

Application No: 16/3209C

Location: Intertechnic Uk Ltd, ROAD BETA, MIDDLEWICH, CW10 0QF

Proposal: Outline proposal for a mixed use development including residential, retail, cafes, access to marina and other ancillary works (access)

Applicant: Mr Peter Nunn

Expiry Date: 28-Apr-2017

## **SUMMARY**

The proposed development forms part of Site CS54 Brooks Lane, Middlewich and as a result the principle of development is considered to be acceptable.

Cheshire East cannot demonstrate a 5 year supply of deliverable housing sites and the presumption in favour of sustainable development applies at paragraph 14 of the Framework where it states that LPA's should grant permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits from it, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

The benefits in this case are much needed affordable housing provision and would help in the Councils delivery of 5 year housing land supply, economic benefits in terms of the proposed marina and facilities, the development has the potential to bring extensive improvements to the appearance of the site from the Canal and Conservation Area and the development would provide significant economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in Middlewich.

The development would have a neutral impact upon the following subject to mitigation; education provision, protected species/ecology, drainage, trees, residential amenity/air quality/contaminated land, landscape, archaeology, impact upon the Trent and Mersey Canal, the PROW and the highway network.

The concerns raised in relation to noise are noted but the wider redevelopment of this site is anticipated in accordance with Strategic Site CS54.

On this basis it is considered that the benefits of this development outweigh any harm and in accordance with the NPPF the application is recommended for approval.

## **RECOMMENDATION**

**APPROVE subject to the completion of a S106 Agreement and conditions**

## **PROPOSAL**

This is an outline planning application for a mixed use development including residential, retail, cafes, access to marina and other ancillary works (access). Access is to be determined at this stage with all other matters reserved. The applicant has confirmed that the development is for up to 137 dwellings including 16 retirement apartments.

The access point to serve the site would be taken off Road Beta to the east of the site.

The development would be up to three stories in height. The development would include a 12 berth marina, 450sqm of retail floorspace, 410sqm of office/employment and 270sqm of restaurants/food outlets.

## **SITE DESCRIPTION**

The site of the proposed development extends to 2.89 hectares and is located to the west of Road Beta and to the east of the Trent and Mersey Canal with Booth Lane beyond. To the north and south of the site is existing employment development.

The site is relatively flat and includes an existing utilitarian employment building towards the frontage with Road Beta with a smaller building to the rear. The majority of the site is hardstanding and used for the storage of vehicles. The site includes an existing tree/landscape belt to the Trent and Mersey Canal.

Part of the site along the boundary with the Trent and Mersey Canal is located within a Conservation Area. To the south of the site is an area which is identified as a Local Nature Reserve. Public Right of Way (PROW) Middlewich 21 runs along Road Beta to the east of the site.

## **RELEVANT HISTORY**

36351/3 - Proposed alteration to existing industrial units, including re-cladding and subdivision of units – Approved 14<sup>th</sup> October 2003

33960/1 – Proposed development of up to 200 residential dwellings, canal boat marina with up to 150 moorings with associated facilities, car parking, landscaping and highway improvement including a new canal bridge – Refused 20<sup>th</sup> January 2004 for the following reasons;

- 200 dwellings does not constitute limited residential development and would severely reduce the opportunity to retain and include other employment uses
- Over-provision of dwellings on the site
- Failure to demonstrate a safe access, any improvements to the access and demonstrate that the traffic impact would not be adverse on the local highway network

28492/3 – Extension to existing buildings to provide additional covered assembly area and storage of parts for lorry cabs – Approved 25<sup>th</sup> October 1996

20459/3 – Extension to existing cab repair shop – Approved 6<sup>th</sup> February 1988

9829/3 – Proposed gatehouse – Approved 10<sup>th</sup> September 1979

8463/3 – Proposed extension to existing stores building, new cab repair shop and vehicle cleaning bay – Approved 27<sup>th</sup> February 1979.

7862/3 – Proposed research and development centre comprising: experimental workshop and cab development, engineering offices, canteen to serve whole of the site – Approved 3<sup>rd</sup> October 1978

6384/3 – Erection of single storey building to be used as training centre – Approved 21<sup>st</sup> March 1978

6383/1 – Erection of pump test building – Approved 7<sup>th</sup> February 1978

## **NATIONAL & LOCAL POLICY**

### **National Policy**

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

Of particular relevance are paragraphs:

14. Presumption in favour of sustainable development.

50. Wide choice of quality homes

56-68 Requiring good design

216 Implementation

### **Development Plan**

The relevant Saved Policies are:

PS3 – Settlement Hierarchy

GR21- Flood Prevention

GR1- New Development

GR2 – Design

GR3 - Residential Development

GR4 – Landscaping

GR5 – Landscaping

GR6–GR8 Amenity and Health

GR9 - Accessibility, servicing and provision of parking

GR14 - Cycling Measures

GR15 - Pedestrian Measures

GR16 - Footpaths Bridleway and Cycleway Networks

GR17 - Car parking

GR18 - Traffic Generation

NR1 - Trees and Woodland

NR3 – Habitats

NR4 - Non-statutory sites

NR5 – Habitats

H2 - Provision of New Housing Development

H6 - Residential Development in the Open countryside

H13 - Affordable Housing and Low Cost Housing

RC2 – Protected Areas of Open Space  
RC7 – Water Based Activities  
RC8 – Canal/Riverside Recreational Developments  
RC9 - Canal/Riverside Recreational Developments (Moorings)  
DP1 – Employment Sites  
DP3 – Mixed Use Sites  
DP7 – Development Requirements  
DP8 – Supplementary Planning Guidance  
DP9 – Transport Assessments  
BH8-BH10 – Conservation Areas

Policies GR1, GR2, GR6, GR7, GR8, RC7, RC8 and RC9

### **Cheshire East Local Plan Strategy – Submission Version (CELP)**

PG2 – Settlement Hierarchy  
PG6 – Spatial Distribution of Development  
SC4 – Residential Mix  
CO1 Sustainable Travel and Transport  
CO4 – Travel Plans and Transport Assessments  
SC5 – Affordable Homes  
SD1 - Sustainable Development in Cheshire East  
SD2 - Sustainable Development Principles  
SE 1 Design  
SE 2 Efficient Use of Land  
SE 3 Biodiversity and Geodiversity  
SE 4 The Landscape  
SE 5 Trees, Hedgerows and Woodland  
SE 6 – Green Infrastructure  
SE 7 – The Historic Environment  
SE 8 – Renewable and Low Carbon Energy  
SE 9 – Energy Efficient Development  
SE 13 Flood Risk and Water Management  
IN1 – Infrastructure  
IN2 – Developer Contributions  
Site CS54 – Brooks Lane, Middlewich

#### **Supplementary Planning Documents:**

The EC Habitats Directive 1992  
Conservation of Habitats & Species Regulations 2010  
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System  
Interim Planning Statement Affordable Housing

### **CONSULTATIONS**

**Canal & Rivers Trust:** Offer the following general advice;

- The proposed marina is likely to be acceptable from a water resources perspective due to the small number of berths and the current water resource position

- Based on the indicative layout there would be serious concerns over the impact in terms of navigational safety due to the proximity to Kings Lock and its associated mooring points which would mean that there would be insufficient width for boats to access/egress the marina safely
- A condition is suggested to safeguard the structural integrity of the canal infrastructure
- A condition is suggested in relation to contaminated land
- A condition is suggested in relation to surface water drainage

**Environment Agency:** Conditions suggested.

**CEC Flood Risk Manager:** No objection subject to the imposition of planning conditions.

**United Utilities:** No objection subject to the imposition of planning conditions.

**Health and Safety Executive:** The proposed development site which you have identified does not currently lie within the consultation distance (CD) of a major hazard site or major accident hazard pipeline; therefore at present HSE does not need to be consulted on any developments on this site.

**CEC Visitor Economy:** Support the development the development will bring economic benefits to the Borough. From a visitor economy point of view and relating specifically to the new marina development, this is in line with the Cheshire East Visitor Economy Strategy agreed by Council in 2016.

**CEC Strategic Housing Manager:** No objection.

**CEC Strategic Highways Manager:** No objection subject to conditions and the completion of a S106 Agreement to secure the following;

- A revised travel plan to include the provision of cycle and bus vouchers along with a monitoring fee of £5,000 payable on first occupation of any part of the development.
- A financial contribution of £150,000 towards a highway improvement scheme at the A54/Leadsmithy junction.

**CEC Environmental Health:** Conditions suggested in relation to Noise Impact Assessment, details of any air conditioning units/extraction units, piling/floor floating details, environment management plan, Phase II Contaminated Land, contaminated land verification report, details of any soils imported to the site, works to stop if further unexpected contamination is discovered, HGV traffic, Travel Plan, Electric Vehicle Charging and Dust Control.

Informatives suggested in relation to hours of work and contaminated land.

**Cheshire Brine 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.

**Ansa (Public Open Space):** The submitted application forms state that the development was for up to 150 units and the planning statement states that the development is for 137 units. The applicant has confirmed that the planning statement is correct as a result a revised consultation response has been requested and this will be reported as part of an update report.

**CEC PROW:** There is no continuous, accessible, direct route for pedestrians and cyclists between the proposed site and the town centre, school and leisure facilities, as Brooks Lane bridge over the canal has no footway, and has one way (east-bound only) traffic restrictions. Pedestrians wishing to use a footway and cyclists would have to use Brooks Lane in a north-easterly direction to access the town centre via the A54 Kinderton Street, with pedestrians having an option to cross the canal via a public footpath and bridge to Wych House Lane.

Public Footpath No. 21 runs from Road Beta southwards to Cledford Lane. Local residents have logged (Ref.T125) an aspiration under the Council's statutory Rights of Way Improvement Plan for this route to be upgraded in surface and legal status so that it is useable by cyclists in addition to pedestrians. This would then form a route to the rural lane network and National Cycle Network, with onwards destinations including Sandbach railway station. Should consent be granted, contributions from the developer would be sought for the improvement of this route, which would be subject to landowner agreement.

**CEC Archaeology:** No objection – planning condition requested.

**CEC Education:** This development would be expected to generate up to 22 primary aged pupil, 18 secondary aged pupils and 1 child with Special Educational Needs. The following contributions should be secured:

Primary = No education response required

Secondary = £294,168

SEN = £45,500

## **VIEWS OF THE PARISH COUNCIL**

**Middlewich Town Council:** The Town Council objects to this application on the following grounds:

- (a) there are insufficient parking spaces within the proposal leading to inaccurate assumptions and data regarding traffic flows;
- (b) concern about the impact of contaminated land;
- (c) severe detrimental impact on Brooks Lane bridge due to increased traffic;
- (d) impact of siting residential properties near to existing businesses;
- (e) the Marina is considered to be of insufficient size and capacity;
- (f) the provision of one access into and out of the site is inadequate;
- (g) there is insufficient provision of affordable housing and it is unclear whether the site layout provides for social housing to be spread across the site rather than located in one area; and

Should Cheshire East Council be minded to approve the application then the Town Council requests that:

- (a) any Section 106 monies should be used solely towards improvements to the King Street and Brooks Lane junctions onto the A54; and
- (b) the Brooks Lane bridge should be made a pedestrian and cycle route only in accordance with the recommendations of the Canal and River Trust.

## **REPRESENTATIONS**

Letters of objection have been received from 1 local households and 2 local businesses raising the following points:

#### Principle of development

- The development would be a waste of prime employment land
- The token marina will not benefit Middlewich
- If a marina is to be developed it should be much larger with a higher volume of leisure and retail facilities
- Large amount of housing on this site is not needed
- There is a requirement for more employment within Middlewich
- There should be more than 30% affordable housing on this site
- The development is contrary to the Development Plan
- The development is contrary to the NPPF
- Policy DP1 states that there should be a maximum of 20 dwellings on this site.
- This development is overwhelmingly residential led and does not comply with allocation under Policies DP1/DP3 for employment/leisure/non-food bulky retail/community facilities
- The development is contrary to Policies GR1, GR2, GR6, GR7, GR8, RC7, RC8 and RC9
- The submitted Design and Access Statement includes a Masterplan for the site which includes Centec (a chemical manufacturing and recovery business) who have no intentions to relocate and the Mastepplan for the wider side is not approved by Centec

#### Impact upon Existing Businesses/Jobs

- The impact upon the Moorings above Kings Lock will impact on the income and viability of the Kings Lock Chandlery. This could lead to a potential loss of jobs.
- The site is allocated for predominantly employment purposes.
- Loss of employment on this site is a significant material consideration in the development plan and the NPPF (specifically paragraph 21).
- Centec is a highly specialised business and the costs of relocation are prohibitive due to the nature of the work conducted on the site. Centec is regulated by the HSE.
- It is not an option for Centec to relocate and even if this were to happen it would require considerable support from CEC (it would take years of planning and vast monetary outlay).
- Granting outline planning permission would change the type of neighbour surrounding Centec and threaten the balance and have significant impact upon the existing businesses
- The development would result in residential development being within 180m of Centec's site and would impact upon future business aspirations
- The HSE would not grant further licences for the Centec site if this development is approved. This development would impact upon the aspirations of an existing business/employer
- The mix of residential properties with a business that manufactures/recovers flammable solvents and chemicals would not work in spatial planning terms
- Centec are a specialist employer providing highly specialist jobs and this development will have a significant and unacceptable impact upon the business model
- It was stated by CEC in their Hearing Statement to the recent Local Plan Examination in Public regarding the proposed Brook Lane allocation (Matter 5.8 held 5 October 2016) that *'There is an expectation that some businesses will remain in situ. In enabling residential-led redevelopment to take place through the Policy, the Council recognises that the relationship between new homes and remaining businesses will need to be carefully considered. This will involve ensuring that an acceptable level of residential amenity for new residents can be achieved on the one hand, and the normal activities of businesses can continue without threat of curtailment because of the*

*proximity of new residents, on the other. This will be a key consideration in carrying out the Master-planning work envisaged in the LPS for this strategic location.'*

### Highways

- The parking provision on the proposed development is poor
- The access to the site is too narrow over a small one way bridge or through an existing industrial estate which is clogged with HGV's and has poor egress onto the A54
- Public transport is poor in this location
- Increased traffic generation
- The Middlewich Bypass should be constructed before any further development
- No pedestrian crossings are provided to Booth Lane
- Increased traffic congestion on Holmes Chapel Road and Brooks Lane
- It is expected that the final wording of the Brooks Lane allocation will state that the Brooks Lane Strategic Site can accommodate at least 200 homes. There is an application in the pipeline from Pochin and Brook Lane must see significant improvements
- Access to the site over a one way hump back bridge is not appropriate for this level of development
- The application contains a Transport assessment and Travel Plan which are not adequate

### Infrastructure

- Increased pressure on local schools (both primary and secondary)
- Impact upon local health provision

### Impact upon the Canal Network

- The marina is in very close proximity to Kings Lock. The Lock has waiting times of over 4 hours in summer months and adding to it would cause major delays
- Increased canal traffic would impact upon boats turning into the Shropshire Union Canal
- It is already very busy on the two moorings between Wardle Bridge and Kings Lock. The application does not provide sufficient information in relation to the current levels of canal traffic

### Heritage Issues

- Possible damage to the frequently hit Brooks Lane Bridge which is Listed and should be protected

### Amenity Issues

- The noise assessment has only been undertaken at two points on the site.
- No detailed noise measurements have been taken adjoining Rockford Stone.
- As things stand the inadequacies within the submitted noise assessment could lead to a scenario where future residents could complain about noise emissions from the surrounding employment sites. This would be unacceptable to the adjacent business.
- The impact caused by the adjacent noise needs to be fully assessed.
- The LPA should not put unreasonable restrictions on the existing businesses by allowing this development.
- Increased air pollution

### Contaminated Land

- Concerns raised about the potential land contamination on this site (former chemical works on the site) and a nearby landfill site

- The proposed marina will require the canal to be dredged and this could lead to contamination from the base of the canal which is highly contaminated. This was identified as part of the dredging for the adjacent boatyard
- Asbestos has been found on the boatyard site in very close proximity to the site boundary
- The current Phase 1 Risk Assessment is inadequate for this development
- The Council's Environmental Health officer will need to be satisfied that the relevant tests of the NPPF are met and this should be submitted before planning permission is granted. If not the application should be refused.

#### Other issues

- At the very least the applicant should undertake a comprehensive survey of the site to address the above concerns

A letter of objection has been received from Persimmon Homes which raises the following points;

- The site is located within an operational industrial estate and the access will be shared with HGV's
- Whilst layout is a reserved matter the indicative plans do not demonstrate how a development of this scale and nature could be accommodated within the site.
- Large areas of the site are inappropriate for residential development
- The submitted noise assessment is deficient and fails to address the obvious issues which exist in this location. The approval of housing would create an inappropriate juxtaposition and inevitable lead to future conflict between incompatible land uses.
- Planning application 33960/1 was refused for up to 200 dwellings and a marina as the development would severely reduce the opportunity to retain and include other employment generating uses within the site.
- The Sustainability Appraisal for the Local Plan identifies that residential development at Brooks Lane could result in the loss of existing employment uses with the potential for major negative effects
- Employment land will be lost as a result of this application and the ability of the adjacent businesses to continue and expand would be severely compromised.
- Brooks Lane performs an important role for lower cost sites which may be perceived as less desirable neighbours
- The site is a former chemical works yet no intrusive ground works have been undertaken.
- It is apparent from the Planning Statement that there is no housebuilder committed to delivering this scheme. It is inconceivable that a housebuilder would pursue this site given the access through an operational industrial estate and unacceptable living environment particularly with the competing sites at Glebe Farm and Warmingham Lane
- There is the total absence that this scheme is viable due to the poor immediate housing market, potentially substantial abnormal costs due to contamination. The marina will require significant investment with only a gradual return on capital. The applicant relies on the draft Local Plan which requires contributions to public transport, highway improvements, affordable housing, health and education. It is highly unlikely that the development could withstand all of these items in addition to the abnormal costs
- The Local Plan allocation has been the subject of objection and should be given minimal weight pending the publication of the Inspectors report
- The application pre-empts a Masterplan which is intended to determine the nature and scale of the development. It would be premature for this application to be approved in advance of a masterplan

- Whilst Cheshire East Council does not have a 5 year supply of housing land, the application does not constitute sustainable development and the adverse impacts significantly and demonstrably outweigh the benefits.

## **OFFICER APPRAISAL**

### **Procedural Matters**

In this case amended indicative plans were received on 3<sup>rd</sup> April 2017 and these are the subject of a consultation exercise which runs until 19<sup>th</sup> April 2017. Any additional comments which are received as part of this consultation exercise will be reported as part of an update report.

### **Principle of Development**

The site is a previously developed site which lies within the Middlewich Settlement Boundary as defined by the Congleton Borough Local Plan. Within the Congleton Borough Local Plan the site forms part of a mixed use development allocation under Policies DP1 and DP3. Policy DP3 allocates the site for employment/leisure/non-food bulky goods retail/community facilities.

The supporting text for Policy DP3 refers to the site descriptions and general development principles for this site at the end of the chapter titled 'Development Proposals' within the Congleton Local Plan. This states that the site is suitable for redevelopment and then identifies the following development requirements;

- Suitable for a wide variety of uses
- Overall requirement is for a mixed development to recognise the sites potential to accommodate a range of new forms of development which cannot be accommodated elsewhere
- In this regard the Local Authority would look to the provision of;
  - employment land (B1 and B2 uses)
  - leisure including the potential for a marina
  - non-food bulky goods retail (providing that the type and scale does not undermine nearby centres
  - specialist retail facilities associated with the leisure development of the canal side area and community facilities
  - a small amount of residential development (to a maximum of 20 dwellings)
- Transportation improvements may be required. Such improvements may include the provision of a dedicated vehicular access off the Middlewich eastern Bypass, off-site highways improvements and the reservation of a site for passenger rail halt in the event that it is not possible to provide this on the King Street site.
- Improved pedestrian links to the town centre
- Improvements to the canal side environment and to accommodate any nature conservation needs
- A development brief, Transport assessment, Environmental Impact and Contaminated Land Assessment will be required for the whole of the site

Policies DP7-DP9 then state that the allocation must make provision for additional development requirements in the form of the following;

DP7 – Transportation improvements will be required

DP8 – a Supplementary Planning Guidance Note in the form of a development brief will be required to be prepared and approved by the LPA before planning permission is granted

DP9 – a Transport Assessment will be required for the site

In terms of the Cheshire East Local Plan Strategy the site forms a small part of Site CS54 Brooks Lane, Middlewich. This identifies that the development will be achieved through a masterplan led approach that will determine the precise nature and quantum of development that is appropriate for the site. This is likely to include;

- The delivery of up to 200 homes
- The delivery of leisure and community facilities to the north of the site
- The provision of appropriate retail facilities to meet local needs
- The incorporation of green infrastructure including a green corridor and open space/equipped children's play space)
- The improvement of existing and provision of new pedestrian and cycle links
- The potential for a new marina
- The provision of land for a new railway station

Site CS54 then goes onto identify the following site specific principles of development;

- The masterplan will need to consider the heritage constraints as well as opportunities for the site to provide a new railway station
- Pedestrian/cycle links
- Enhancements to the Trent and Mersey Canal corridor
- On site provision for opens spaces for recreation/nature conservation
- Contributions towards public transport and highways improvements (including the A54 through Middlewich)
- Contributions towards education and health infrastructure
- Consideration of the impact upon the Cledford Lime beds Grade B Site of Biological Importance
- To determine the archaeological implications and the impact upon the Scheduled Monument
- Affordable Housing provision
- Contribute to the long term conservation and enhancement of the Scheduled Monument
- Future policy development and master planning shall be informed by the suggested mitigation set out in the HIA prepared by the Councils Heritage and Design Team

As can be seen CS54 requires a masterplan led approach to determine the precise nature and quantum of development on the site. A masterplan has not been prepared but will be as part of the next stage of the Local Plan. In this case it is not considered that it would be premature to determine this application prior to the masterplan and as the application is in outline form the scheme can be amended if needed to respond to the masterplan.

The new railway station for Middlewich which forms part of this allocation is further to the north-east and would be unaffected by this development.

The proposed development would meet the following requirements of the NPPF;

*Encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value (Core Planning Principles Paragraph 17)*

*To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. (Paragraph 20)*

*Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value (Paragraph 111)*

It is clear that there are differences between the allocation within the Congleton Local Plan Policies DP1 and DP3 and the allocation within the Cheshire East Local plan Strategy Site CS54. In this case greater weight should be given to the site Cheshire East Local Plan Policy which signals the current up-to-date intentions for Middlewich.

The proposed commercial development would include 450sqm of retail floorspace, 410sqm of office/employment and 270sqm of restaurants/food outlets. This is in accordance with the emerging Cheshire East Local Plan and there is no requirement for a sequential test or impact test in accordance with the NPPF.

### **Middlewich Neighbourhood Development Plan**

The Middlewich Neighbourhood Plan has yet to reach regulation 14 stage and as a result can be given no weight given its early stage of preparation.

### **Housing Land Supply**

On 13 December 2016 Inspector Stephen Pratt published a note which sets out his views on the further modifications needed to the Cheshire East Local Plan Strategy. This note follows 6 weeks of Examination hearings concluding on 20 October 2016.

This note confirms that his previous endorsement for the core policies on the plan still stand and that *“no new evidence or information has been presented to the examination which is sufficient to outweigh or alter my initial conclusions”*. This signals his agreement with central issues such as the ‘Duty to Cooperate’, the overall development strategy, the scale of housing and employment land, green belt policy, settlement hierarchy and distribution of development.

The Inspector goes on to support the Council’s approach to the allocation of development sites and of addressing housing supply. He commented that the Council:

*“seems to have undertaken a comprehensive assessment of housing land supply, and established a realistic and deliverable means of meeting the objectively assessed housing need and addressing previous shortfalls in provision, including assessing the deliverability and viability of the proposed site allocations”*

The Inspector went on to state that the development strategy for the main towns, villages and rural areas appeared to be “appropriate, justified, effective, deliverable and soundly based.” As a consequence there was no need to consider other possible development sites at this stage.

The Inspector’s recommendations on Main Modifications mean that under paragraph 216 of the Framework the emerging policies of the Cheshire East Local Plan Strategy can be attributed a

greater degree of weight – as the Plan as revised is at an enhanced stage, objections are substantially resolved and policies are compliant with National advice.

The Inspector's recommendations on housing land supply, his support for the Cheshire East approach to meeting past shortfalls (Sedgepool 8) indicate that a remedy is at hand to housing supply problems. The Council still cannot demonstrate a 5 year supply of housing at this time but it will be able to on the adoption of the Local Plan Strategy. This is highly relevant to the assessment of weight given to housing supply policies which are deemed out of date by the absence of a 5 year supply. Following the Court of Appeal decision on the *Richborough* case, the weight of an out of date policy is a matter for the decision maker and could be influenced by the extent of the shortfall, the action being taken to address it and the purpose of the particular policy. Given the solution to housing supply now at hand, correspondingly more weight can be attributed to these out of date policies.

## **SOCIAL SUSTAINABILITY**

### **Affordable Housing**

The site falls within the Middlewich sub-area for the purposes of the SHMA update 2013. This shows a net requirement for 65 affordable homes per annum for the period 2013/14 – 2017/18. Broken down this is a requirement for 26 x one bed, 22 x two bed, 8 x three bed and 4 x one bed and 4 x 2 bed older persons accommodation.

Information taken from Cheshire Homechoice shows there are currently 268 applicants who have selected the Middlewich lettings area as their first choice. These applicants require 60 x one bed, 120 x two bed, 75 x three bed and 12 x four bed units.

The applicant has confirmed that 30% of the units will be provided as affordable with the tenure split being 65% rented and 35% intermediate tenure (the mix of units will be determined at the outline stage). This is in line with the requirements of the IPS and represents a benefit of this development.

### **Public Open Space**

An update will be provided in relation to this issue.

### **Education**

An application of up to 137 dwellings (minus the 16 retirement apartments) is expected to generate 22 primary aged children, 18 secondary aged children and 1 SEN child.

In terms of primary school education, the proposed development would be served by the primary schools listed within the table below.

Primary Schools	PAN Sep 16	PAN Sep 17	NET CAP May-16	any Known Changes	PUPIL FORECASTS based on October 2015 School Census				
					2016	2017	2018	2019	2020
Cledford	60	60	420	420	316	326	353	357	361
<b>Middlewich</b>	60	60	420	420	409	416	426	425	422
St Mary's	35	30	240	210	212	218	227	227	226
<b>Developments with S106 funded and pupil yield included in the forecasts</b>				0					
<b>Developments pupil yield not included in the forecasts</b>									9
<b>Pupil Yield expected from this development</b>									22
<b>OVERALL TOTAL</b>	155	150	1,080	1,050	937	960	1,006	1,009	1,040
<b>OVERALL SURPLUS PLACES PROJECTIONS based on Revised NET CAP</b>					113	90	44	41	10

The Education Department have confirmed that there is capacity to accommodate the children generated by this development and there would be 10 surplus spaces within the local primary schools by 2020. As a result there is no requirement for a primary school contribution.

In terms of secondary school education, the proposed development would be served by the secondary schools listed within the table below.

Secondary Schools	PAN Sep 16	PAN Sep 17	NET CAP May-16	any Known Changes	PUPIL FORECASTS based on October 2015 School Census						
					2016	2017	2018	2019	2020	2021	2022
<b>Middlewich</b>	140	140	700	700	683	710	710	722	716	703	691
Holmes Chapel	210	210	1,050	1,050	1,038	1,050	1,065	1,051	1,043	1,036	1,045
<b>Please Note: All figures quoted exclude any allowance for 6th Form Pupils</b>											
<b>Developments with S106 funded and pupil yield included in the forecasts</b>				39							
<b>Developments pupil yield not included in the forecasts</b>					26	26	26	26	26	26	26
<b>Pupil Yield expected from this development</b>					23	23	23	23	23	23	18
<b>OVERALL TOTAL</b>	350	350	1,750	1,789	1,770	1,809	1,824	1,822	1,808	1,788	1,780
<b>OVERALL SURPLUS PLACES PROJECTIONS</b>					19	-20	-35	-33	-19	1	9

From the table above which it can be seen that there are capacity issues within the schools listed between the years 2017-2020 and as a result the 18 secondary school children generated by this development cannot be accommodated within the local secondary schools. As there are capacity issues at these local schools the education department has requested a contribution of £294,168 to mitigate the impact of this proposed development. This will be secured via a S106 Agreement should the application be approved.

Although there are no tables available for SEN education provision the Councils Education department have confirmed that children in the Borough cannot be accommodated under current provision and some children are currently being educated outside the Borough. A contribution of £45,500 is required based on the increase in population.

## ENVIRONMENTAL SUSTAINABILITY

### Residential Amenity

In terms of the surrounding residential properties, these are to the opposite side of the canal. The application is outline and there is no reason why adequate separation distances could not be provided to the adjacent properties and between the proposed dwellings.

## **Noise**

The applicant has submitted a revised Noise Impact Assessment (NIA) in support of this application following an earlier objection from the Councils Environmental Health Officer.

The impact of the noise from existing noise sources upon the proposed development has been assessed in accordance with BS8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings and BS4142:2014 Methods for rating and assessing industrial and commercial sound. The conclusions of the report and methodology used are acceptable.

## Background

The acoustic environment at this location is substantially affected by:

- Industrial/commercial noise from the adjacent Brooks Lane Industrial Estate and
- The A533

CCP Building Products Limited (Cheshire Concrete Products) is referenced as a major noise source. CCP is a permitted installation under the Environmental Permit Regulations (EPR) regime for the: Blending cement in bulk or using cement in bulk other than at a construction site, including the bagging of cement and cement mixtures, the batching of ready mixed concrete and the manufacture of concrete blocks and other cement products. It holds a Cheshire East Council EPR Permit Reference: PPC 24A. All activities are carried out in the open yard. CCP apparently operates 24 hours a day (section 4.6, page 12, NIA).

The key emissions from plant operations that constitute pollution for the purposes of the Pollution Prevent and Control Act 1999 and therefore warrant control are those consisting of particulate matter in the form of dust.

Noise generating businesses locate in industrial estates, because it is expected that they will be noisy and are expressly zoned away from residential noise sensitive receptors for this purpose. Industrial areas rely on separation distances between noise sensitive developments, in order to reduce noise impact on residential amenity. There are no controls limiting occupants of the Industrial Estate from undertaking their activity at any time of the day / night 365 days / year. This is an attraction for businesses that require 24 hour operations to meet demand.

There are also no controls on future occupiers of the industrial estate being noisier than current business operations. Therefore, potentially further increasing the noise output from this industrial area.

By introducing noise sensitive receptors within an existing Cheshire East industrial estate will encroach upon existing industrial / commercial activities and will negatively impact the continuance of business development, expansion and future local employment opportunities. The noise climate at the proposed noise sensitive receptor locations will be significantly negatively impacted by impulsive, short term peak noise events from industrial noise source type activities operating 24hours.

The introduction of noise sensitive residential properties at this location is required to be adequately assessed in order to:

- Protect future noise sensitive occupiers from existing industrial noise sources.
- Allow Brooks Lane Industrial Estate business operators to continue work activities without risk of complaint from future residential neighbours.

If the introduction of noise sensitive residential receptors is permitted at this location, in close proximity to the existing Brooks Lane Industrial Estate; it is reasonable to foresee:

- A negative impact upon residential amenity will result and
- The boundaries of statutory noise nuisance will be change and the businesses may suffer formal action in the future when the residential properties are occupied.

### Outdoor Acoustic Environment

BS 4142:2014, 'Methods for Rating and Assessing Industrial and Commercial Sound'. This British Standard describes methods for rating and assessing sound of an industrial and/or commercial nature and includes sound from fixed installations which comprise mechanical and electrical plant and equipment. Outdoor sound levels are used to assess the likely effects of sound on people who might be inside or outside a dwelling or premises used for residential purposes upon which the sound is incident.

Where the rating level does not exceed the background sound level, this is an indication of the specific sound source having a low impact, depending on the context. The lower the rating level relative to the measured background sound level, the less likely it is that the specific sound source will have an adverse impact or a significant adverse impact. Typically the greater this difference, the greater the magnitude of the impact.

Adverse impacts include (but are not limited to) annoyance and sleep disturbance. Not all adverse impact will lead to complaints and not every complaint is proof of an adverse impact

<b>Difference of</b>	<b>BS4142:2014 Assessment</b>
+10 dB or more	Significant adverse Impact
+ 5 dB	Adverse Impact

The night time assessment undertaken indicates a noise reduction requirement for 'other' sound sources of between 11 and 26dB(A) in order to achieve a 0dB BS4142:2014 assessment level during the night time; RF2 and RF6 are the most critical locations, which are 26 dB and 23 dB. However, ALL the RF (residential facades) are +10dB, therefore a 'significant adverse impact' as per BS4142:2014. As per the diagram below;



The outcome of the BS4142 assessment is that a significant noise impact could be created in the gardens of the most affected properties from noise arising from CCP.

Internal Acoustic Environment

Providing the sound insulation requirement/composite requirements indicated below are adhered to as a design specification then the limits on the BS8233:2014 criteria for internal sound levels at residential dwellings habitable rooms are expected to be met.

Construction element	Main details	Rw	Applicable to	Remarks
External masonry walls	Brick - cavity -brick external wall. British standard HD brick, 50mm cavity with flexible minimal wall ties. Minimum brick density 1900Kg/m3- Well sealed with all joints pointed - NO penetrations, any unavoidable small penetrations should be sealed around with flexible mastic.	58	External facades at all habitable rooms	Conventional brick / block cavity wall construction
Sealed unit DG	Sealed unit double glazing using Pilkington 'Insulight' - 6mm float/12mm air gap/6.4mm pvb (acoustic laminate). In sealed heavy frame.	34	External facades at all habitable rooms	Where fully glazed doors are included these must have tight closing compression seals to all perimeters/ Preferably acoustically rated seals.
2nd floor roof over	Apex roof system - Tiles on pitch felt roof with 100mm mineral wool slab (minimum 35Kg/m3) on Gyproc 15mm 'soundbloc' plasterboard ceiling	43	45	All roof areas above habitable rooms.

## Noise Conclusion

There are significant adverse impacts arising from the existing noise climate that would justify the refusal of planning consent for noise sensitive dwellings solely on the external noise climate.

The proposal will create a 'mixed use' environment, by introducing residential development closer to the industrial estate. Residential development at this location will create conflict with adjacent industrial uses: future residents will suffer noise as a consequence and business operators will be the recipients of noise complaints. As demonstrated by the BS4142 assessment.

The NIA has demonstrated that the internal acoustic environment is capable of being designed to mitigate noise to a satisfactory level. Indoor living environments will depend on various acoustic design and noise mitigation measures to achieve a satisfactory acoustic environment.

However, residents are still entitled to reasonable external environmental standards. The sound level within a residential building is not the only consideration: most residents will also expect a reasonable degree of peaceful enjoyment of their gardens and adjacent amenity areas. Outdoor living environments cannot achieve a satisfactory noise level in accordance with the WHO guidelines for Community Noise. However BS 8223:2014 accepts that in areas where the upper limit of 55dBLAeqT cannot be achieved, development should be designed to achieve the lowest practicable levels in these external amenity spaces.

The concerns raised by the Environmental Health Officer in terms of noise are noted. However the site and the wider Brooks Lane Industrial Estate form part of a strategic allocation under Site CS54 of the Cheshire East Local Plan Strategy. As a result this part of Middlewich is likely to undergo significant re-development with the removal of the existing noise generating developments and the creation of up to 200 homes, leisure and community facilities, appropriate retail provision and green infrastructure. On this basis it is considered that the noise impacts from this development could not be used to generate a reason for refusal given the wider intentions to regenerate this area. A condition will be imposed to ensure that the reserved matters applications are supported by an updated Noise Impact Assessment and mitigation measures to take into account the position at that time.

## **Air Quality**

An Air Quality Impact Assessment has been submitted as part of this application. Policy SE12 of the emerging Local Plan states that the Council will seek to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon air quality. This is in accordance with paragraph 124 of the NPPF and the Government's Air Quality Strategy.

The Environmental Health Officer originally objected to the application on the grounds of insufficient information being submitted in the initial air quality impact assessment report. A further report has therefore been submitted in support of the application. The report considers whether the development will cause an increased exposure to airborne pollutants, particularly as a result of additional traffic and changes to traffic flows. A number of modelled scenarios have been considered within the assessment. These were:

- 2019 Base
- 2020 2019 Base + other committed developments in the area
- 2021 2019 Base + other committed developments + this development

The assessment uses the Defra emissions factor toolkit and ADMS to model NO<sub>2</sub> and PM<sub>10</sub> impacts from additional road traffic associated with this development. An air quality damage cost calculation has also been undertaken. The damage costs associated with emissions arising from vehicle movements from the development for 5 years have been calculated as £18,182 for NO<sub>x</sub> and £41,850 for PM<sub>10</sub> per year. The cost of mitigation to be implemented to offset the impact of emissions should reflect this value.

The report concludes that the air quality impacts as a result of the construction, operational and cumulative effects of the development would have a moderate adverse impact on five receptors in the area, a minor adverse impact on one, and a negligible impact on a further fourteen receptors. The report further concludes that mitigation measures will be required to limit the impact of the development.

The proposed development is considered significant by the Environmental Health Department in that it is highly likely to change traffic patterns and congestion in the area.

There is a need for the Local Planning Authority to consider the cumulative impact of a large number of developments in a particular area. In particular, the impact of transport related emissions on Local Air Quality. Poor air quality is detrimental to the health and wellbeing of the public and also has a negative impact on the quality of life for sensitive individuals.

Air Quality Monitoring undertaken at Chester Road, Middlewich indicates that the annual mean nitrogen dioxide limit value was exceeded for the year 2014. The Council is currently undertaking a verification process in accordance with the Local Air Quality Management regime to declare an Air Quality Management Area and the due process involved in that decision.

The report states that the developer should implement an adequate construction dust control plan to protect sensitive receptors from impacts during this stage of the proposal and provides details of what this should contain. This will be controlled through the imposition of planning conditions.

## **Contaminated Land**

The Contaminated Land team has no objection to the above application subject to the following comments with regard to contaminated land. The application includes new residential properties which are a sensitive end use and could be affected by any contamination present or brought onto the site.

Further investigations have been undertaken on site and are reported within the submitted Dunelm, March 2017 report. This work has provided sufficient information to enable the removal of the objection from the Contaminated Land team. However, the investigation has identified significant contamination issues including widespread Asbestos, Poly Aromatic Hydrocarbons (PAHs), Trichloroethylene (TCE) and Chloroethene (Vinyl Chloride), Lead and Mercury. Contamination is present both in the soil and the groundwater.

Further investigative work is required to fully understand the risks posed by the site. This should include boreholes to gain a better appreciation of the risks to controlled waters and it is likely that Detailed Quantitative Risk Assessments (DQRA) will be required. Such works will need to be undertaken post demolition and the removal of hard standing.

The Contaminated Land team have liaised closely with the Environment Agency and as such have combined the suggested conditions with respect to contaminated land. There is also a suggested condition from the Canal and Rivers Trust in relation to contaminated land.

### **Public Rights of Way**

There are no public footpaths crossing the site although PROW Middlewich 21 runs along Road Beta adjacent to the site. The PROW Team have stated that it appears unlikely that this development would affect the PROW.

In this case the PROW Team have requested a contribution to upgrade PROW Middlewich 21 and these works would take the form of signage, access point furniture, minor surface works and vegetation clearance. These works have been costed at £5,000 and will be secured as part of a S106 Agreement.

### **Impact upon the Trent and Mersey Canal**

The proposed marina would have a maximum of 12 berths and is supported by the Strategic Site Allocation CS54 Brooks Lane, Middlewich within the Cheshire East Local Plan.

The Canal & River Trust have been consulted as part of this application and originally raised a number of concerns in relation to the potential impact from this development. This has resulted in the submission of an amended plan which has repositioned the access of the marina onto the canal and the applicant has clarified the number of berths.

The Canal and River Trust has confirmed that there is no objection to this development from a water resources perspective due to the small number of berths involved.

The Canal and River Trust did raise serious concerns about the access point to the marina and in terms navigational safety due to the proximity of the access to Kings Lock and its associated moorings point. The Canal and River Trust suggested moving the location of the access further south to allow sufficient width to allow boats to pass without adversely impacting upon

navigational safety. The amended plans now show this and the revised comments are awaited from the Canal and River Trust.

One of the letters of objection refers to contaminated sediment within the canal and that this was identified when an adjacent boatyard was dredged. In relation to this issue the Canal and River Trust has stated that they do not know the specific boatyard dredging issue. However given the historic uses in the area contamination of the canal is highly likely. It should be noted though that the Canal and River Trust dredge lots of places where the sediment is contaminated. The Canal and River Trust have stated that dredging is a good thing, as it removes the contaminants and cleans up the legacy of the industrial revolution. The key is to make sure the applicant has the necessary controls in place to ensure that the dredging activity does not create a pollution issue.

The Canal and River Trust have suggested conditions to protect the Trent and Mersey Canal in terms of structural integrity, contaminated land and surface water drainage. These conditions will be imposed should the application be approved.

## **Impact upon Built Heritage**

### Scheduled Ancient Monument

The Scheduled Monument (known as Murgatroyd's Brine Works) is a considerable distance to the north-east of the site with a number of intervening employment units. This development would not impact upon the Scheduled Monument.

### Listed Buildings

The nearest Listed Buildings/Structures to this development are Trent and Mersey Canal Kings Lock (Grade II), Trent and Mersey Canal Bridge Number 167 (Bridge at Kings Lock) (Grade II) and Trent and Mersey Canal Bridge Number 168 (Bridge at Booth Lane) (Grade II). All 3 listed structures are located to the north-west of the site. The bridge at Brooks Lane referred to within the Town Council comments is not a listed structure.

The scheme appreciates and respects the heritage of the site in particular by revitalising the waterside, creating a new marina and respecting the industrial character of the area. Although this is an outline submission with all matters excluding access reserved considerable work has been undertaken to ensure that the proposal is for a place with a locally inspired and distinctive character and this journey is well explained in the Design and Access Statement.

### Conservation Area

The Trent and Mersey Canal and a small section of the application site to this boundary are located within a Conservation Area.

The site is currently part of the Brooks Lane Industrial Estate and presently contains two large Intertech industrial units and associated hard standing; the buildings are unsuitable for retention and conversion. The proposal does effectively open up the canal side and would maximise the potential of this key heritage asset, indeed the way in which the canal heritage is the driver for this development enhancing the Trent and Mersey Canal Conservation area is very

positive aspect of this scheme. However as this is an outline application the final details will only be secured at the Reserved Matters stage.

## **Archaeology**

This application is supported by an archaeological desk-based assessment which was prepared by Humble Heritage Ltd on behalf of the developers. The report considers information held in the Cheshire Historic Environment Record (CHER) and also describes the results of an examination of aerial photographs and historic mapping, including the Middlewich and Newton Tithe map of 1848 and Ordnance Survey maps from the 19th-century onwards. The report concludes that the proposed development area does have some potential to yield below ground archaeological deposits. The report draws particular attention to the Canal Boat Yard located at the south-western extent of the site, which is depicted on the 1848 tithe map, in addition the line of the King Street Roman Road, which runs along the north-eastern extent of the proposed development area.

Whilst the report has not identified any archaeological grounds for refusal of planning consent, the groundworks associated with the proposed development would lead to the destruction of any surviving below ground archaeological remains associated with the Boat Yard and Roman Road. Therefore Cheshire Archaeology Planning Advisory Service (APAS) would advise that a programme of archaeological mitigation be made as a condition of any planning permission which might be granted. In this instance the mitigation would take the form of:

- a developer funded watching brief, during relevant ground works (initial ground clearance, topsoil stripping & excavation of footings) across the line of the Roman Road, including a 15m wide buffer zone.
- a strip, map and record exercise across the site of the Boat Yard, whereby an area measuring 50m by 50m would be stripped using a suitable machine under archaeological supervision and control, down to the first archaeological layer, after which excavation would proceed by hand. An agreed excavation and recording methodology would then be implemented to excavate and record those archaeological features/layers that survived.

The results of this work would then be written up into a report, to be submitted for inclusion in the Cheshire Historic Environment Record. The work may be secured by the imposition of a planning condition.

## **Design**

The application is outline with details of scale, layout, appearance and landscaping to be determined at a later date. In support of this planning application, a Design and Access Statement has been provided.

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

*“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”*

The development site would have a density of 47 dwellings per hectare. This is considered to be reasonable on this site.

The scheme appreciates and respects the heritage of the site in particular by revitalising the waterside, creating a new marina and respecting the industrial character of the area. Although this is an outline application considerable work has been undertaken to ensure that the proposal is for a place with a locally inspired and distinctive character and this is well explained in the Design and Access Statement. Scale and massing seem appropriate for the context and the Gatehouse and blocks surrounding the Marina Salinae look like potentially exciting architectural additions to Middlewich as does the clean and modern approach to the housing.

Throughout the scheme buildings are well positioned in perimeter blocks and turn corners effectively making the most of the views of the canal and providing good levels of surveillance over the streets and spaces. The division of the site into zones with distinct characters is strong and the height to width ratios of streets is appropriate for the type and location.

This is an extremely interesting proposal and it has much to commend it. The opening up and proper utilisation of the Trent and Mersey canal, the incorporation of a mix of uses alongside housing and the bold approach to design that draws heavily from the local context are all warmly welcomed. It is however an outline application, albeit one supported by some considerable detail in some areas and on this basis it is considered that an appropriate design solution can be secured at the reserved matters stage.

## **Highways**

This is an outline application with all matters reserved except for access. The proposal is to be accessed from Road Beta by a priority type access. It is proposed to enhance the pedestrian connections to and from the town centre and access to bus services.

## Access

A key component of a development proposal is to provide a safe and suitable access for all highway users both vehicular and pedestrian. The proposals have been audited against this requirement and subject to the mitigation described under the next section meet this requirement. The submitted Transport Assessment states that visibility splays in accordance with Manual for Streets can be achieved in both directions when exiting the site (2.4m x 45m).

## Network Capacity

The Transport Assessment submitted with the application has considered two junctions on the highway network that would likely be influenced by the traffic generated by the development.

The junctions assessed by the applicant are at the following locations:

- Brooks lane/Road Beta
- Brooks Lane/A54 Kinderton Street

The traffic impact of the proposed development has been quantified in the supporting Transport Assessment which has been subject to audit by Cheshire East Council highway officers.

This audit has involved dialogue with the applicants transport consultant to overcome concerns raised over the transport impact of the application. As part of these discussions the traffic impact of the development has been assessed utilising modelling software at various junctions in particular the A54/Leadsmythy junction where the development will impact on a junction that suffers from peak time capacity constraint.

These discussions have been undertaken in the spirit of NPPF placing obligation on Highway Authorities to work with developers to find solutions to transport concerns of proposals through the securing of mitigations or financial contributions to mitigations rather than resisting the application. In accordance with the NPPF the Head of Strategic Infrastructure would only resist the application where the impact of the development could be determined as severe.

The comments raised by the Town Council in relation to the Brooks Lane Bridge are noted; in this case the bridge is owned by the Canal and River Trust and the surface carriageway over is part of the adopted highway. The submitted TA identifies that the net additional vehicle movements over the bridge would be low and no objection has been raised in relation to this issue by the Head of Strategic Infrastructure or the Canal and River Trust.

The results of this analysis have shown the development would be acceptable in highway terms subject to a S106 contribution of £150,000 towards a proposed improvement scheme at A54/Leadsmythy junction which is currently being facilitated by Cheshire East Council.

### Sustainable Access

An assessment of the sites sustainable credentials has been undertaken with particular attention given to connecting the site to existing facilities via sustainable modes such as walking/cycling and public transport.

### Walking & Cycling

An indicative walking link to Middlewich Town Centre and bus services via Kings Lock is referred in the supporting Transport Assessment. This link is an important element in ensuring the sustainable nature of the development making it a convenient and attractive option and the development needs to facilitate this link as a minimum.

The National Cycle Network runs through Middlewich providing longer distance cycle opportunities to Winsford/Sandbach. Links to ensure good internal connectivity will be assessed as part of the reserved matters application when the layout will be considered in detail.

### Public Transport

A half hourly bus service Monday to Saturday running to Sandbach/Crewe and Winsford/Northwich runs along Booth Lane (A534) adjacent to the site but on the opposite side of the canal hence the foot connection via Kings Lock is an important element in accessing the development by public transport.

### Travel plan

A travel plan has been submitted which proposes single car occupancy reductions of 10-15% over the first 5 years of the development assisted by the appointment of a future Travel Plan Co-ordinator who will promote and implement the measures described in the framework plan. The proposed householder travel plan information pack issued to all new first occupation residents must include a cycle voucher that can be redeemed in exchange for a bike worth up to £150.00 and a travel voucher that can be redeemed in exchange for a 3 month bus pass valid on services connecting the development to surrounding destinations.

To ensure effective implementation of the travel plan measures and subsequent submission of travel plan reports a travel plan monitoring fee of £5,000 will be required to be secured via Section 106 agreement.

### Highways Summary and Conclusions

A Transport Assessment has been used to assess the impact of this development and it is not considered that this represents a severe impact to warrant refusal of the application. It is considered that a safe and suitable site access can be achieved for all.

### **Trees and Hedgerows**

The access plan with visibility splays appears to avoid conflicts with the Road Beta frontage trees.

The revised layout received on suggests a greater number of trees could be retained on the canal side and Road Beta frontage than the earlier version. The Council's Tree Officer is concerned that there are locations where trees are shown either retained or proposed which may not be feasible. The full arboricultural implications could only be assessed once a layout is finalised at reserved matters stage and the implications of remediation requirements are clear.

### **Landscape**

The site is a brownfield site within the settlement boundary which includes a number of utilitarian employment buildings. On this basis it is not considered that the development would cause harm to the wider landscape.

### **Ecology**

The application site is located in an area of Middlewich known to support a number of protected/priority species. However the habitats on this site are for the most part of limited Nature Conservation value. The application site is also located adjacent to the Cledford Lane Lime beds Local Wildlife Site. The proposed development would however retain a buffer of semi-natural habitat adjacent to the Local Wildlife site and the Council's Ecologist advises that there are unlikely to be any significant effects on this designated site.

The trees along the boundary with the Trent and Mersey Canal are likely to provide both suitable foraging/commuting habitat for bats and potential roosting opportunities. The loss of these trees could have an adverse effect on the local bat population. In this case a revised plan has been submitted to show the retention of these trees and the views of the Council's Ecologist are awaited in relation to this issue.

## **Flood Risk**

The application site is located within Flood Zone 1 (low probability of river/tidal flooding) according to the Environment Agency Flood Maps. A Flood Risk Assessment (FRA) has been submitted as part of this application.

The current site is largely occupied by existing building and hardstanding with large areas of impermeable surfacing. The submitted FRA states that '*A workable solution would be for connection of surface water to the canal network and/or public sewer at greenfield runoff rate, with onsite storage provisions made to contain excess water prior to drainage discharge.*'

Any discharge to the canal network must be formally agreed with the Canal and Rivers Trust attaining the relevant consents to discharge. Any proposed discharge to public sewer must be agreed with United Utilities and the Lead Local Flood Authority.

The Environment Agency, United Utilities and the Councils Flood Risk Manager have been consulted as part of this application and have raised no objection to the proposed development subject to the imposition of planning conditions.

As a result, the development is considered to be acceptable in terms of its flood risk/drainage implications.

## **Impact upon Hazardous Installations**

The representations received refer to the potential safety implications due to the location of a number of adjacent businesses including Centec (a chemical manufacturing and recovery business located on the Science Park at Brooks Lane). These concerns have been noted and in this case the Health and Safety Executive (HSE) have been consulted on this application and the HSE has stated as follows;

*'The proposed development site which you have identified does not currently lie within the consultation distance (CD) of a major hazard site or major accident hazard pipeline; therefore at present HSE does not need to be consulted on any developments on this site'*

On this basis there are not considered to be any objections in terms of the safety of the future occupiers of the proposed development.

## **Brine Subsidence**

In this case the Cheshire Brine Subsidence Compensation Board have been consulted on this application and have stated that as the site is located outside of the consultation area the Board would not normally make any comments. However 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. An informative will be attached to any approval to advise the applicant of these comments.

## **ECONOMIC SUSTAINABILITY**

From a visitor economy point of view and relating specifically to the new marina development this is in line with the Cheshire East Visitor Economy Strategy agreed by Council in 2016.

The visitor economy contributes to jobs, growth and prosperity, both in its own right and in its contribution to Cheshire East's 'Quality of Place'. The ambition is focussed around continuing to maximise growth of the visitor economy, whilst ensuring greater prosperity across the widest number of communities that will lead to greater wellbeing for both residents and visitors. Tourism can be a force for good both in economic terms but also as an essential contributor to the excellent quality of life and place Cheshire East offers. This is a key factor not only in decisions to visit but also in decisions to settle and to invest.

Working with Marketing Cheshire, the sub-regional place marketing board, Cheshire East Council is promoting the region as a short breaks destination as well as a location for business tourism, food tourism and weddings. The Cheshire East Visitor Economy Strategy (2016-2020) articulates strategic themes that help to guide the identification of priorities in seeking to maximise the contribution of the visitor economy. It also identifies strategic priorities including developing a distinctive rural tourism offer and profiling a quality food & drink offer in Cheshire East.

The proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to Middlewich including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

The comments raised in relation to the loss of the existing employment site are noted. However this has been considered as part of the Cheshire East Local Plan Strategy allocation of this site. As part of his last comments on the progress of the Cheshire East Local Plan the Inspector stated that

*'Apart from a few exceptions (listed below and later), no further modifications are needed to the development strategy, proposed amounts of housing and employment land, and the site-specific policies for Crewe, Macclesfield, the Key & Local Service Centres, Other Settlements & Rural Areas, and Other Sites'*

As a result it is considered that the economic benefits of this development weigh in favour of the proposed development.

## **CIL Regulations**

In order to comply with the Community Infrastructure Regulations 2010 it is necessary for planning applications with planning obligations to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

The development would result in increased demand for secondary school places in the area and SEN in Cheshire East where there is very limited spare capacity. In order to increase capacity of

the school(s) which would support the proposed development, a contribution towards secondary school education and SEN is required. This is considered to be necessary and fair and reasonable in relation to the development.

As explained within the main report, the contribution to the PROW will improve the sustainability credentials of this site and is necessary, directly related to the development and fair and reasonable.

On this basis the S106, recommendation is compliant with the CIL Regulations 2010.

## **PLANNING BALANCE**

The proposed development forms part of Site CS54 Brooks Lane, Middlewich and as a result the principle of development is considered to be acceptable.

Cheshire East cannot demonstrate a 5 year supply of deliverable housing sites and the presumption in favour of sustainable development applies at paragraph 14 of the Framework where it states that LPA's should grant permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits from it, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

The benefits in this case are:

- The development would provide benefits in terms of much needed affordable housing provision and would help in the Councils delivery of 5 year housing land supply.
- The development would bring economic benefits in terms of the proposed marina and facilities
- Although the application is in outline form the development has the potential to bring extensive improvements to the appearance of the site from the Canal and Conservation Area
- The development would provide significant economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in Middlewich.

The development would have a neutral impact upon the following subject to mitigation:

- The impact upon education infrastructure would be neutral as the impact would be mitigated through the provision of a contribution.
- The impact upon protected species/ecology is considered to be neutral subject to the imposition of conditions to secure mitigation.
- There is not considered to be any drainage implications raised by this development.
- The impact upon trees is considered to be neutral at this stage and further details would be provided at the reserved matters stage.
- The impact upon residential amenity/air quality and contaminated land could be mitigated through the imposition of planning conditions.
- The impact upon the landscape would be limited
- The archaeological implications would be mitigated through the imposition of a planning condition
- Subject to conditions the development would not impact upon the Canal in terms of water resource, navigational safety or structural integrity
- There would be no significant impact upon the PROW

- The highways impact of the development would be acceptable subject to the S106 requirements to mitigate the proposed impact

The concerns raised in relation to noise are noted but the wider redevelopment of this site is anticipated in accordance with Strategic Site CS54.

On this basis it is considered that the benefits of this development outweigh any harm and in accordance with the NPPF the application is recommended for approval.

## **RECOMMENDATION:**

**APPROVE** subject to the completion of a S106 Agreement with the following Heads of Terms

1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:

- The numbers, type, tenure and location on the site of the affordable housing provision
- The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
- The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved
- The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

2. Secondary school education contribution of £294,168

3. SEN education contribution of £45,500

4. Contribution of £150,000 towards the improvement scheme at the A54/Leadsmithy Street

5. Travel Plan requirement to include a cycle voucher that can be redeemed in exchange for a bike worth up to £150.00 and a travel voucher that can be redeemed in exchange for a 3 month bus pass valid on services connecting the development to surrounding destinations. Travel Plan Monitoring sum of £5,000.

6. PROW Contribution of £5,000 towards PROW Middlewich 21

7. POS provision and a scheme of management to be maintained in perpetuity

And the following conditions;

1. Standard Outline 1

2. Standard Outline 2

3. Standard Outline 3

4. Approved Plans

5. The reserved matters for the proposed development shall be in general accordance with the submitted Design and Access Statement

6. Canal Risk Assessment and Method Statement (structural integrity) to be submitted to the LPA for approval in writing

7. Details of appropriate mitigation measures to prevent any risk of pollution or harm to the adjacent Trent and Mersey Canal to be submitted to the LPA for approval in writing

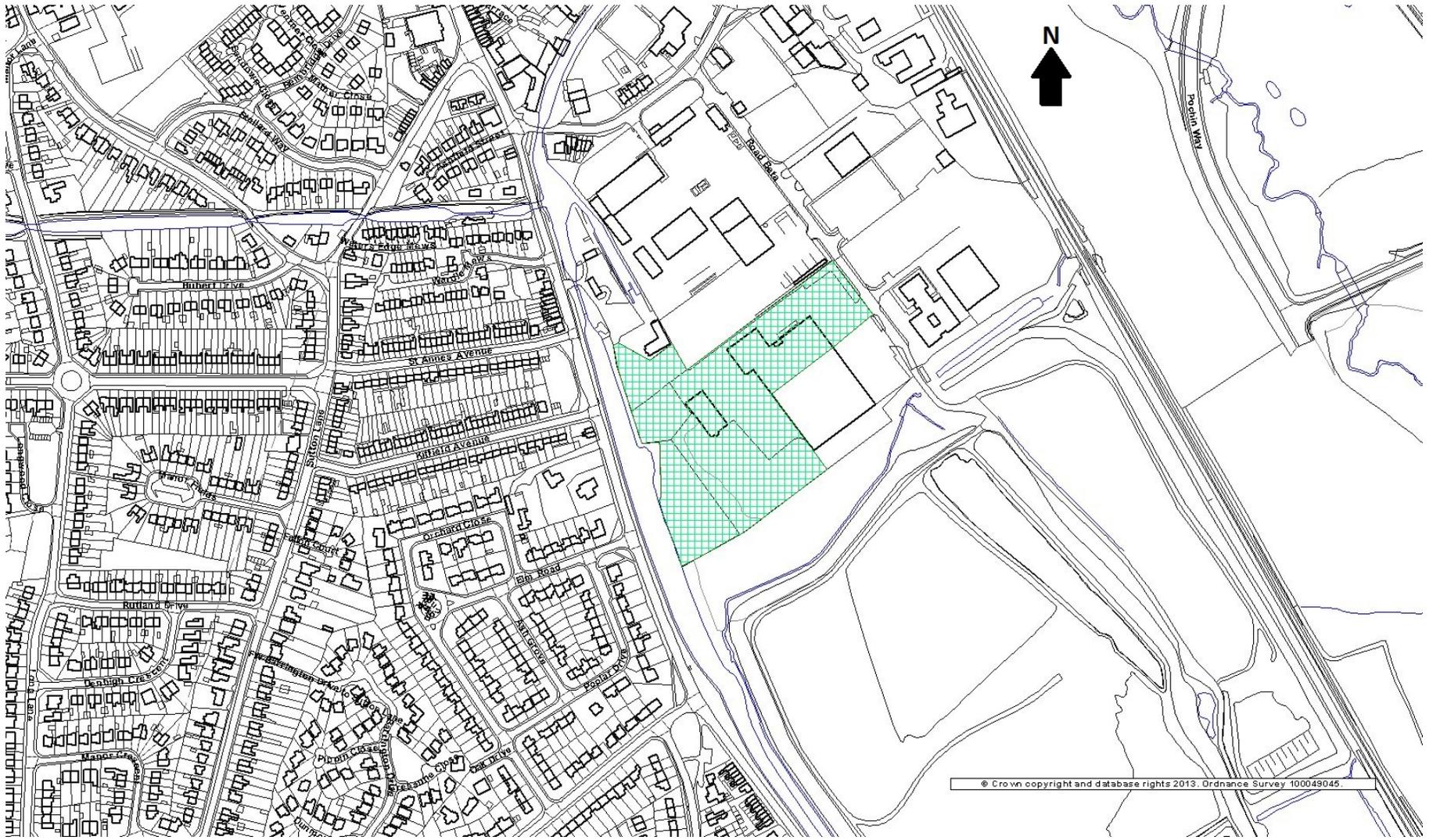
8. No development shall take place until a scheme for the provision and implementation of a surface water drainage system to serve the development has first been submitted to and approved in writing by the Local Planning Authority
9. Contaminated Land details to be submitted and approved
10. No occupation of each phase of development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved
11. Details of any soil or soil forming materials to be tested for contamination prior to being brought onto site
12. If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority as soon as reasonably practicable (but within a maximum of 5 days from the find).
13. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater.
14. No infiltration of surface water drainage into the ground where adverse concentrations of contamination are known (or suspected) to be present is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.
15. Travel Plan to be submitted and approved
16. Electric Vehicle Charging Points to be submitted and approved
17. Construction Management Plan (including dust control measures to be submitted and approved)
18. All commercial vehicles associated with operation of the retail area shall comply with current or the most recent European Emission Standards from scheme opening, to be progressively maintained for the lifetime of the development.
19. Reserved matters application to be supported a lighting strategy informed by the advise in *Bats and lighting in the UK- bats and the built environment series*, (Bat Conservation Trust, 2009).
20. Reserved matters application to be supported by proposals for the incorporation of features for nesting birds and roosting bats.
21. Reserved matters application to be supported by a management plan for the control of Himalayan Balsam.
22. No development shall take place within the area described above until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The work shall be carried out strictly in accordance with the approved scheme.
23. Retention of trees on site unless otherwise agreed
24. Any future reserved matters application shall be supported by a Tree Survey no more than 12 months old, an Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan that shall inform the design of the definitive site layout and accord with the guidelines contained within *BS5837:2012 Trees in relation to design, demolition and Construction – Recommendations*
25. The facilitation of a footpath connection from the site boundary to Booth Lane.

- 26. The site access arrangements shall be completed prior to the development being brought into use.**
- 27. The Reserved Matters application to be supported by an updated NIA and mitigation measures**
- 28. Details of piling/floor floating works to be submitted and approved**
- 29. Reserved Matters to include details of proposed, new, modified or additional source(s) of sound, range from single air conditioning units, commercial kitchen extract units or new industrial activity**

**In order to give proper effect to the Board`s/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 her 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 the application be subject to an appeal, the following Heads of Terms should be secured as part of any S106 Agreement:**

- 1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:
  - The numbers, type, tenure and location on the site of the affordable housing provision**
  - The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing**
  - The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved**
  - The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and**
  - The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.****
- 2. Secondary school education contribution of £294,168**
- 3. SEN education contribution of £45,500**
- 4. Contribution of £150,000 towards the improvement scheme at the A54/Leadsmithy Street**
- 5. Travel Plan requirement to include a cycle voucher that can be redeemed in exchange for a bike worth up to £150.00 and a travel voucher that can be redeemed in exchange for a 3 month bus pass valid on services connecting the development to surrounding destinations. Travel Plan Monitoring sum of £5,000.**
- 6. PROW Contribution of £5,000 towards PROW Middlewich 21**
- 7. POS provision and a scheme of management to be maintained in perpetuity**



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