

# Brooks Lane Supplementary Planning Document

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## Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report

### Introduction and Purpose

1. This screening report is designed to determine whether or not the contents of the Brooks Lane Development Framework Supplementary Planning Document (“the SPD”) requires a Strategic Environmental Assessment (“SEA”) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004. The report also addresses whether the SPD has a significant adverse effect upon any internationally designated site(s) of nature conservation importance and thereby subject to the requirements of the Habitats Regulations.
2. The policy framework for the SPD is found in the Local Plan Strategy (“LPS”) as Strategic Location LPS 43: Brooks Lane, Middlewich.
3. A preliminary version of this statement, alongside the draft SPD was the subject of consultation in accordance with the relevant regulations and the Council’s Statement of Community Involvement from the 14 January 2019 until the 25 February 2019. This included consultation with the relevant statutory bodies (Natural England, Environment Agency and Historic England). There were no comments received regarding the SEA / HRA screening statement from the statutory consultees.

## Strategic Environmental Assessment Screening

### Legislative Background

4. The objective of Strategic Environmental Assessment (“SEA”) is to provide for a high level of protection of the environment with a view to promoting the achievement of sustainable development. It is a requirement of European Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (also known as the SEA Directive). The Directive was transposed in UK law by the Environmental Assessment of Plans and Programmes Regulations 2004, often known as the SEA Regulations.

5. Article 3(3) and 3(4) of the regulations make clear that SEA is only required for plans and programmes when they have significant environmental effects. The 2008 Planning Act removed the requirement to undertake a full Sustainability Appraisal for a SPD although consideration remains as to whether the SPD requires SEA, in exceptional circumstances, when likely to have a significant environmental effect(s) that has not already been assessed during the preparation of a Local Plan. In addition, planning practice guidance (PPG – ref Paragraph: 008 Reference ID: 11-008-20140306) states that a SEA is unlikely to be required where a SPD deals only with a small area at local level, unless it is considered that there are likely to be significant environmental effects.

### Overview of Brooks Lane Masterplan SPD

6. The Brooks Lane site is circa 23 hectares in size and is largely used for employment purposes and includes unused or under used land. There are several existing residential properties in the site alongside some commercial and community uses. The site is 0.5km to the south of Middlewich town centre.

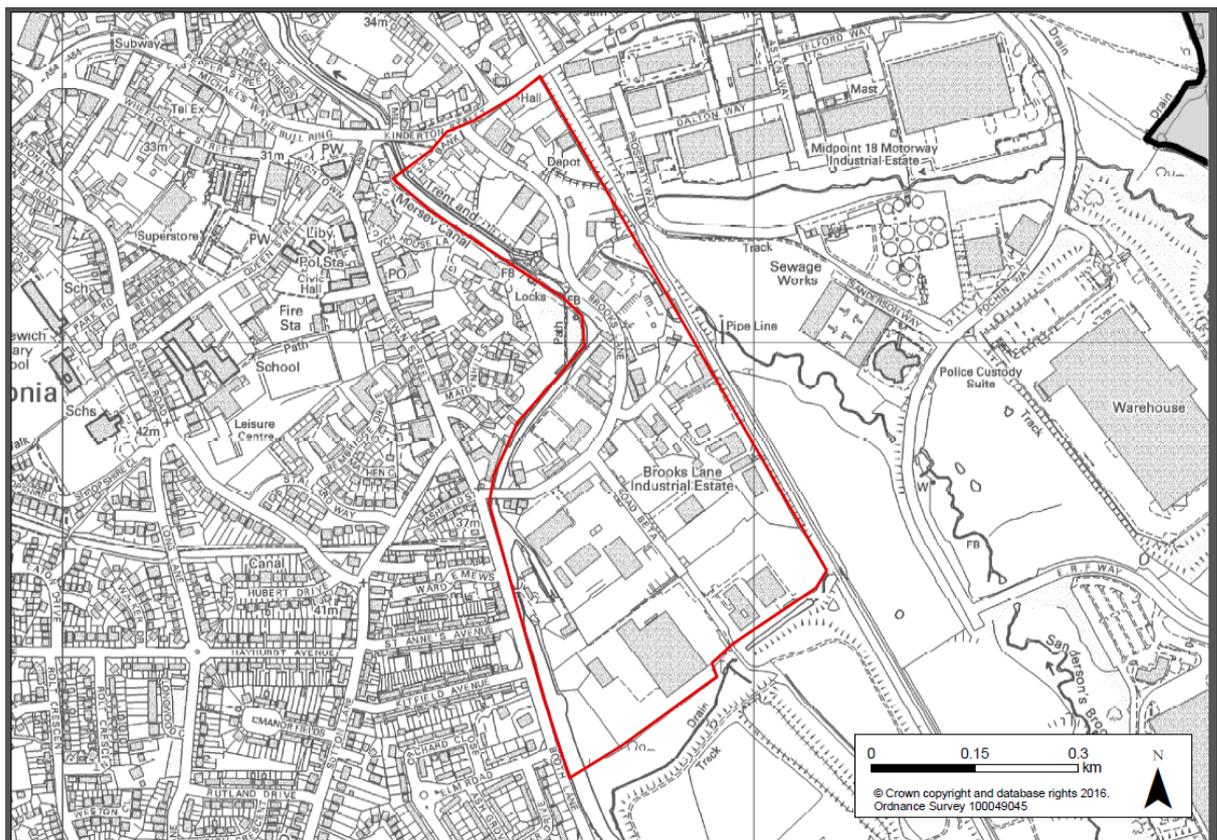


Figure 1: LPS 43 Brooks Lane Site

7. The Brooks Lane site is identified as a strategic location in the Council's LPS (adopted July 2017) as site reference 'LPS 43; Brooks Lane, Middlewich'. The LPS sets a clear expectation that future development at the site will be achieved through a masterplan led approach that will determine the nature and quantum of development that is appropriate for the site.
8. The LPS outlines a number of other key site principles, to be supported by a masterplan, including:
  - The delivery of around 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 (green corridor and open space including an equipped children's play space);
  - The improvement of existing, and provision of new, pedestrian and cycle links to connect development to existing employment, residential areas, shops, schools health facilities, recreation and leisure opportunities and the town centre;
  - The potential provision of a marina at the Trent and Mersey Canal; and
  - The provision of land for a new railway station including lineside infrastructure, access and forecourt parking
9. The SPD is consistent with policy LPS 43. It sets out the local context, principles and design parameters to help guide the preparation and assessment of future planning applications and development within the Brooks Lane area. The development framework recognises that there is a short term opportunity to deliver the principal policy requirements, such as up to 200 homes alongside a Marina to the southern part of the site adjacent to the Trent and Mersey Canal. There is also an acknowledgement of longer term opportunities, extending beyond the Local Plan period, relating to development that could take place over other parts of the site. It will need to be demonstrated through detailed information accompanying and forming part of any planning application that an acceptable relationship can be achieved between employment and residential uses.

## Screening procedure

10. SEA has been undertaken for policy LPS 43, as part of the Integrated Sustainability Appraisal that supported the LPS. For the purposes of compliance with the UK SEA Regulations and the EU SEA directive, the following reports comprised the SA “Environmental Report”:

- SD 003 – LPS Submission Sustainability (Integrated) Appraisal (May 2014);
- PS E042 – LPS Sustainability (Integrated) Appraisal of Planning for Growth Suggested Revisions (August 2015);
- RE B006 – LPS Sustainability (Integrated) Appraisal Suggested Revisions to LPS Chapters 9-14 (September 2015);
- RE F004 – Sustainability (Integrated) Appraisal – Proposed Changes (March 2016);
- PC B029 – Sustainability (Integrated) Appraisal - Proposed Changes to Strategic and Development Management Policies (July 2016);
- PC B030 – Sustainability (Integrated) Appraisal - Proposed Changes to Sites and Strategic Locations (July 2016);
- MM 002 - Sustainability (Integrated) Appraisal - Main Modifications Further Addendum Report.

11. In addition, an SA adoption statement was prepared in July 2017 to support the adoption of the LPS.

12. The SA work that appraised the Brooks Lane site for the LPS allocation, considered different levels of housing development; initially for ‘around 400’ dwellings and then revised to ‘around 200 dwellings’. The SA found that the site has the potential for long-term positive effects against a number of SA objectives, relating to the provision of housing as well as accessibility to services / facilities and sustainable transport modes. The delivery of leisure and community facilities, as well as a marina, has the potential to help improve access to facilities and contribute to improved health and wellbeing. Provision is also made for land to deliver a new railway station, including lineside infrastructure, access and parking, which were assessed as having a potential longer term positive effect with increased access to sustainable modes of public transport. This could include the provision and enhancement of existing public transport services/facilities, pedestrian and cycle links, with the potential for a resulting improvement in air quality and health and wellbeing. The site is also

expected to contribute towards educational facilities and health infrastructure. Development of the site would also regenerate previously developed land, with the potential for positive effects on landscape and prudent use of land.

13. The LPS Sustainability Appraisal also found potential for negative effects in terms of the potential increase in traffic travelling to and from the site. In relation to the historic environment there is potential for a major long term negative effect as the site is bound by the Trent and Mersey Canal to the west, and therefore includes the associated Conservation Area, although it is recognised that the visual improvement of the site may have the potential for a minor long term positive effect. There are also a number of Grade II Listed Buildings, a Scheduled Monument and an Area of Archaeological Potential in its vicinity/on the site. It also recognised, however, that there is the potential for a positive effect on the Scheduled Monument in terms of improved access into the site, subject to appropriate safeguards.
14. The site is located adjacent to the Cledford Lane Lime Beds Local Wildlife Site. However, the SA associated with the LPS recognised that mitigation provided through Local Plan policies and available at a project level should ensure that development will not have any significant negative effects. A suitable buffer should be provided between the two sites.
15. The appraisal concluded that the Policy LPS 43, alongside other LPS policies should make sure that there are no major negative effects as a result of the proposed development. Despite the mitigation provided there is still likely to be cumulative residual minor negative effects on SA Objectives relating to traffic and potential impacts on air quality. However, development is also likely to have major positive cumulative effects for the residents of Middlewich through improved accessibility to housing, employment, facilities/services as well as public transport through a new Railway Station, and an enhanced green infrastructure network.
16. Schedule 1 of the directive sets out the assessment criteria for considering significant environmental effects. The SPD has been assessed against this criteria and the outcomes set out in Table 1

### **Conclusion and SEA screening outcome**

Cheshire East Council believes that the impact of the SPD, through responses to the SEA Directive Criteria, will have a beneficial environmental effect on Brooks Lane. In addition, the SPD is not setting new policy; it is supplementing and providing further

guidance on an existing LPS policy. Therefore, it is considered that an SEA is not required on the Brooks Lane Masterplan SPD. This conclusion has been informed by consultation with statutory consultees (Environment Agency, Historic England and Natural England).

Table 1: assessment of likely significance of effects on the environment

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the Plan likely to have a significant environmental effect (Yes / No)
<b>1.Characteristics of the SPD having particular regard to:</b>		
(a) The degree to which the SPD sets out a framework for projects and other activities, either with regard to the location, nature, size or operating conditions or by allocating resources.	<p>Guidance is supplementary to policy LPS 43 in the LPS, which provides an overarching framework for development in Cheshire East.</p> <p>The SPD provides further clarity and certainty to form the basis for the submission and determination of planning applications on the site, consistent with policies in the LPS.</p> <p>Final decisions will be determined through the development management process.</p> <p>No resources are allocated.</p>	No
(b)The degree to which the SPD influences other plans and programmes including those in a hierarchy.	The SPD is in general conformity with the LPS, which has been subject to a full Sustainability Appraisal (incorporating SEA). The guidance provided is supplementary to policy LPS 43.	No
(c)The relevance of the SPD for the integration of environmental considerations in particular with a view to promoting sustainable development.	<p>The SPD promotes sustainable development in accordance with the NPPF and LPS policies. The LPS has been the subject of a full Sustainability Appraisal (incorporating SEA).</p> <p>A number of environmental topics have been considered through the SPD including support for a restored watercourse, and green infrastructure and landscape structure across the site to support Canal-side activity. The development framework also seeks to support opportunities for a sustainable urban drainage strategy and a landscape framework. It also seeks to support and enhance heritage assets on the site.</p>	No
(d)Environmental problems relevant to the SPD.	<p>The SPD will apply to the Brooks Lane site boundary. It is considered unlikely to exacerbate environmental problems and may help to address some of the issues set out below:</p> <ul style="list-style-type: none"> <li>• Surface water flooding</li> <li>• Provision of green infrastructure</li> </ul>	No

<b>SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004</b>	<b>Summary of significant effects, scope and influence of the document</b>	<b>Is the Plan likely to have a significant environmental effect (Yes / No)</b>
	<ul style="list-style-type: none"> <li>Land remediation</li> </ul> <p>The site is located adjacent to the Cledford Lane Lime Beds Local Wildlife Site. However, the SA associated with the LPS recognised that mitigation provided for through Local Plan policies and available at a project level should ensure that development will not have any significant negative effects. A suitable buffer should be provided between the two sites.</p>	
(e)The relevance of the SPD for the implementation of Community legislation on the environment (for example plans and programmes related to waste management or water protection).	<p>The SPD will not impact on the implementation of community legislation on the environment.</p> <p>The SPD will support the implementation of, and will be in compliance with, the LPS, which has already taken account of existing relevant European and National legislative framework for environmental protection.</p>	No
<b>2.Characteristics of the effects and area likely to be affected having particular regard to:</b>		
(a)The probability, duration, frequency and reversibility of the effects.	The SPD adds detail to adopted LPS policy; itself the subject of SA.	No
(b)The cumulative nature of the effects of the SPD.	The SPD adds detail to adopted LPS policy, itself the subject of SA. The SA associated with the LPS considered relevant plans and programmes. No other plans or programmes have emerged that alter this position..	No
(c)The trans boundary nature of the effects of the SPD.	Trans-boundary effects will not be significant. The effects of the SPD will be local in nature.	No
(d)The risks to human health or the environment (e.g. due to accident).	<p>The SPD is not considered to pose any risks to health or the environment and is envisaged to result in largely beneficial effects through land remediation, introduction of green infrastructure and landscape.</p> <p>The SPD recognises that future development is subject to securing an acceptable relationship between employment and residential uses.</p>	No
(e)The magnitude and spatial extent of the effects (geographic	The SPD adds detail to adopted LPS policy;	No

<b>SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004</b>	<b>Summary of significant effects, scope and influence of the document</b>	<b>Is the Plan likely to have a significant environmental effect (Yes / No)</b>
area and size of the population likely to be affected) by the SPD.	itself the subject of SA.	
(f)The value and vulnerability of the area likely to be affected by the SPD due to: <ul style="list-style-type: none"> <li>• Special natural characteristics of cultural heritage</li> <li>• Exceeded environmental quality standards or limit values</li> <li>• Intensive land use</li> </ul>	<p>The SPD is unlikely to result in exceeded environmental standards. The site is not within an Air Quality Management Area. The impact of a change in land use has been considered through the SA process associated with the adoption of the LPS and appropriate policy guidance has been set out for the site. The area likely to be considered will be guided by individual planning applications. The appropriateness of those locations will be guided by policies within the Local Plan, which has been subject to SEA.</p> <p>The site is located adjacent to the Cledford Lane Lime Beds Local Wildlife Site. However, the SA associated with the LPS recognised that mitigation provided through Local Plan policies and available at a project level should ensure that development will not have any significant negative effects. A suitable buffer should be provided between the two sites.</p>	No
(g)The effects of the SPD on areas or landscapes which have recognised national Community or international protected status.	There are no community or internationally protected landscapes impacted upon by the SPD.	No

### Habitats Regulations Assessment Statement

17. The Council has considered whether its planning documents would have a significant adverse effect upon the integrity of internationally designated sites of nature conservation importance. European Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna (Habitats Directive) provides legal protection to habitats and species of European importance. The principal aim of this directive is to maintain at, and where necessary restore to, favourable conservation status of flora, fauna and habitats found at these designated sites.
18. The Directive is transposed into English legislation through the Conservation of Habitats and Species Regulations 2017 (a consolidation of the amended Conservation of Habitats and Species Regulations, 2010) published in November 2017.
19. European sites provide important habitats for rare, endangered or vulnerable natural habitats and species of exceptional importance within the European Union. These sites consist of Special Areas

of Conservation (SACs, designated under the EU Directive 92/43/EEC on the conservation of natural habitats and of fauna and flora (Habitats Directive)), and Special Protection Areas (SPAs, designated under EU Directive 2009/147/EC on the conservation of wild birds (the Birds Directive)). Government policy requires that Ramsar sites (designated under the International Wetlands Convention, UNESCO, 1971) are treated as if they are fully designated European sites for the purposes of considering development proposals that may affect them.

20. Spatial planning documents may be required to undergo Habitats Regulations Screening if they are not directly connected with or necessary to the management of a European site. As the SPD is not connected with, or necessary to, the management of European sites, the HRA implications of the SPD have been considered.
21. The SPD follows the allocation of the site in the LPS (ref LPS 43). The LPS has been the subject of screening under the Habitats Regulations Assessment associated with the development of the document.
22. A recent judgement, published on the 13 April 2018 (People Over Wind and Sweetman v Coillte Teoranta (C-323/17) clarified that measures intended to avoid or reduce the harmful effects of a proposed project on a European site may no longer be taken into account by competent authorities at the Habitat Regulations Assessment “screening stage” when judging whether a proposed plan or project is likely to have a significant effect on the integrity of a European designated site.
23. The Habitats Regulations Assessment that supported the LPS determined that the Brooks Lane site (LPS 43) is over 7km from its nearest European Site (Midland Meres and Mosses Phase 1 Ramsar (Bagmere SSSI)) and that no potential impact pathways were identified regarding any European site. As such it was not necessary to proceed to the next stage of the Habitats Regulations Assessment process, i.e. the requirement for an appropriate assessment. This conclusion is still relevant in the light of the legal ruling (People over Wind, Peter Sweetman v Coillte Teoranta).
24. The Brooks Lane Masterplan SPD does not make any change to the site area, or the general policy guidance contained within policy LPS 43 of the LPS. The overall conclusion of this screening assessment is that the Brooks Lane Masterplan SPD is unlikely to have any significant effects on the Natura 2000 or Ramsar sites identified alone or in combination with other plans or projects. As such it is not considered necessary to proceed with the next stage of the Habitats Regulations Assessment process, i.e. the requirement for an appropriate assessment. This conclusion has been informed by consultation with statutory consultees (Environment Agency, Historic England and Natural England).