a distribution warehouse (B2/B8). The site would sit amongst other commercial and industrial uses and therefore would conform to the surrounding land uses.

The NPPF requires Local Planning Authorities to adopt a positive and constructive approach towards planning applications for economic development. Planning applications that encourage sustainable economic development should be treated favourably. Furthermore, this view is further supported in the Council's emerging Local Plan Strategy Submission Version, namely Policy EG1. The proposal is therefore acceptable in principle subject to compliance with other relevant considerations.

Design

Policy GR2 (Design) states that proposals should not adversely affect the street-scene and where possible, should enhance the environment. The design, scale and layout of the building is typical of modern industrial units with shallow pitched roofs and profile sheet cladding. The

floor-space will be distributed across 2 floors and the building will measure 16.5 metres high to the ridge of the apex roof.

The proposed building would be well set back into the site with the foreground given over to a wildlife zone with the building constructed in the middle of the site. The car parking is sited to the west and north of the site. It must be acknowledged that the character of the street is one of industrial premises with similar arrangements and similarly designed frontages. The buildings are uniform and utilitarian in appearance and are designed for functionality rather than form. The building is similar in design and size to other units in the vicinity, albeit on the larger side, and it is considered that it will not appear as an alien or incongruous feature within the street-scene. The proposal complies with policy GR2 (Design).

Amenity

Policy GR6 (Amenity and Health) states that development will be permitted provided that the proposal would not have an unduly detrimental effect on amenity due to loss of privacy, loss of sunlight and daylight, visual intrusion, environmental disturbance or pollution, traffic generation, access and parking.

The area is predominately industrial in character being positioned on the edge of Midpoint 18. There are no residential properties in the immediate vicinity of the site and as such, it is not considered that a refusal could be sustained on grounds of incompatibility with neighbouring uses or impact on neighbouring residential amenity.

The Council's Environmental Protection Unit have raised no objections to the proposal, only suggested a number of conditions in relation to piling details and method statement, floor floating method statement, and an informative on construction hours. The proposed conditions are considered to be appropriate for the scale of development and therefore it is considered to be appropriate and as such the proposal is in accordance with policy GR6 (Amenity and Health).

Highways

The site is located on Pochin Way, Middlewich and is adjacent to an existing distribution centre. There a single access proposed that is located on the northern end of the site with Pochin Way. There is a large car park consisting of 194 car parking spaces and parking for HGV's and Service yards within the site.

There have been previous applications submitted at Midpoint 18 although they are historic applications and there have been material changes in regards to both approved developments and levels of congestion on the network especially routing through Middlewich. In regard to the figures presented, the forecast traffic generation has been taken from the Trics database and the trip generation figures of 17 and 16 movements in both the AM and PM are considered low. A CEC Trics assessment of the site proposals resulted in higher generation figures at some 30 peak hour trips.

As part of this application the applicant submitted a Transport Statement (TS) to assess the highway impact of the application. Given the scale of the proposal the submitted information needed further work to assess the wider impact of the site on the road network and include

traffic associated with recently committed large development schemes in the vicinity of the site.

The applicant has therefore undertaken further assessments on the traffic impact of the development on the local road network specifically at the A54/Pochin Way roundabout and at the signal junction at Leadsmithy St/Kinderton St. The results indicate that there are no capacity problems at the Pochin Way roundabout and the additional trips passing through the signal junction will have a negligible impact on the operation of the junction.

Pochin Way has been designed to accommodate industrial development and there will be no link capacity problems on Pochin Way as a result of the proposed development.

The traffic impact of the development has been assessed on the road network and although there is congestion at the important signal junction the development does not have a severe impact at this junction that would warrant refusal.

In regard to financial contributions from this development to fund infrastructure improvements, the original S278 Agreement for Pochin Way states that no contributions can be secured for this site. Therefore, there are no highway objections raised to the application.

With respect to the proposed use, it is considered that the site is located in a sustainable location and can be reached by a variety of modes of transport. Therefore, it is considered that the proposed car parking spaces are sufficient to cater for the demand. There is sufficient space within the site for vehicles to enter and leave in a forward gear. The proposal is therefore considered to be acceptable in terms of highways and parking.

Public Right of Way

Middlewich Public Footpath FP19 crosses directly through the north of the site. The applicant have been in discussions with the Council's Public Rights of Way Unit (PROW) and have agreed an amended plan which will include a 3m strip available for the public to pass. The proposal is therefore now acceptable and will not have a adverse impact on the Public Right of Way.

Ecology

The application is supported by an extended Phase 1 habitat survey. There is a pond nearby which does support Great Crested Newts (GCN). Accordingly, there is a mitigation strategy and suite of 'reasonable avoidance measures' (RAMs). The Council's Nature Conservation Officer (NCO) has assed the application and has made comments on the report which largely agree with the considerations and the mitigation measure posed, other than the loss of grassland habitat where there is outstanding negotiations on this matter. An update will be made to the committee in this regard.

Sandbach Flashes SSSI - Natural England have requested that additional information be submitted to enable an assessment to be made of the potential impacts of the proposed development upon the Sandbach Flashes SSSI. It is advised that this further information must be submitted and Natural England reconsulted prior to the determination of the application.

Grassland habitats - Area of grassland habitat on site have been identified a supporting sufficient botanical diversity to be designated as Local Wildlife Sites. These areas are Grassland G5 (Undetermined species rich grassland) and Grasslands G1 and G6 which would qualify as Restorable Grassland. The submitted ecological Assessment identifies these grasslands as being of Local Value together with the other semi-natural grasslands on site. The Council's Ecologists advise that grasslands G5, G1 and G6 should be considered to be of County value as a consequence meeting the Local Wildlife Site selection criteria which were produced to identify habitats of value in the context of the Cheshire region. The survey was undertaken in May which is an acceptable time of year, however a further survey in high summer may have been likely to record additional species within the grasslands. The proposed development would result in the loss of grassland G5 and G1 and some minor loss of G6.

The submitted ecological assessment has recommended the enhancement of the retained area of G6 grassland to compensate for the loss of habitat associated with the proposed development. The Council's ecologist advises that the enhancement of this grassland would require on-going management. The management treatment required to enhance the botanical value of the grasslands may be in conflict with that required by great crested newts. The Council's ecologist raises concerns that the enhancement of the retained area of G6 would not provide sufficient benefits to fully compensate for the loss of grassland habitats associated with the development. The Council's ecologist recommends the applicant undertakes and submits an assessment of the residual ecological impacts of the proposed development using the Defra biodiversity offsetting 'metric' methodology. An assessment of this type would both quantify the residual ecological impacts of the development (after identified potential impacts have been avoided, mitigated and compensated for in accordance with the mitigation hierarchy) and calculate in 'units' the level of financial contribution which would be required to 'offset' the impacts of the development to enable the residual ecological impacts of the development to be fully addressed in a robust and objective manner. Any commuted sum provided would be used to fund off-site habitat creation/enhancement works.

This matter is still outstanding and any commuted sum will be required to meet the CIL regulations. This matter will be detailed as an update to the planning committee.

Hedgerows - There would be a loss of hedgerow associated with the proposed development. The submitted newt mitigation plan includes the provision of a new native species hedgerow. The Council's Ecologist advises that if planning consent is granted the new hedgerow would be adequate to compensate for that lost. The hedgerow would however need to be established and managed appropriately to maximise its nature conservation value.

Great Crested Newts - There are numerous ponds in the vicinity of the proposed development. Many of these ponds have previously been identified as supporting breeding populations of great crested newts.

The most recent great crested newts surveys have identified small populations of great crested newts at the three ponds located within 250m of the proposed development. The surveys were undertaken late in the survey season which may mean that the size of the population has been underestimated slightly. The Conservation Officer advises however, that

this does not significantly constrain the assessment of the potential impacts of the proposed development.

In the absence of mitigation the proposed development will result in the loss of an area of terrestrial habitat that is likely to be utilised by great crested newts and significantly the loss of a pond known to be used for breeding by this species. The proposed works would also be likely to result in the disturbance, killing and injury of any newts present on site during the construction process.

The potential impacts associated with the development would be likely to be of a High magnitude.

Outline proposals have been provided for the provision of two replacement ponds and the removal and exclusion of newts from the footprint of the proposed development. The submitted plan also includes proposals for the retention and enhancement of a suitable area of great crested newt terrestrial habitat.

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places.

Art. 16 of the Directive provides that if there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species at a favourable conservation status in their natural range, then Member States may derogate "in the interests of public health and public safety or for other imperative reasons of overriding public interest, including those of a social and economic nature and beneficial consequences of primary importance for the environment" among other reasons. The Directive is then implemented in England and Wales : The Conservation of Habitats and Species Regulations 2010. ("The Regulations").

The Regulations set up a licensing regime dealing with the requirements for derogation under Art. 16 and this function is carried out by Natural England. The Regulations provide that the Local Planning Authority must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions. It should be noted that, since a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must have regard to the requirements for derogation referred to in Article 16 and the fact that Natural England will have a role in ensuring that the requirements for derogation set out in the Directive are met. If it appears to the planning authority that circumstances exist which make it very likely that the requirements for derogation will not be met, then the planning authority will need to consider whether, taking the development plan and all other material considerations into account, planning permission should be refused.

Conversely, if it seems from the information that the requirements are likely to be met, then there would be no impediment to planning permission in this regard. If it is unclear whether the requirements will be met or not, a balanced view taking into account the particular circumstances of the application should be taken and the guidance in the NPPF. In line with guidance in the NPPF, appropriate mitigation and enhancement should be secured if planning permission is granted.

In this instance it is considered by the Council's Ecologist that the proposed mitigation and compensation proposed are likely to be sufficient to maintain the local great crested newt population, subject to the following condition;

The proposed development to proceed in strict accordance with the submitted plan Figure A Outline Great Crested Newt Mitigation proposals and the recommendations of paragraphs 6.8 - 6.16 of the submitted Ecology report prepared by PAA Ltd dated May 2015.

Reason: to safeguard protected species in accordance with the NPPF.

Grass snakes and toads - These two protected/priority species are also likely to occur on site. The Council's ecologist advises that the formulation of an acceptable great crested newt mitigation strategy would also be likely to address the potential impacts of the proposed development upon these two species.

Lesser Silver Diving Beetle- An acceptable survey/assessment for these protected species has been undertaken and the Council's Ecologist advises that this species is unlikely to be present or affected by the proposed development.

Badgers - An outlying badger sett is present on the application site. The application site is likely to be used by badgers for the purposes of foraging. It appears feasible to retain the badger sett as part of the proposed development and the retention of the grassland habitats to the south of the proposed development will assist in mitigation the potential impacts associated with the loss of foraging habitat.

It is further advised that the level and type of badger activity on a site can change within a short timescale. It is therefore advised that if planning consent is granted a condition should be attached requiring a further badger survey be undertaken and a revised impact assessment and mitigation proposals be submitted to the LPA prior to the commencement of development.

Kingfisher, Otter and Water Vole - No evidence of these species was recorded during the submitted surveys and the Council's Ecologists advises that water voles are not reasonable likely to be present or affect by the proposed development. Otters were however recorded on Sanderson's Brook about 5 years ago and so there is the possibility that this species may occur on the brook in the future. This similarly applies to kingfisher as the brook does appear to provide suitable nesting sites.

It is therefore recommend that if planning consent is granted a condition should be attached requiring a further otter and kingfisher survey to be undertaken and submitted to the LPA prior to any works being undertaken within 20m of the brook.

Nesting Birds - Furthermore, the Council's ecologist considered that if planning consent is granted standard conditions will be required to safeguard nesting birds.

Landscaping

The build aspect of the site contains no significant or potentially significant high value tree cover considered worthy of formal protection. Subject to ecological issues a net gain can be achieved in terms of a specimen planting scheme compared to what exists on site at present. This can be addressed by a standard landscape condition.

Flood Risk

The site is located within flood zones 1, 2 and 3 with the main source of flood risk being Sandersons Brook (statutory main river) along the western boundary. The submitted flood risk assessment (ref: C1124-Z0104-REV B) dated May 2015 indicates that all development will be located within flood zone 1. The Lead Local Flood Authority (LLFA), support the siting of development in the lowest flood risk areas of a site and therefore the application is considered to be acceptable in terms of flood risk.

PLANNING BALANCE & CONCLUSIONS

This proposal would bring economic benefits through the delivery of new jobs within an established industrial park where the local plan allocates such uses. The proposal is compatible with the surrounding development and the design, scale and form of the building would sit comfortably with those within the locality.

The impact on neighbouring residential amenity would not be significant. Satisfactory access and parking provision can be provided and the development would not result in 'severe harm' on the local highway network. The ecological impacts of the development can be satisfactorily mitigated.

Suitable provision has been made for the existing Middlewich Footpath no. FP19. The submitted mitigation strategy is acceptable, the proposal is therefore considered to comply with the relevant policies of the adopted Congleton Borough Local Plan First Review 2005 and advice contained within the NPPF and emerging local policy.

The proposal is therefore found to be economically, socially and environmentally sustainable.

RECOMMENDATION:

Approve subject to the following conditions:

- 1. Standard time limit (3 years)**
- 2. Accordance with plans**
- 3. Accordance with submitted materials**
- 4. Parking provided prior to first use**
- 5. Access constructed in accordance with submitted details prior to first use**
- 6. The proposed development to proceed in strict accordance with the submitted plan Figure A Outline Great Crested Newt Mitigation proposals and the recommendations of paragraphs 6.8 - 6.16 of the submitted Ecology report prepared by PAA Ltd dated May 2015.**
- 7. Survey for nesting birds**

- 8. a further otter and kingfisher survey to be undertaken and submitted to the LPA prior to any works being undertaken within 20m of the brook.**
- 9. further badger survey be undertaken and a revised impact assessment and mitigation proposals be submitted to the LPA prior to the commencement of development**
- 10. Management plan for improved grassland**
- 11. Details of foul water drainage to be submitted**
- 12. Surface water drainage strategy to be submitted**
- 13. Landscape to be submitted**
- 14. Landscape implementation**
- 15. Piling and method statement**
- 16. Floor floating method statement**
- 17. Travel plan to be submitted**
- 18. Electric vehicle infrastructure**

In order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning (Regulation), in consultation with the Chair (or in his absence the Vice Chair) of Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

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

