

Application No: 17/5070C

Location: Former Albion Chemical Works, BOOTH LANE, MOSTON, CHESHIRE

Proposal: OUTLINE PLANNING PERMISSION (REVISIONS TO 09/2083C) IN RESPECT OF ZONES 2, 5 AND 6, TO PROVIDE UP TO 100 RESIDENTIAL UNITS (C3) PLUS CARE HOME (C2) OR 120 RESIDENTIAL UNITS, UP TO 2,600SQM OF COMMERCIAL USES INCLUDING RETAIL (A1), RESTAURANT/PUB (A3/A4) PLUS OFFICES (B1), WITH PUBLIC OPEN SPACE AND ASSOCIATED INFRASTRUCTURE

Applicant: BLUEFIELD SANDBACH LIMITED

Expiry Date: 28-Sep-2018

## SUMMARY

The principle of development is considered to be acceptable and the site is located within the settlement boundary. On balance the partial loss of this employment site is considered to comply with the objectives set out in EG 3, MP1, SD1 and SD2 although it is accepted that the site does have some weaknesses in meeting the specific objectives relating to accessibility and open space provision.

The development will not have a detrimental impact upon residential amenity (including for future occupants in terms of noise and contaminated land), it would provide benefits in terms of much needed affordable housing provision and would help in the Councils delivery of housing.

The impact upon air quality has been assessed as part of this application and subject to the imposition of planning conditions the development would comply with Policy SE 12 point 1.

The impact upon infrastructure would be neutral as the impact upon education and health would be mitigated through the provision of a contributions. The development would comply with Policy IN 1.

In terms of the POS provision the development based on the indicative plan would result in a shortfall of provision and the development would be contrary to Policy SE 6 point 4 (iii) which requires that new developments provide adequate open space. The provision of a NEAP would be secured as part of a S106 Agreement and would comply with SE 6. The provision of an off-site contribution to allotments would comply with SE 6 and indoor recreation would be mitigated through the provision of a contribution in accordance with SC 2 point 3.

Details of the proposed landscaping would be secured at the reserved matters stage and a condition will be imposed to secure a scheme of replacement tree planting within the

grass verge. The proposed development is considered to comply with the requirements of Policies SE 4 and SE 5.

With regard to ecological impacts, the development would result in the loss of the Priority habitat known as 'Open Mosaic Habitats on previously developed land'. This will in turn lead to a High magnitude adverse impact upon little Ringed Plover as a result of the direct loss of habitat and also the loss of openness. This impact will be significant at the County level. In this case Policy SE 3 point 4 states that development will not normally be permitted except where the reasons for or benefits of the proposed development outweigh the impact of the development. In this case some mitigation will be secured and it is also important to note that the site has an extant planning permission. As a result the impact is considered to be acceptable.

The development would not have significant drainage/flood risk implications and complies with Policy SE 13.

The development is acceptable in terms of its impact upon trees on this site and replacement planting will be secured. This development will comply with Policy SE 5.

It is considered that the proposed development demonstrates that an acceptable design solution can be secured in accordance with the CEC Design Guide and Policy SE 1. However this is a Reserved Matter and the final judgement will be made at that stage. Subject to the proposed scheme of replacement tree planting within the grass verge the impact upon the built heritage assets is considered to be acceptable and the development would comply with Policy SE 9.

The impact in terms of the Hazardous Substances Consents on the site will be dealt with under delegated powers.

The proposed access point is acceptable and the traffic impact as part of this development has already been accepted together with contributions for off-site highway works. This is in accordance with policy CO 1.

The site is largely brownfield and in this case the redevelopment of the site would provide a number of economic benefits in the re-use of the site. The redevelopment of this brownfield site complies with the policy principles underpinning the vision to the CELPS (para 1.29) which states that;

*'Develop brownfield sites, where possible, to minimise the use of greenfield, Strategic Green Gap, open countryside or Green Belt sites'*

Although the development would have some weaknesses/conflicts in terms of its POS provision and the impact upon biodiversity it is considered that on the whole the development would comply with the relevant policies of the Cheshire East Local Plan Strategy, Congleton Borough Local Plan and the Moston Neighbourhood Plan.

## **RECOMMENDATION**

**DELEGATE to the Head of Planning (Regulation) to APPROVE subject to the removal of the HSE 'advise against' consultation response and the completion of a S106 Agreement and the imposition of planning conditions**

## **PROPOSAL:**

This is an outline application for zones 2, 5 and 6 to provide up to 100 residential units (C3) plus care home (C2) or up to 120 residential units; and up to 2,600sqm of commercial uses including retail (A1), restaurant/pub (A3/A4) plus offices with public open space and associated infrastructure.

All matters are reserved apart from access. The access would be via a single junction off Booth Lane.

## **SITE DESCRIPTION:**

This outline application relates to approximately 5.1 of land and is situated 3.6km north west of Sandbach Town Centre, and is 4.5km south east of Middlewich.

The site is a former chemical works which has now been cleared and some remediation has taken place on this site. On the west, the site has a long frontage to the A533 (with a tree lined grass verge), and it is bound by the Sandbach to Middlewich railway line to the east. The site also lies adjacent to the Trent and Mersey Canal which is a designated Conservation Area. There is a retained industrial site to the north.

To the south of the site is a residential site which is under construction and includes the Grade II listed, Yew Tree Farm House, which dates from the 16<sup>th</sup> century, with 19<sup>th</sup> century additions.

## **RELEVANT HISTORY:**

17/5223C - Erection of a three storey 66 bed care home for the elderly – No decision made

17/5068C - Construction of an office building (Use Class B1), associated car parking, proposed access road and mitigation bund – No decision made

16/3465C - Non Material Amendment to approval 14/4212C - Approved 26<sup>th</sup> July 2016

15/3224C - Non-Material Amendment relating to 14/4212C – Approved 17<sup>th</sup> July 2015

14/4218C - Variation of conditions 6, 7, 25 and removal of condition 14 on application 09/2083C – Approved 27<sup>th</sup> February 2015

14/4212C - Detailed approval is now sought for access, appearance, landscaping, layout and scale in respect of the residential element of the scheme. The outline application 09/2083C was subject to an EIA therefore an Environmental Statement was submitted to the local authority as part of the outline submission – Approved 27<sup>th</sup> February 2015

09/2083C - The comprehensive redevelopment of the site for a mix of uses comprising of up to 375 residential units (Class C3); 12000sqm of office floorspace (Class B1); 3810sqm of general industrial (Class B2) and warehousing (Class B8) floorspace; 2600sqm of commercial uses incorporating pub (A4), hotel (C1), restaurant (A3), Health club (D2), retail (A1), car dealership (Sui-generis), fast food restaurant (A5) and offices (B1); retention and change of use of Yew Tree

Farm complex for up to 920sqm of residential (Class C3) and non-residential (D1) uses; public open space together with access and associated infrastructure, with all matters reserved as set out in the application and described in drawings DMP6059/001 revision C and DMP6059/004 revision C – Approved 14<sup>th</sup> May 2014

## **POLICIES**

### **Cheshire East Local Plan Strategy**

PG1 - Overall Development Strategy  
PG2 – Settlement Hierarchy  
PG7 – Spatial Distribution of Development  
SD1 - Sustainable Development in Cheshire East  
SD2 - Sustainable Development Principles  
EG1 – Economic Prosperity  
EG3 – Existing and Allocated Employment Sites  
SC4 – Residential Mix  
SC5 – Affordable Homes  
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 3 - Biodiversity and Geodiversity  
SE 6 – Green Infrastructure  
SE 7 – The Historic Environment  
SE 8 – Low Carbon Energy  
SE12 – Pollution, Land Contamination and Land Instability  
SE 13 - Flood Risk and Water Management  
IN1 – Infrastructure  
IN2 – Developer Contributions  
CO1 – Sustainable Travel and Transport  
CO4 – Travel Plans and Transport Assessments

### **Congleton Borough Local Plan**

The relevant Saved Policies are: -

PS4 Towns  
NR4 Non-statutory sites  
GR9 Accessibility, servicing and provision of parking  
GR13 Public Transport Measures  
GR14 Cycling Measures  
GR15 Pedestrian Measures  
GR16 Footpaths Bridleway and Cycleway Networks  
GR17 Car parking  
GR18 Traffic Generation  
NR2 Statutory Habitats  
NR3 Habitats

NR5 Habitats

## **Neighbourhood Plan**

The Moston Neighbourhood Plan is at Regulation 16 stage.

LD1 – Design and Landscape Setting

LD2 – Dark Skies

INF1 – Utilities

INF2 – Broadband

INF3 – Surface Water Management

ENV1 – Wildlife Habitats, Wildlife Corridors and Biodiversity

ENV2 – Trees, Hedgerows and Watercourses

LE2 – Non Rural Employment

HER1 - Heritage

## **National Policy**

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

Of particular relevance are paragraphs:

11. Presumption in favour of sustainable development

80-82. Building a strong, competitive economy

59-66. Delivering a sufficient supply of homes

124-132. Achieving Well Designed Places

## **Other Considerations:**

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

Cheshire East Design Guide

## **CONSULTATIONS:**

**Historic England:** Do not wish to offer any comments

**Highways England:** No objection

**Environment Agency:** No objection subject to the imposition of planning conditions. The Environment Agency have also offered a number of general comments in relation to the contaminated land issues on this site.

**Health & Safety Executive:** Advise that there are sufficient reasons on safety grounds, for advising against the granting of planning permission in this case.

**Cheshire East PROW:** The developer should be tasked to undertake a thorough assessment of the *quality* of the accessibility of the site for pedestrians and cyclists to and from key destinations. The access along the Canal towpath is limited by a bridge with steps or via a narrow footbridge over the lock and there is no means of crossing Booth Lane and this would create a barrier to

residents using active travel. Parts of the canal towpath have indeed been recently upgraded, but not those sections nearest to the development site. The 'direct pedestrian access point' at the south corner of the site should be designed and constructed suitable for use by both pedestrians and cyclists as it forms one of the key desire lines for non-motorised users.

**Natural England:** Statutory Conservation Sites – no objection. For advice on Protected Species refer to the Natural England standing advice.

**CEC Skills and Growth Company:** The viability challenges of bringing forward the scale of office development (in the original plan) and the potential for securing alternative employment use or other occupiers for this site are noted. The additional new jobs created through the alternative commercial uses are welcomed.

**Canals and Rivers Trust:** A legal agreement securing a financial contribution towards the canal towpath and access improvements is necessary. The towpath can therefore also be seen as an important walking and cycling route, both for general leisure, recreation and the promotion of healthy activity, and also as an important sustainable and traffic-free route helping to link the proposed development with the adjacent towns and villages and the wider walking, cycling and green spaces network within the authority area. In this instance, it is considered that the towpath in the vicinity of the application site needs to be upgraded in order to fulfil the role identified for it by the policies of Local Plans and within the supporting application documents. To cope with any significant increase in footfall along this stretch of towpath, the surface needs to be adequate and sufficiently hard-wearing in order to a) encourage its use- if it is in poor condition, this will deter potential users, and b) to ensure that such increased use does not add to the Trusts maintenance liabilities. In this regard, the Canal and Rivers Trust consider that a contribution of £150,000 towards towpath improvements would be proportionate to the quantum of development proposed for the site and would be used to provide approximately 1km of towpath improvements from the development site either north from Bridge 163 towards Middlewich and/or south to link to bridge 162, Dragon Lane and the sustrans route 5 to the west (accessed via Dragons Lane).

The Trust have previously been asked to consider accepting surface water discharge from the site to the canal. The Trust have raised concerns in terms of the contamination on the site. Any such discharge to the canal will require the prior consent of the Canal & River Trust and, assuming that the Trust are satisfied that the canal has sufficient capacity to accept this discharge, this consent will be subject to completion of a commercial agreement. The Trust would also need to be satisfied that no contamination would be discharged to the canal. The applicant's mercury report shows that mercury contaminated soils would be encapsulated. This may assist in preventing contamination of the canal. This would be subject to the drainage design for the site.

The Trust would suggest that the applicant seeks agreement to discharge surface water via the Trusts Third Party Works. The applicant should contact the Trusts Utilities team if they wish to discuss the feasibility of accepting surface water discharge further. An informative is suggested.

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

**Cheshire Archaeology:** No further archaeological mitigation is required at this site.

**CEC Education:** To alleviate forecast pressures, the following contributions would be required:

100 dwellings

18 primary pupils (19 less 1 SEN pupil) = £195,233

15 secondary pupils = £245,140

1 SEN pupil = £45,500

120 dwellings

22 primary pupils (23 less 1 SEN pupil) = £238,618

18 secondary pupils = £294,168

1 SEN pupil = £45,500

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

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

**CEC Flood Risk Manager:** Conditions suggested.

**Environmental Health:** Conditions suggested in relation to noise mitigation, piling, Travel Plans, Electric Vehicle Charging, Low Emission Boilers and contaminated land. Informatives suggested in relation to contaminated land and construction hours.

**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.

**Network Rail:** Network Rail objected to the 2014 residential-led mixed use development on this site to highlight the location of the two level crossings and the safety risk as a result of the application. This development will result in up to an additional 120 residential units to replace the employment land provision. Network Rail request that the Council includes the following two conditions;

- The developer undertakes a stopping up of the level crossing via S257 of the Town and Country Planning Act
- The level crossing must be closed prior to the occupation of any dwellings on the site

The impacts of increased numbers and users and the change in character of users should be considered in the Councils decision. As a publicly financed organisation Network Rail is not funded to mitigate the impact of new development upon its infrastructure

**Ansa Open Space:** The development of 100 dwellings creates the need for 6,000sqm of Public Open Space (POS) excluding allotments or 7,200sqm for 120 dwellings. The DAS refers to a *significant amount of POS is being provided* however this is not quantified and does not appear to be sufficient. Play provision should be addressed on site by way of a NEAP and should complement site being currently being built out.

The CELP also requires a 5sqm per dwelling allotment space. No allotment provision is being provided except in the form of raised beds exclusively for the use of the care home residents

therefore a contribution of £230.70 per dwelling is required to improve the allotments on Booth Lane.

Contributions are required for indoor sport and a total of £18,200 is required based on 100 dwellings and a total of £21,540 is required based on a total of 120 dwellings.

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

**Moston Parish Council:** Support the application and make the following comments;

- Planning applications on the former Albion Lock Chemicals Works are a dilemma to Moston Parish Council as the site is quite clearly within the Moston Parish Boundary, well away from Sandbach but for the purposes of the local plan the site is included within the Sandbach settlement area
- The Parish Council are generally in favour of re-development on Brown Field Sites, however Moston is within the open countryside and the potential of around 500 houses (3 times the present number) plus the commercial use is something which concerns local residents.
- It is understood that there will be a requirement for more commercial and retail premises in addition to houses in the future which this application if granted would contribute to. With that in mind the Parish Council support the application but wish to see the affordable Housing provision offered first to Moston residents and give full support to the request from Canal and River Trust for a contribution of £150,000 towards towpath improvements on the Trent and Mersey Canal with the proviso the improvements outlined by Canal and River Trust go south from Bridge 163 to at least Bridge 162 for the reasons outlined in the application. The Parish Council would obviously support further towpath improvements southwards towards Bridge 160 which would then enable cyclists to reach National Cycle Route 5 without travelling on the narrow roads of Dragons Lane and Plant Lane.

**Middlewich Town Council:** No comments received.

**Sandbach Town Council:** No objection based on the amended plans. Members welcome the reduced density of housing. Members would like clarification however, on the line of the public footpath that crosses the site, as it is unclear what is happening to it.

**Bradwall Parish Council:** No comments received.

## **REPRESENTATIONS:**

A letter of representation has been received from Cycling UK which raises the following points:

- Additional S106 contributions for cycling measures are required and this should include;
  - Sandbach FP36/Bradwall FP3 should be upgraded for cycling as it would allow cycling access into the countryside and north towards Middlewich avoiding the A533
  - Moston FP7/Bradwall FP4 – Improvements should be investigated for upgrading to cycling but it has not been explored how best to cross the railway line.

## **APPRAISAL**

The site is a previously developed site which lies within the Settlement Boundary as defined by the Congleton Borough Local Plan. The site does not have any specific allocation as part of the Congleton Borough Local Plan or the CELPS.



The site is an employment site although the former buildings have been cleared from the site and the site has an extant outline planning permission for employment/commercial development as part of application 09/2083C (then varied as part of application 14/4218C).

This development would result in the loss of an existing employment site and as a result Policy EG3 of the CELPS applies. Policy EG3 states that existing employment sites will be protected for employment use unless:

- Premises are causing significant nuisance or environmental problems that could not be mitigated; or
- The site is no longer suitable or viable for employment use; and
  - There is no potential for modernisation or alternate employment uses; and
  - No other occupiers can be found.

Where it can be demonstrated that there is a case for alternative development on existing employment sites, these will be expected to meet sustainable development objectives as set out in Policies MP1, SD1 and SD2 of the CELPS. All opportunities must be explored to incorporate an element of employment development as part of a mixed use scheme.

In this case the developer has submitted an employment land review for this site and this states that the site has been marketed since October 2014. This shows that enquiries have been received from four businesses requiring light industrial B1 (C) use. In terms of B2 and B8 uses the applicant has stated as follows;

- B2 or B8 will either will not pay the land value required; or
- The uses are not high quality, as required and set out by the Council in their pre-application response; or
- The job skills are low quality; or
- The number of jobs generated is low; or
- They are not compatible with the proposed high quality Brenntag offices, care home and roadside uses which are proposed; or
- A combination of some or all of these points

The supporting report identifies that none of the parties who have made an offer for the site have actually made an offer for the site close to the underlying land value. Furthermore the applicant states that the base cost of the site before developers profit is taken into account means that the land owner would need to obtain a price in excess of the current land value. On this basis the report concludes that there is no realistic interest from B1(c), B2 or B8 sectors either from occupiers or developers at the open market value of the site or a figure to reflect land value plus the loss of developers profit.

In terms of alternative uses the submitted report has stated that the proposed office which would be provided would serve Brenntag providing 1,000sqm of office space and would result in the creation of 40 new jobs as well as protecting 37 existing on-site jobs. The new office will be subsidised by the landowner to retain Brenntag on the site. The land owner has already agreed terms with specialist care home provider (LNT Care Developments) to provide a 66 bed care home at the southern part of the site which would create 40-50 new jobs.

Discussions have taken place with other commercial operators (family pub and retail sectors). The operators in these sectors have stated that they would need a minimum of 500 dwellings on the

adjoining development in order to sustain the business (the family pub and retail elements would create an estimated 56 jobs).

In this the Skills and Growth Company have been consulted as part of this application and have stated that the new additional jobs created through the alternative commercial uses are welcomed and no objection has been raised to this application.

In this case it is considered that the principle of this mixed use scheme would comply with Policy EG3 of the CELP.

### **Retail Impact**

The NPPF and Policy EG 5 require an impact assessment if the floor space of the development exceeds 2,500sq.m and a sequential test.

The proposed commercial elements of the scheme up to 2,600sqm, including A1 retail use, sits within the previously approved parameters for the original outline application which approved a maximum of 2,600sqm for the following uses pub (A4)/hotel (C1)/restaurant (A3) or health club (D2), retail (A1), car dealership (sui-generis), fast food restaurant (A5) and offices (B1).

Although no impact assessment or sequential test has been provided it is accepted that there is an extant permission of this site and on this basis it is not considered to be reasonable to require a further assessment given the extant planning permission. Therefore the principle of retail development on the site is established.

It should also be noted that the extant planning permission does not include any condition to restrict the type of goods which can be sold from the site.

### **Affordable Housing**

The SHMA 2013 shows that the majority of the demand in the sub area of Sandbach Rural per year until 2018 is for 13 x one bedroom, 2 x two bedroom and 3 x four bedroom dwellings for General Needs. The SMHA also shows a requirement for 2 x one bedroom older persons dwellings. These can be flats, cottage style flats, bungalows or lifetime homes. The SHMA shows an over supply of 2 bedroom General Needs accommodation.

There are 10 people/families identified on the Cheshire Homechoice waiting list with Brereton, Moston and Bradwall as their first choice. This can be broken down to 3 x one bedroom, 3 x two bedroom, 4 x three bedroom dwellings. In addition to this in 2013 a rural housing needs survey for Brereton was carried out which evidenced a need for at least 12 households in need of affordable housing.

With the housing need data shown above a mix of 1, 2, 3 and 4 general needs dwellings and 1 bedroom older person dwellings on this site would be acceptable.

A proposed development of 100 dwellings would result in a requirement for 30 affordable dwellings and a development of 120 dwellings result in a requirement of 36 affordable dwellings.

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 Reserved Matters stage).

## **Highways Implications**

The original outline application approved the construction of a mix of residential and commercial development, the residential element 375 dwellings is already under construction by Taylor Wimpey. The main change in this application is that some of the employment is being replaced by residential development.

With regards to the traffic impact of this application, the applicant has compared the traffic generation of the consented approval against the generation likely to arise from this proposal. The results of this assessment indicate that the current proposal would result in slightly less traffic generation than the consented scheme, the results are considered to be a correct assessment of the traffic impact of the application.

This application includes the provision of a ghost island right turn lane at the junction with Booth Lane to provide access to the site. This has been assessed in regards to the operational capacity and will operate well within capacity with the development traffic added.

There were a number of highway contributions agreed on the original outline permission 09/2083C these were predominantly tied to the occupation to residential units and are listed below;

- A533/A54 Leadsmithy Street, Middlewich:- £170,000 – To be paid prior to the occupation of the 333rd dwelling
- A533/A534 The Hill/High St/Old Mill Rd/Brookhouse Rd roundabout, Sandbach £197,000 – To be paid prior to the occupation of the 150<sup>th</sup> dwelling
- £190,000 to be spent either on Junction 17 of the M6 or the Middlewich bypass whichever comes forward first (the decision regarding allocation of this contribution to be delegated to the Head of Planning and Housing, in consultation with the Chairman) – To be paid prior to the occupation of the 166<sup>th</sup> dwelling
- Quality partnership bus shelters £25,000 – To be paid prior to the occupation of the development
- Real Time Information facility, Sandbach Rail Station £20,000 – To be paid prior to the occupation of the development
- Travel Plan facilities and targets £38,000 – To be paid prior to the occupation of the development

To date the Council has received the payment for the bus shelter contribution, the Sandbach Rail Station contribution and the Travel Plan contribution

The Strategic Highways Manager has stated that these improvements which were required to mitigate the existing outline consent and that these should be reflected in this application should changes be made to the S106. In this case it is not considered necessary to replicate the requirement for these contributions as part of this application as any contributions will be secured as part of the development which is under construction to the south of the site.

## **Amenity**

There are no existing residential properties in close proximity to this application site. However it should be noted that the site to the south has planning permission for a residential development. The indicative plan shows that the proposed dwellings would have separation distances of between 20-22m (principle elevation to principle elevation) to the approved dwellings to the south and the care home would have a separation distance of 25.6m to the approved dwellings. It is considered that an adequate solution could be secured at the Reserved Matters stage.

### Contaminated Land

Given the previous use of the site as a chemical works there is land contamination issues associated with this site. This issue was subject to discussions at the outline stage by the Strategic Planning Board at the meetings on 16<sup>th</sup> February 2011 (where it was deferred for among other things further information in relation to land contamination) and 20<sup>th</sup> April 2011 (where members resolved to approve the outline application).

As stated within the report to Strategic Planning Board on 20<sup>th</sup> April 2011 the remedial works including the Mercury Plant decontamination and the remediation of the waste sludge lagoon, have been completed in accordance with statutory regulatory approval. Both the Environment Agency and the Council's Contaminated Land Officer confirmed as part of the outline application that they are satisfied with the works that have been carried out to date.

As part of this application there have been lengthy discussions between the Councils Environmental Health Officer (also involving the Environment Agency) and the applicant. A scheme to deal with the Mercury Plant Room contamination has been agreed as part of the discharge of condition 22 (contaminated land) on application 14/4218C (discharge reference 18/1641D).

The mercury contamination is located towards the centre of the site and the approved remediation involves the mercury contaminated soils being retained in situ with a 2000mm barrier to the sides and capping of 300mm and concrete capping of 100mm. There will then be a minimum of 1.5m of soils laid above the mercury room encapsulation with the provision of monitoring boreholes. The area of the mercury contamination would not have any dwellings sited above it and the indicative layout shows that this area would include a central green area of public open space.

Whilst extensive investigations have been undertaken there are uncertainties with regards controlled waters risks as raised by the Environment Agency and human health in terms of mercury. As such further investigations are required to confirm remedial actions. This may be combined with the verification works following the remedial works to the Mercury Cell Room and former Brine Pit area. Subject to the imposition of the suggested conditions the Councils Contaminated Land Officer has confirmed that she has no objection to this application.

### Noise

The applicant has submitted an acoustic report in support of the application. The impact of the noise from environmental and industrial noise on the proposed development has been assessed in accordance with BS8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings. This is an agreed methodology for assessing noise of this nature.

The report recommends mitigation designed to ensure that occupants of the properties are not adversely affected by both environmental and industrial noise. The mitigation measures considered are as follows;

- Noise Attenuation Bund
- Thermal double glazing unite
- The provision of an acoustic fence (in design terms this would not be appropriate)

The noise assessment states that *'noise levels can be readily controlled by simple mitigation measures, a detailed façade assessment should be undertaken when the specific build up of external walls and internal room configurations and geometries are known'*. As a result a further acoustic report will be conditioned as part of each reserved matters application for residential development.

#### Disturbance during the construction phase of the development

In this case a condition in relation to piling works will be attached to any approval to protect residential amenities.

#### Air Quality

Air quality impacts have been considered within the air quality assessment submitted in support of the application. The report considers whether the development will result in increased exposure to airborne pollutants, particularly as a result of additional traffic and changes to traffic flows, as well as any potential impact from the neighbouring gas fired power station. The assessment uses ADMS Roads to model NO<sub>2</sub> and PM<sub>10</sub> impacts from additional traffic associated with this development and the cumulative impact of committed development within the area.

A number of modelled scenarios have been considered within the assessment. These were:

- 2016 baseline – model verification
- 2019 without development
- 2019 with development

The assessment concludes that the impact of the future development on the chosen receptors will be *negligible* with regards to both NO<sub>2</sub> and PM<sub>10</sub> concentrations, with one of the receptors experiencing a slight adverse effect for NO<sub>2</sub> and the rest a negligible effect. The local power plant is also predicted not to have a significant effect on the development's location with regards to air quality. However, one of the receptors, is located within the nearby AQMA in Sandbach and it is this Environmental Health Officer's opinion that any increase in concentrations within an AQMA is considered significant as it is directly converse to our local air quality management objectives, the NPPF and the Council's Air Quality Action Plan.

Also 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. Taking into account the uncertainties with modelling, the impacts of the development could be worse than predicted.

Both Middlewich and Sandbach have Air Quality Management Areas, and as such the cumulative impacts of developments in or near the towns are likely to make the situation worse, unless managed.

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. It is therefore considered appropriate that mitigation should be sought in the form of direct measures to reduce the adverse air quality impact. Therefore conditions will be imposed to secure Travel Plans and Electric Vehicle Charging Point provision. Subject to these conditions the development would comply with Policy SE 12 point 1.

### Future Commercial Uses

The indicative plan shows that the commercial and residential parts of the development would be zoned with the open space separating the two. The commercial aspects of the scheme are currently listed as retail (A1), restaurant/pub (A3/A4) and offices. The commercial uses are unlikely to raise any significant issues in terms of the residential amenities of the future occupiers. However a further assessment will be undertaken at the Reserved Matters stage when the layout of the housing and the form of the proposed commercial uses is known.

### **Trees and Hedgerows**

The application is supported by an Arboricultural Impact Assessment (AIA). The survey in the assessment covers four individual trees, four groups of trees and one hedge. The survey affords the vegetation Grades C and U.

The revised indicative plans show the existing Booth Lane frontage trees retained although the updated Arboricultural Impact Assessment maintains recommendations for removal of many of these trees. On the basis of the detailed arboricultural assessment, and in view of the short safe life expectancy of the specimens in question, removal may be an inevitable outcome. As stated previously, many of the trees are outside the applicant's control (within highway land). However the highways department have confirmed that they will in principle accept a scheme of replacement planting provided that it does not impact upon the existing street lighting and road signage and this will be controlled via the imposition of a planning condition to secure details as part of the first Reserved Matters application.

### **Landscape**

The principle of development of this former industrial site and adjacent green field land to the south was established under application 09/2083C. Residential development is now underway on the green field land. The remainder of the site has been cleared although some grassland, tree and scrub cover remains. On the Booth Lane frontage, in part outside the site edged red, there are hedgerows and prominent groups of mature trees which afford valuable screening to the existing industrial development.

Key landscape issues raised with the original application included the loss of green field land, the relationship to the Trent and Mersey Canal Conservation Area, the provision of suitable landscape buffers to the road and to adjacent industrial sites and to securing a landscape strategy and management plan for the whole site.

As an outline application with only access to be determined, the full landscape impacts would only become apparent with reserved matters applications.

The revised Illustrative Masterplans make some improvements to the layouts and include some pedestrian links. Concerns remain that with remediation required on the site, the site constraints, and the need to ensure an acceptable social relationship between trees and residential properties.

The future treatment of this verge and many of the trees present is still uncertain however the highways department have confirmed that they will in principle accept a scheme of replacement planting provided that it does not impact upon the existing street lighting and road signage and this will be controlled via the imposition of a planning condition to secure details as part of the first Reserved Matters application.

Despite these concerns it should be noted that the site has an extant planning permission which could still be implemented and includes less detail than the current planning application in terms of the landscape strategy for the site and little to no detail as to what would happen with the trees along the roadside frontage. As a result the landscape implications of the development are considered to be acceptable.

## **Design**

The importance of securing high quality design is specified within the NPPF and paragraph 124 states that:

*‘The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this’*

This is supported by the Cheshire East Design Guide SPD and Policy SE1 of the CELPS.

The indicative layout has undergone significant improvement and has reduced the number of units since the earlier illustrative layout which was regimented and car dominated. This shows that a stronger urban design solution can be achieved. The Councils Urban Designer has commented that there are still a few areas of improvement but it is considered that these are relatively minor and can be resolved at the Reserved Matters stage.

To accompany this application the applicant has produced a Spatial Design Code. The Spatial Design Code is to illustrate several key design parameters which form an underpinning spatial framework for the proposed development. The Spatial Design Code focuses on issues relating to;

- The establishment of the principal mix of uses
- The location of these land uses and key areas of the proposed development
- The establishment of parameters that define the likely amount of development
- The location and characteristics of important green space or key areas of public realm
- The proposed hierarchy for movement and connectivity
- The setting out of a framework for contextually responsive developments
- Principles that will enable definition of key character areas

The Councils Urban Designer has commented that the Spatial Design Code is the minimum he would expect but it does address the fundamentals and he would generally concur with the

accompanying Building for Life Assessment. However he acknowledges that there is a danger that frontage parking could become overly dominant in some areas and therefore this and streets for all could quite easily descend into a red rating if more parking were to become street frontage rather than in courts (which some developers shy away from).

The main issue with the Spatial Design Code is that the language in the code should be more definite (for example using 'will', 'shall' rather than 'could' or 'may'). The purpose of a code is to set in place design rules that the Reserved Matters will then follow. The passive emphasis in the wording leaves too much flexibility. This has been fed back to the applicant who is in the process of producing a revised Spatial Design Code and reviewing the wording used.

Other amendments which have been sort to the Design Code relate to the street design and materiality to reflect the Design SPD and to adjust the building footprints/development zones in relation to landscape and to secure the frontage landscape (and succession planting) on Booth Lane as part of the green infrastructure creating the setting for the development and softening the relationship with the Trent and Mersey Canal Conservation Area.

#### Connections

*Does the scheme integrate into its surroundings by reinforcing existing connections and creating new ones; whilst also respecting existing buildings and land uses along the boundaries of the development site?*

The main vehicular access is via Booth Lane to the west. The proposed dwellings would face the POS and towards Booth Lane. The development would provide a vehicular and pedestrian link to the approved development to the south. The development would provide a new private amenity corridor along the Booth Lane frontage

#### Facilities and services

*Does the development provide (or is it close to) community facilities, such as shops, schools, workplaces, parks, play areas, pubs or cafes?*

The site is relatively isolated but is on a bus route between Middlewich and Sandbach. Furthermore the application includes a pub/restaurant and commercial premises and there are connections to the adjacent approved development.

#### Public transport

*Does the scheme have good access to public transport to help reduce car dependency?*

The site is served by public transport with bus stops to the Booth Lane frontage. Footpath links provide access to the bus stops.

#### Meeting local housing requirements

*Does the development have a mix of housing types and tenures that suit local requirements?*

Policy SC4 of the submission version of the Local Plan requires that developments provide an appropriate mix of housing. In this case the Design Code states that the development will provide 30% affordable housing and properties ranging from 2-4 bed units. The development will include apartments, terraced units, semi-detached and detached units. A condition will be attached to ensure that an appropriate housing mix will be provided.



### Character

*Does the scheme create a place with a locally inspired or otherwise distinctive character?*

The layout has a number of strengths including the provision of courtyards/cul-de-sacs to help generate character and a sense of place. The housing square would provide a key node within the site. The road alignments allow for the introduction of green spaces, creating character and interest. The open space approach is consistent with that taken on the approved development to the south.

### Working with the site and its context

*Does the scheme take advantage of existing topography, landscape features (including watercourses), wildlife habitats, existing buildings, site orientation and microclimates?*

The development respects the boundaries of the site and would overlook Booth Lane. The central area of open space which is well overlooked would create a buffer between the proposed residential and commercial development.

### Creating well defined streets and spaces

*Are buildings designed and positioned with landscaping to define and enhance streets and spaces and are buildings designed to turn street corners well?*

The proposed development includes a hierarchy of streets with a variation in form. Parking would mainly be provided to the side/rear of the proposed dwellings. All streets are enclosed with vista units and 2.5 storey units are used to contain views. The units will also be orientated to address corners with dual elevations.

### Easy to find your way around

*Is the scheme designed to make it easy to find your way around?*

The site is well connected internally and it would be easy to navigate throughout the development.

### Streets for all

*Are streets designed in a way that encourage low vehicle speeds and allow them to function as social spaces?*

It is considered that the proposed highways design is appropriate and on the whole avoids large straight stretches which would encourage speeding. The housing square calms traffic and would create a more social environment. Shared surfaces will be used to help calm traffic speeds and to introduce a strong pedestrian presence.

### Car parking

*Is resident and visitor parking sufficient and well integrated so that it does not dominate the street?*

Internally within the site the proposed development would include a mix of car-parking solutions. The amount of car-parking to the front of the proposed dwellings would be limited with the majority provided to the side/rear of the dwellings.

### Public and private spaces

*Will public and private spaces be clearly defined and designed to be attractive, well managed and safe?*

The open space within the site and this would be well-overlooked. It is considered that the development would create an attractive and safe area of public open space.

#### External storage and amenity space

*Is there adequate external storage space for bins and recycling as well as vehicles and cycles?*

The submitted plan shows that dwellings on the proposed development would have private amenity space with rear access. Together with the proposed garaging there would be adequate space for future occupiers to store their bins/cycles.

#### Design Conclusion

On the basis of the above assessment it is considered that the proposed development demonstrates that an acceptable design solution can be secured. However this is a Reserved Matter and the final judgement will be made at that stage.

#### **Built Heritage**

The site is located opposite the designated heritage assets of the Trent and Mersey Canal Conservation Area and Lock 68 and Accommodation Bridge, grade II listed. The development has the potential to adversely impact upon the setting of both.

Concerns have been raised in terms of the retention of the trees/vegetation to the boundary of the site with Booth Lane and that the removal of any trees would impact upon the setting of the heritage assets. The future treatment of this verge and many of the trees present is still uncertain however the highways department have confirmed that they will in principle accept a scheme of replacement planting provided that it does not impact upon the existing street lighting and road signage and this will be controlled via the imposition of a planning condition to secure details as part of the first Reserved Matters application.

It should also be noted that the extant planning permission included the provision of commercial uses along the majority of the road frontage with a small element of office development to the frontage with the remaining office to the opposite part of the site. These uses would include buildings of a larger scale with car parking areas and a lack of landscaping compared to the smaller scale housing development which includes a greater level of landscaping. On this basis the proposed development would have less impact than the fall-back position which is the extant planning permission and is considered to be acceptable.

#### **Archaeology**

An archaeological condition was attached to the planning consent which required a Geophysical Survey to be undertaken in order to establish the need, if any, for further archaeological mitigation. This survey was undertaken by Wardell Armstrong Archaeology in April 2015. The survey did not reveal any evidence of likely archaeological features. As a result no further archaeological mitigation is required at this site.

## **Ecology**

### Impact upon the SSSI

The application site lies in close proximity to the SSSI at Sandbach Flashes and in this case Natural England has confirmed that the SSSI does not represent a constraint in determining this application.

### Priority Habitat

The demolition of the building and clearance of this site and its subsequent neglect has resulted in this site beginning to naturally re-vegetate. Habitats of this type can amount to a Priority habitat known as 'Open Mosaic Habitats on previously developed land'.

The habitats present on this site meet the definition of this Priority Habitat and as such are a material consideration in the determination of this application. The habitats present on site would also meet the Local Wildlife Site selection criteria. The proposed development which would result in the loss of this habitat, would have a significant adverse impact upon biodiversity.

In order to partly compensate for the loss of habitat resulting from the proposed development 'Brown Roofs' are proposed to be incorporated into the proposed buildings. A roof of this type would be designed to mimic the existing habitats present on the site, but due to the small size of the roof in relation to the habitat lost, would make only a moderate contribution to addressing the significant loss of biodiversity resulting from the scheme.

CELPs policy SE3 which protects priority habitats is pertinent to the determination of this application as is Policy ENV1 of the MNP which identifies the site under Figures U and V as 'High Value' habitat and as an indicative wildlife corridor. In this case it should be noted that the site has an extant planning permission for development and if planning consent is granted a condition could be attached which requires any future reserved matters application for the commercial buildings to be supported by detailed proposals for the incorporation and management of brown roofs.

### Wintering and Breeding Birds

The initial submitted survey was undertaken in January when a notable number priority bird species were present on site.

A detailed breeding bird survey has now been undertaken. This survey recorded a number of priority/protected bird species including Lapwing and Little Ring Plover which are ground nesting birds associated with open habitats. Little Ringed Plover in particular is associated with post industrial sites. These species are a material consideration in the determination of this application.

The application site is of County value for nesting birds and in 2018 the application site may have been one of the most important sites in the County for Little Ringed Plover.

The Councils Ecologist has advised that the proposed development will have a High magnitude adverse impact upon birds as a result of the direct loss of habitat and also the loss of openness. This impact will be significant at the County level.

Local Plan policy SE3 which protects priority species is pertinent to the determination of this application. The provision of a brown roof as described above could potentially provide suitable compensatory habitat for Little Ringed Plover provided it was of a minimum of 2,000 square meters. However there is no certainty that this provision be successful. The commercial units shown on the illustrative master plan are too small to accommodate a suitable sized brown roof. So whilst brown roofs would provide some compensation for loss of habitat they would not address the impacts of the proposed development upon birds.

### Hedgerows

Hedgerows are a priority habitat and a material consideration. The proposed development is likely to result in the loss of a section of hedgerow to facilitate the site entrance. This loss could be compensated via a planning condition to secure details at the Reserved Matters stage.

### Pond

There is a pond present on the application site. A full Great Crested Newt survey or detailed habitat suitability assessment has not been completed of this pond. However considering the distance between this pond and the ponds in the surrounding landscape and the presence of landscape features that would present at least a partial barrier to the movement of Great Crested Newts it is considered that Great Crested Newts are unlikely to be present on this site.

It is presumed that the pond has formed as a result of localised impeded drainage following site clearance works which is characteristic of 'Open Mosaic Habitats on Previously Developed Land' priority habitat. Ponds can also be considered a priority habitat in their own right.

Although concerns have been raised by the Councils Ecologist in relation to the loss of the pond it is not considered that the loss of this feature would be significant. It should also be noted that the extant planning permission does not include any requirement for the provision of a pond.

### Reptiles

The location of the site adjacent to the canal and the nature of the habitats that have developed on the site since the demolition of the former factory buildings mean that Grass Snakes may occur on the site on a transitory basis.

In order to minimise the risk of reptiles being harmed during the development of this site the submitted ecological assessment includes a number of 'reasonable avoidance measures'. These measures could be secured through the imposition of a planning condition.

### Biodiversity offsetting

In its current form the proposed development will result in a significant adverse impact on biodiversity.

The Councils Ecologist recommended that an assessment of the residual ecological impacts of the proposed development using the Defra biodiversity offsetting 'metric' methodology be undertaken.

An assessment of this type would both quantify the residual impacts of the development, including the loss of priority open mosaic habitats, and calculate in 'units' the level of additional compensation which would be required to 'offset' the impacts of the development to ensure that the development proposals achieve a no net loss of biodiversity and provide sufficient compensation to satisfy Local Plan Policy SE3 which requires all developments to aim to positively contribute to the enhancement of biodiversity.

In this case such an assessment has been undertaken and the mitigation (either in the form of land to be used elsewhere to provide compensatory habitat or in the form of a contribution) is currently under discussion with the applicant and an agreed approach will be confirmed as part of an update when taking into account the fall-back position on this site.

## **Public Open Space**

### On Site Provision

Policy SE6 of the Cheshire East Local Plan Strategy provide a clear policy basis to require new developments to provide or contribute to Children's Play Space, Amenity Green Space, Green Infrastructure Connectivity and Allotments.

The Open Space Survey identifies a shortage of allotments and formal children's play facilities and an assessment of existing public Open Space within 800m of the site has identified a deficit in amenity green space. In addition Green Infrastructure Connectivity is also required.

The development of 100 dwellings creates the need for 6,000sqm of Public Open Space (POS) excluding allotments or 7,200sqm for 120 dwellings. Based on the indicative plan the development would only provide approximately 3,400sqm of POS based on the plan showing 100 dwellings and a care home or 4,300sqm of POS based on the plan showing 120 dwellings. Both figures are considerably lower than the quantity required and therefore does not meet the standards required by policy.

Play provision should be addressed on site by way of a NEAP and should complement site being currently being constructed to the south of the site. The NEAP should be a minimum 1000sq.m with the addition amenity greenspace adjacent for informal games all designed to European and Fields in Trust standards and taking note of a 30m buffer zone to the surrounding residential development.

The CELP also requires a 5sqm per dwelling allotment space. No allotment provision is being provided except in the form of raised beds exclusively for the use of the care home residents therefore a contribution of £230.70 per dwelling is required to improve the allotments on Booth Lane. In this case an offsite contribution is preferable given the contamination present on this site.

### Indoor Sport

Policies SC1 and SC2 of the Cheshire East Council Local Plan Strategy provide a clear policy basis to require new developments to provide or contribute towards both outdoor and indoor recreation.

In this contributions would be required to improve the quality and number of health and fitness stations at Sandbach Leisure Centre. Based on a development of 100 dwellings there has been a request for a contribution of £18,200 and based on a development of 120 dwellings there has been a request for a contribution of £21,450.

## **Education**

A development of 100 dwellings is expected to generate 18 primary aged children, 15 secondary aged children and 1 SEN child.

A development of 120 dwellings 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 five local primary schools.

There will be a shortfall within the local primary schools and on this basis a contribution of £195,233 (based on a development of 100 dwellings) or £238,618 (based on a development of 120 dwellings) will be required to mitigate the impact of this development upon local primary provision.

In terms of secondary school education, the proposed development would be served by four local secondary schools.

There will be a shortfall within the local secondary schools and on this basis a contribution of £245,140 (based on a development of 100 dwellings) or £294,168 (based on a development of 120 dwellings) will be required to mitigate the impact of this development upon local secondary provision.

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.

## **Health Infrastructure**

The NHS have not provided any comments on this application, however it should be noted that they have made comments on application 17/5223C which is a full application for a care home on this site. This outline application includes the provision of a care home within one of the options for development and it is only reasonable that the same requirements in terms of health are applied to this current application.

Ashfields Medical Centre covers 5 nursing homes in the local area, and visits are required by Medical professional between 1-2 times per week per home. Whilst the building is considered adequate, the increasing population will create pressure points within the practice. On this basis a contribution of £23,760 will be required to mitigate the impact of this development if the care home is developed.

## **Health and Safety**

The site includes a number of constraints due to the historical Hazardous Substance Consents (HSC's) associated with the previous uses of the site. These constraints have generated 'advise against' consultation responses from the Health and Safety Executive (HSE). These constraints are no longer considered to be applicable and the LPA has written to the Health and Safety Executive to state that it considers that the HSC's are automatically revoked in accordance with Section 17 of the Planning (Hazardous Substances) Act 1990. However until this has been confirmed by the HSE the 'advise against' consultation response remains in place. It is suggested that this matter is delegated to the Head of Planning (Regulation) to resolve.

### **PROW/Cycle provision**

The site is adjacent to public footpath Moston No. 7 as recorded on the Definitive Map. It appears unlikely that the proposal would affect the public right of way. An informative will be attached to the decision notice in relation to the PROW.

The representation from Cycling UK is noted as is the requirements of Policy SD 2. However the suggested improvements to the PROW Sandbach FP36/Bradwall FP3 and Moston FP7/Bradwall FP4 are not considered to be CIL compliant or reasonable and the suggested contribution towards the canal towpath would provide a more direct and accessible route into Middlewich and Sandbach.

### **Impact upon Canal Infrastructure**

The site is in an isolated location and would be difficult to access without the use of the private motor vehicle. In this case the canal network opposite including the towpath offers an accessible pedestrian route from the site north towards Middlewich and south towards Sandbach. The provision of sustainable forms of transport is supported within the CELPS.

Improvements to the canal towpath would improve the usage of this link from future occupants of the site and employees within the commercial development. In order to upgrade the towpath and to provide improved access a contribution of £150,000 will be secured towards Canal towpath improvements.

### **Impact upon Rail Infrastructure**

In this case the comments made by Network Rail relate to the PROW (Moston FP7) which runs to the south of the site which crosses the railway line via a level crossing. Network Rail have requested that this PROW is diverted and that the level crossing is closed as the development would result in additional users using this route. This is not supported and it is not considered reasonable to attach a condition to require the diversion of the PROW or the closure of the level crossing.

### **Flood Risk and Drainage**

Part of the application site is located within Flood Zones 2 (medium probability of flooding) and 3 (high probability of flooding) according to the Environment Agency Flood Maps. As the application site exceeds 1 hectare, a Flood Risk Assessment was submitted as part of the outline application.

In this case the Councils Flood Risk Manager has contacted the Environment Agency along with linking application 17/5068C to confirm development modelling and they have received the following comments, the “FRA demonstrated that the site is not affected by fluvial flooding and is in effect in Flood Zone 1”.

On this basis there is no objection from the Councils Flood Risk Manager subject to the imposition of planning conditions. It should also be noted that the Environment Agency and United Utilities have raised no objection to the development on Flood Risk Grounds.

## **Lighting**

Policy LCDC2 (Dark Skies) of the Moston Neighbourhood Plan (MNP) states that ‘*Any future outdoor lighting systems should have a minimum impact on the environment, minimising light pollution and adverse effects on wildlife. Schemes should reduce the consumption of energy by promoting efficient outdoor lighting technologies, keeping the nighttime skies dark and reducing glare*’. In this case the development is within an existing settlement boundary and adjacent to an existing employment site. As a result the issue of external lighting will be controlled through the imposition of a planning condition.

## **Brine Board**

In line with the comments made by the Cheshire Brine Board an informative will be attached to the decision notice.

## **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 NHS provision in Sandbach where there is limited spare capacity. In order to increase capacity of the medical centre which would support the proposed development, a contribution towards health care provision is required. This is considered to be necessary and fair and reasonable in relation to the development.

The development would result in increased demand for education provision in Middlewich/Sandbach where there is limited spare capacity. In order to increase capacity of the local schools which would support the proposed development, a contribution towards education provision is required. This is considered to be necessary and fair and reasonable in relation to the development.

The development site is in an isolated location between Middlewich and Sandbach and would be largely dependent on the use of the private motor vehicle. In order to improve the canal towpath and pedestrian links into Middlewich and Sandbach a contribution towards improving the existing



infrastructure will be required. This is considered to be necessary and fair and reasonable in relation to the development.

The development site is in an isolated location between Middlewich and Sandbach and would require POS, children's play, allotment provision and indoor leisure mitigation in accordance with Policies within the CELPS. This is considered to be necessary and fair and reasonable in relation to the development

The development would result in the significant adverse impact on biodiversity. To help mitigate and replace the habitat which would be lost a contribution towards biodiversity offsetting will be required. This is considered to be necessary and fair and reasonable in relation to the development.

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

## **PLANNING BALANCE**

The principle of development is considered to be acceptable and the site is located within the settlement boundary. On balance the partial loss of this employment site is considered to comply with the objectives set out in EG 3, MP1, SD1 and SD2 although it is accepted that the site does have some weaknesses in meeting the specific objectives relating to accessibility and open space provision.

The development will not have a detrimental impact upon residential amenity (including for future occupants in terms of noise and contaminated land), it would provide benefits in terms of much needed affordable housing provision and would help in the Councils delivery of housing.

The impact upon air quality has been assessed as part of this application and subject to the imposition of planning conditions the development would comply with Policy SE 12 point 1.

The impact upon infrastructure would be neutral as the impact upon education and health would be mitigated through the provision of a contributions. The development would comply with Policy IN 1.

In terms of the POS provision the development based on the indicative plan would result in a shortfall of provision and the development would be contrary to Policy SE 6 point 4 (iii) which requires that new developments provide adequate open space. The provision of a NEAP would be secured as part of a S106 Agreement and would comply with SE 6. The provision of an off-site contribution to allotments would comply with SE 6 and indoor recreation would be mitigated through the provision of a contribution in accordance with SC 2 point 3.

Details of the proposed landscaping would be secured at the reserved matters stage and a condition will be imposed to secure a scheme of replacement tree planting within the grass verge. The proposed development is considered to comply with the requirements of Policies SE 4 and SE 5.

With regard to ecological impacts, the development would result in the loss of the Priority habitat known as 'Open Mosaic Habitats on previously developed land'. This will in turn lead to a High magnitude adverse impact upon little Ringed Plover as a result of the direct loss of habitat and also the loss of openness. This impact will be significant at the County level. In this case Policy SE 3 point 4 states that development will not normally be permitted except where the reasons for or

benefits of the proposed development outweigh the impact of the development. In this case some mitigation will be secured and it is also important to note that the site has an extant planning permission. As a result the impact is considered to be acceptable.

The development would not have significant drainage/flood risk implications and complies with Policy SE 13.

The development is acceptable in terms of its impact upon trees on this site and replacement planting will be secured. This development will comply with Policy SE 5.

It is considered that the proposed development demonstrates that an acceptable design solution can be secured in accordance with the CEC Design Guide and Policy SE 1. However this is a Reserved Matter and the final judgement will be made at that stage. Subject to the proposed scheme of replacement tree planting within the grass verge the impact upon the built heritage assets is considered to be acceptable and the development would comply with Policy SE 9.

The impact in terms of the Hazardous Substances Consents on the site will be dealt with under delegated powers.

The proposed access point is acceptable and the traffic impact as part of this development has already been accepted together with contributions for off-site highway works. This is in accordance with policy CO 1.

The site is largely brownfield and in this case the redevelopment of the site would provide a number of economic benefits in the re-use of the site. The redevelopment of this brownfield site complies with the policy principles underpinning the vision to the CELPS (para 1.29) which states that;

*‘Develop brownfield sites, where possible, to minimise the use of greenfield, Strategic Green Gap, open countryside or Green Belt sites’*

Although the development would have some weaknesses/conflicts in terms of its POS provision and the impact upon biodiversity it is considered that on the whole the development would comply with the relevant policies of the Cheshire East Local Plan Strategy, Congleton Borough Local Plan and the Moston Neighbourhood Plan.

## **RECOMMENDATION:**

**DELEGATE to the Head of Planning (Regulation) to APPROVE subject to the removal of the HSE ‘advise against’ consultation response and the completion of a S106 Agreement to secure the following;**

<b>S106</b>	<b>Amount</b>	<b>Triggers</b>
<b>Affordable Housing</b>	30% (65% Affordable Rent / 35% Intermediate)	In accordance with phasing plan to be submitted at the reserved matters stage.  No more than 80% open market occupied prior to affordable provision in each

		phase.
<b>Education</b>	<p>For a development of 100 dwellings; Primary £195,233 Secondary £245,140 SEN £45,500</p> <p>For a development of 120 dwellings; Primary £238,618 Secondary £294,168 SEN £45,500</p>	To be confirmed
<b>Health</b>	<p>If the care home is provided as part of this application. £23,760 (Ashfields Medical Centre)</p>	To be confirmed
<b>Indoor recreation</b>	<p>For a development of 100 dwellings a contribution of £18,200.</p> <p>For a development of 120 dwellings a contribution of £21,450.</p>	To be confirmed.
<b>Allotment Contribution</b>	£230.70 per dwelling	To be confirmed
<b>Public Open Space</b>	<p>Private Management Company</p> <p>Provision of a NEAP and the open space</p>	<p>On first occupation</p> <p>On occupation of 50% of the dwellings</p>
<b>Biodiversity Off-Setting Contribution</b>	Exact sum to be confirmed	To be confirmed.
<b>Canal Towpath improvement contribution</b>	£150,000	To be confirmed.

**And the following conditions;**

- 1. Standard Outline 1**
- 2. Standard Outline 2**
- 3. Standard Outline 3**

4. **Approved Plans**
5. **Contaminated land – submission of a remediation strategy**
6. **Contaminated land – No occupation prior to the submission of a verification report**
7. **Contaminated land – works to stop if further unknown contaminated land is uncovered**
8. **Reserved Matters application to include details of existing and proposed levels**
9. **Each Reserved Matters application for residential development shall include an updated acoustic appraisal together with any mitigation measures.**
10. **Piling works**
11. **Travel Plan – Residential development**
12. **Travel Plan – Commercial development**
13. **Electric Vehicle Charging Provision**
14. **Reserved matters application for the commercial units to include a scheme of brown roofs**
15. **Reserved matters application to include a scheme of replacement hedgerow planting**
16. **The proposed development to proceed in strict accordance with the measures detailed in paragraph 5.2.5 of the submitted Preliminary Ecological Appraisal prepared by enzygo**
17. **Reserved Matters application for the housing to include a phasing plan**
18. **Development to be carried out in accordance with the submitted FRA**
19. **No development shall take place until a detailed strategy / design and associated management / maintenance plan of surface water drainage for the site has been submitted to and approved in writing by the Local Planning Authority.**
20. **Scheme to ensure that the site boundary will need to be adequately protected to ensure that any flood risk is contained and managed onsite and not transferred off site.**
21. **External Lighting to be submitted and approved**
22. **Each phase of the development hereby approved shall incorporate a mix of units of**
  - 
  - **1bed and/or 2 bed dwellings – between 10% and 30% of the number of dwellings**
  - **3 bed dwellings – between 20% and 40% of the number of dwellings**
  - **4 bed and/or 5 bed dwellings – between 20% and 40% of the number of dwelling**
- and a minimum of 5 % of the units shall be bungalows or units for single storey living. The 1st reserved matters application shall provide a strategy for the distribution of all the housing across the site in accordance with these parameters. Thereafter the housing on each phase of development shall accord with the housing mix details provided unless otherwise approved in writing by the Local Planning Authority**
23. **The first Reserved matters application shall include a survey the trees within the grass verge and provide and implement a scheme of re-planting of tree (and removal if necessary) within the grass verge.**

**In order to give proper effect to the Board`s intent and without changing the substance of its decision, authority is delegated to the Head of Planning (Regulation) in consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice**

**If the application is subject to an appeal approval is given to enter into a S106 Agreement with the following Heads of Terms;**

<b>S106</b>	<b>Amount</b>	<b>Triggers</b>
<b>Affordable Housing</b>	30% (65% Affordable Rent / 35% Intermediate)	In accordance with phasing plan to be submitted at the reserved matters stage.  No more than 80% open market occupied prior to affordable provision in each phase.
<b>Education</b>	For a development of 100 dwellings; Primary £195,233 Secondary £245,140 SEN £45,500  For a development of 120 dwellings; Primary £238,618 Secondary £294,168 SEN £45,500	To be confirmed
<b>Health</b>	If the care home is provided as part of this application. £23,760 (Ashfields Medical Centre)	To be confirmed
<b>Indoor recreation</b>	For a development of 100 dwellings a contribution of £18,200.  For a development of 120 dwellings a contribution of £21,450.	To be confirmed.
<b>Allotment Contribution</b>	£230.70 per dwelling	To be confirmed
<b>Public Open Space</b>	Private Management Company  Provision of a NEAP and the open space	On first occupation  On occupation of 50% of the dwellings
<b>Biodiversity Off-Setting Contribution</b>	Exact sum to be confirmed	To be confirmed.
<b>Canal Towpath</b>	£150,000	To be confirmed.

<b>improvement contribution</b>		
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