

Application No: 20/0901C

Location: Phase 4B and 1B Magnitude, OFF ERF WAY, MIDDLEWICH

Proposal: Part full/part outline application proposing: 1: Full planning application for an employment development (Use Class B2 & B8 with ancillary Use Class B1 floorspace), and security gatehouse and weighbridge, the provision of associated infrastructure, including a substation, plant, pumping station, service yards, car and HGV parking, cycle and waste storage, landscaping, ecological enhancement area, drainage attenuation, access from Erf Way and re-alignment of the River Croco tributary. 2: Outline planning application for an employment development (Use Class B2 & B8 with ancillary Use Class B1 floorspace) with all detailed matters except for access reserved for future determination

Applicant: MAGNITUDE LAND LLP & SWIZZELS MATLOW LTD

Expiry Date: 05-Jun-2020

## **SUMMARY**

The proposed development of this site for B2/B8 uses accords with the allocations in Local Plan policy Site LPS 44 Midpoint 18, Middlewich which allocates the site for employment uses.

Highways have raised no objections, subject to a contribution to the Middlewich Eastern Bypass to mitigate any impacts on traffic in Middlewich.

Whilst there will be impacts on ecology, trees and the landscape these can be mitigated by measures set out in the application. An update on outstanding ecology matters will be provided prior to the meeting.

The Environment Agency originally had concerns about the impact of the proposals on the water course within the site, and subsequently ecology, however following negotiations it is understood an agreed way forward has been reached and this will be confirmed in a subsequent update report.

Impacts on Environmental Matters, including amenity, noise, air quality and contaminated land are all capable of being mitigated by measures that can be conditioned.

Finally impacts on the public right of way can be managed by use of an appropriate condition.

Whilst at the time of writing this report there remain a number of outstanding matters regarding the water course through the site, and ecology, however discussions with the

Environment Agency and the Council's Ecologist have indicated these matters should all be resolved in advance of the Committee meeting.

**Recommendation**

Approve subject to a Section 106 Agreement and conditions.

**DESCRIPTION OF SITE AND CONTEXT**

This application relates to a series of land parcels on the eastern edge of Middlewich, accessed off ERF Way an industrial estate road which links back to the A54 at the Salt Cellar roundabout. The site falls entirely within Cheshire East, but is close to the Cheshire West boundary.

The site consists of part of 3 fields which appear to be used for grazing, and an area of rough unused land on the road frontage. A unnamed water course runs south to north through the site, and there are two small ponds within the site on the southern boundary, and several others just outside the site boundary. The land is largely flat.

Three hedgerows cross the site roughly east -west, and there are some trees, mainly around the ponds, and along the water course.

A public footpath runs along the southern boundary of the site (Middlewich FP19), and a further footpath runs roughly north-south to the east following the Cheshire East/West boundary.

The Midpoint 18 industrial estate lies to the east accessed off ERF Way, and there are three sizable industrial/warehousing units close to the site.

The site, as referenced above, does not include all the fields to the east, as this land is proposed to form part of the Middlewich Eastern Bypass.

A main underground gas pipeline is known to run to the east of the site, but this would be located to the far (eastern) side of the bypass.

**DETAILS OF PROPOSAL**

The proposal is in two parts, taken from the application form:

“1: Full planning application for an employment development (Use Class B2 & B8 with ancillary Use Class B1 floorspace), and security gatehouse and weighbridge, the provision of associated infrastructure, including a substation, plant, pumping station, service yards, car and HGV parking, cycle and waste storage, landscaping, ecological enhancement area, drainage attenuation, access from Erf Way and re-alignment of the River Croco tributary.”

This part of the application is the major element of the development, that extends to the eastern boundary which will be formed by the Middlewich Eastern Bypass, which will be on an embankment at this point. The development consists of a B2/B8 building amounting to some 42,675 sqm (internal floor area) together with first floor offices of 465 sqm (internal floor area). The building would measure 252m x 170m x 17m high, and the rectangular structure would have a series of four curved sections of roof running long-ways down the building. The building would be metal clad in contrasting light and dark grey panels. A total of 263 parking spaces are proposed, together with sizable vehicle turning/loading areas.

The application indicates that the building could be constructed in 3 phases.

The second part of the application consists of:

“2: Outline planning application for an employment development (Use Class B2 & B8 with ancillary Use Class B1 floorspace) with all detailed matters except for access reserved for future determination.”

This part of the site consists of a small area of the site on the western boundary adjacent to the access off ERF Way. The proposal is for a maximum of 4,181 sqm (internal floor area) of B2/B8 with a maximum height of 16m above finished floor levels. The submitted plan indicates this could be provided in two smaller buildings, but would be subject to a further reserved matters application.

## **RELEVANT HISTORY**

18/5833C Proposed two-way single carriageway road scheme to bypass Middlewich and referred to as the ‘Middlewich Eastern Bypass’, together with associated highway and landscaping works. Land At, POCHIN WAY, MIDDLEWICH – APPROVED 19-Jul-2019

Close to the site is a recently approved similar development:

17/5116C Erection of 2 no. employment buildings (Use Classes B2 and B8) including a security gatehouse, vehicle access off Pochin Way and ERF Way and associated car parking, trailer parking and landscaping. Plot 1A, Ma6nitude 160, Midpoint 18, Pochin Way, Middlewich. Approved 18-Sep-2018

## **POLICIES**

### **Cheshire East Local Plan Strategy – 2010-2030**

PG6 – Open Countryside  
SD1 - Sustainable Development in Cheshire East  
SD2 - Sustainable Development Principles  
SE 1 - Design  
SE 2 - Efficient Use of Land  
SE3 – Biodiversity and Geodiversity  
SE 4 - The Landscape  
SE 5 - Trees, Hedgerows and Woodland  
SE 13 - Flood Risk and Water Management

SE 6 – Green Infrastructure  
IN1 – Infrastructure  
CO1 – Sustainable Travel and Transport  
CO2 – Enabling Business Growth Through Transport Infrastructure

LPS44 – Midpoint 18, Middlewich. The policy reads as follows:

The development at Midpoint 18 over the Local Plan Strategy period will be achieved through a masterplan led approach with:

1. Phased delivery of up to 70 hectares of employment land, including the development of the existing undeveloped sites: Midpoint 18 (Phases 1 to 3), with provision expected to continue for the remaining site beyond the plan period; and
2. Provision of and where appropriate, contributions to the completion of the Middlewich Eastern Bypass.
3. Provision of land set aside to enable the future construction of a new station – in terms of lineside infrastructure, parking and access.

Site Specific Principles of Development

- a. Maximising connectivity to new and existing areas of Middlewich.
- b. Contributions towards public transport and highways improvements.
- c. Contributions to education and health infrastructure.
- d. Provision of floorspace to accommodate B1, B2 and B8 uses.
- e. Future development should safeguard the River Croco and other watercourses and deliver significant ecological mitigation areas for protected and priority species and habitats on site.
- f. A pre-determination desk based archaeological assessment will be required, with targeted evaluation as appropriate.

It should be noted that the Cheshire East Local Plan Strategy was formally adopted on 27 July 2017. There are however policies with the legacy local plans that still apply and have not yet been replaced. These policies are set out below.

### **Congleton Local Plan (Saved policies)**

The saved Local Policies are consistent with the NPPF and should be given full weight.

PS8 - Open Countryside  
PS12 - Strategic transport corridors  
GR6 – Amenity and health  
GR7 & GR8 – Amenity and Health  
GR13, GR14, GR 15 & GR 16 – Public transport/cycling/footpaths  
GR18 – Traffic Generation  
NR2, NR3, NR4 & NR5 - Nature Conservation  
BH4 – Heritage Assets

### **Neighbourhood Plan**

The local referendum for Middlewich Neighbourhood Plan was held on the 14 March 2019 and returned a 'no vote'. As such policies within the plan cannot be given any weight as part of this application.

## **Other Material Considerations**

The National Planning Policy Framework  
National Planning Practice Guidance  
Cheshire East Infrastructure Delivery Plan  
EC Habitats Directive  
Conservation of Habitats and Species Regulations 2017

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

**Middlewich Town Council:** The Parish Council objects to the application being approved at this stage on the following grounds;

1. There has been no impact study carried out on the rerouting of the Croco river, both with respect to the potential flooding such changes could cause and the potential environment and ecological impact;
2. There has been no impact study carried out with respect to the increase in traffic an expansion of the site will create. The route to the site is already heavily congested and as such permission should not be permitted for the work to take place on these expansion phases of the site until the bypass has been built in order to avoid compounding the traffic problems in Middlewich.
3. Additionally, we need to be supporting smaller storage units to allow new businesses to start up move to the town or indeed move from elsewhere in the town.
4. The Council is concerned about the developments effect on Air Quality and does not consider the air quality assessment is accurate or detailed enough and should be revised.
5. This is further confused by the predictive modelling in the application submission, and there is a concern about who will monitor these impacts and how.

The full details of their concerns regarding air quality are set out on the application file on the Council's website.

## **CONSULTATION RESPONSES – External to Planning**

**Environment Agency:** Their original comments read:

“Based on the information submitted with this application there is:

- Insufficient evidence with regard to the brook realignment has been provided to assess risks to hydromorphology and biological Water Framework Directive (WFD) quality elements; and
- A significant risk that there is an impact on the wildlife corridor of the watercourse River Croco Tributary, which is designated “main river”.

We therefore object to the proposed development, due to its impacts on nature conservation and physical habitats. We recommend that planning permission is refused.”

Subsequently there have been extensive discussions between the Environment Agency (EA) and the applicant, and it is now understood an agreement has been reached on how these matters can be addressed. Amended drawings have been submitted to the EA and their comments will be reported in an update report before the meeting.

**Natural England:** Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

The proposed development is within 1.8km of Sandbach Flashes SSSI. Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

**Cheshire West and Cheshire Council:** The Authority would like to highlight the potential interaction that the development could have with the Kinderton Lodge waste allocation under Cheshire West and Chester Local Plan (Part One) Policy ENV8.

The Plan safeguards consented facilities including Kinderton Lodge near Middlewich to meet the borough's capacity for waste facilities. The land around Kinderton Lodge Farm has planning permission for both mineral extraction and landfilling. The compatibility of food manufacturing in close proximity to mineral extraction and landfilling, open windrow composting and CDE waste processing should be considered. We would recommend consultation with the mineral owner/operator and landfill operator to ensure that any potential effects are considered as part of the application.

**United Utilities:** No objections are raised, but 2 conditions are recommended, relating to surface water drainage and requiring foul and surface water to be drained on separate systems.

**Cadent & National Grid:** No objections are raised, but wanted to draw attention to the High-Pressure Gas Pipeline – Feeder, running to the east of the site, and if there was to be any works in the vicinity of that asset then works would need to be agreed in advance.

**Health & Safety Executive:** Do not advise against but highlight location of pipeline referred to above.

**Highways:** No objections subject to a financial contribution towards the Middlewich Eastern Bypass.

**Environmental Protection:** No objections subject to conditions. They recommend a series of conditions relating to noise, air quality and contaminated land. Informatives relating to construction hours, pile foundations, dust management, floor floating the Environmental Protection Act are also recommended.

**Flood Risk:** Whilst they raise no significant issues, some additional information has been requested from the applicant, which has now been provided. Their updated comments are awaited and will be reported in an update report before the meeting.

**Public Rights of Way:** Any comments received will be reported in any update report.

## **OTHER REPRESENTATIONS**

A resident of Briery Pool Farmhouse Cledford Lane Middlewich has written to express concern about the flood risk to their property with the re-alignment of the River Croco tributary.

Another resident of Kinderton Park raised a non-planning matter.

## **OFFICER APPRAISAL**

### **Principle of Development**

The whole site falls within site LPS 44 Midpoint 18, and the policy section above sets out the Local Plan Strategy policy and the criteria any development needs to address. In principle the proposed development of employment uses in Classes B2 (General Industrial) and B8 (Warehousing) are in accordance with this policy.

### **Highway Safety / Parking**

Under policy LPS 44 it states that development shall make:

“2. Provision of and where appropriate, contributions to the completion of the Middlewich Eastern Bypass.”

In addition under the Site Specific Principles of Development under the policy:

- “a. Maximising connectivity to new and existing areas of Middlewich.
- b. Contributions towards public transport and highways improvements.”

### Access

Both Phase 1 and Phase 2 is served from a single access road off ERF Way, the access is to an industrial standard with adequate visibility provided at the access point. The access to Phase 2 is taken from the internal site access road and also provides sufficient visibility. It is proposed that the access is constructed to an adoptable standard and has footway provision on both sides of the access.

### Car Parking

The car parking provision for the Phase 1 detailed application is 263 spaces that includes 5 disabled spaces. There are HGV parking areas within the site with 124 trailer parking spaces indicated. As the end user of this site is known, the car parking numbers have been based on the 150 staff to be employed on the site once complete. The car parking provision is below current CEC standards for B2/B8, although the applicant has submitted a parking accumulation assessments based upon the employment numbers on the site, and this indicates that 263 spaces would be sufficient. The operation of the site will use a shift pattern with 2 shifts 06.00 -18.00 and 18.00 – 06.00. It is considered that the level of car parking is sufficient as the likely number of employees once fully built out would be a maximum 150 at any one time, and 263 spaces is proposed. As such it is unlikely to cause any overspill parking problems onto the public highway.

## Accessibility

The site is linked to the footpath network, there are footways on both side of ERF Way and also Pochin Way has two footways. There are pedestrian facilities to the town centre from Pochin Way and the site can be accessed by pedestrians from Middlewich. The nearest available public transport is in Middlewich which is some 2.6km distance from the site and there is no rail station in Middlewich. It is expected that the majority of trips to this employment site will be vehicle based although trips can be made by walking and cycling and there are cycling parking facilities provided within the site.

## Development Traffic Impact

The predicted traffic generation arising from the development has been derived using the Trics database for both all vehicles and HGV vehicles in both am and pm peak hours 08.00 - 09.00 and 16.00 – 17.00. The peak traffic demand is in the am peak with 148 movements and there are 127 movements in the pm peak.

The distribution of the trips submitted has indicated the majority of HGV vehicles will route to the east on the A54 to and from the M6. In regard to light vehicle trips, the majority of these trips 49% will travel through Middlewich on the A54 West with 36.5% on the A54E and the remainder on Centurion Way.

The applicant has undertaken only one capacity assessment on the local highway network and this has been undertaken at the roundabout junction at the A54/Pochin Way/ B5309 Centurion Way. The assessment has been undertaken in the future year 2025 with the development flows and growth added. However, the committed developments on Midpoint 18 have not been included.

The results of the capacity assessment shows that the roundabout junction will operate within capacity in 2025 with some spare capacity. The operation of this roundabout as standalone junction is not the major concern of the Highway Authority, it is existing congestion in Middlewich especially at the Leadsmithy Street/Kinderton St signal junction that has long traffic queues that needs to be addressed.

The results of the capacity assessment of the A34/Leadsmithy Street junction undertaken as part of the Cheshire Fresh planning application has been submitted in this Transport Assessment to indicate that this junction would operate within capacity. However, this does rely upon the CEC improvement scheme at this junction being in place, there are a number of issues regarding the deliverability of this scheme and it is by no means certain that this scheme will be in place at the time of occupation. It therefore, cannot be concluded that there would no impact arising from the development at this junction.

It is applicant's view that the additional development trips would not have a material impact on the operation of the local highway network. However, it is CEC's view that congestion and queue lengths are already at significant levels and it is clear that to support further major developments such as this application that have a direct impact on the centre of Middlewich, mitigation measures are required either to improve the operation of the existing Leadsmithy/A54 signal junction or to remove traffic from the junction by means of the Middlewich Eastern Bypass (MEB).

The MEB would link Pochin Way with the A533 and will provide much improved access to Midpoint 18 and also will reduce traffic congestion levels in Middlewich. Policy LPS 44 of the CEC Local Plan has indicated that contributions to the MEB will be required as part of development on the Midpoint 18 site. The level of contributions have been calculated from the likely amount of developable floorspace within the Midpoint 18 site allocations and in regard to this particular application a contribution is required of £30 per sqm is applicable. This equates to £1,276,980 Phase 1 and £125,430 Phase 2 based upon the floor area.

In summary, this is an allocated employment site with its main access taken from ERF Way, the site will generate significant levels of traffic throughout the day and would add to existing congestion problems in Middlewich. Therefore, a contribution to either the A34/Leadsmyth Street or MEB is warranted as an improvement is required to at the signal junction at A34/Leadsmyth Street and also that the by-pass will provide mitigation for the Midpoint 18 site.

There are no objections subject to the financial contribution as detailed above, being secured in a S106 Agreement.

### **Ecology:**

Under the Site Specific Principles of Development of policy LPS 44 it states:

“e. Future development should safeguard the River Croco and other watercourses and deliver significant ecological mitigation areas for protected and priority species and habitats on site.”

### **Statutory Designated Sites**

The site of this application falls within Natural England’s SSSI impact risk zones.

It is noted that Natural England have been consulted on this application and raised no objections in respect of statutory designated sites.

### Watercourse re-alignment

The development proposals include the realignment of a tributary of the river Croco. Site specific policies in the Cheshire East Core Strategy requires development proposals for LPS 44 requires development to safeguard the River Croco and other watercourses.

The submitted ecological assessment states that the realigned water course will be enhanced for reptiles, invertebrates and birds. The water course corridor affected by this application is however proposed for enhancement for reptiles as part of the environmental works associated with the Middlewich bypass consent.

Details of how the watercourse is to be re-aligned, and how its nature conservation value will be enhanced need to be submitted and agreed. As referenced elsewhere in this report details of the re-aligned water course are being agreed with the EA and the ecological enhancements will need to flow from this and be reported to Members in any update report.

### Reptiles

Grass snake is known to occur in this locality. 18% of the total area of the application site is considered to be suitable for this species. It is advised that the proposed development will result in an adverse impact on reptiles as a result of the temporary and permanent loss of loss of suitable terrestrial habitat and the risk of grass snake being killed or injured during the construction phase.

No detailed mitigation or compensation proposals have been submitted in respect of reptiles. The submitted ecological assessment does however make reference to one having been produced. It is advised that a reptile mitigation and compensation method statement must be submitted prior to the determination of this application. An update on this outstanding matter will be reported to Members in an update report.

### Great Crested Newts

This protected species is known to occur at numerous ponds in the vicinity of the application site. In the absence of mitigation the proposed development would have a Low-Medium scale adverse impact as a result of the destruction of terrestrial habitat and the risk posed to any animals on site when the works were undertaken.

As a requirement of the Habitat Regulations the three tests are outlined below:

#### EC Habitats Directive

Conservation of Habitats and Species Regulations 2017

ODPM Circular 06/2005

The UK implemented the EC Directive in the Conservation (natural habitats etc.) regulations which contain two layers of protection:

- A licensing system administered by Natural England which repeats the above tests
- A requirement on local planning authorities (“lpas”) to have regard to the directive’s requirements.

The Habitat Regulations 2017 require local authorities to have regard to three tests when considering applications that affect a European Protected Species. In broad terms the tests are that:

- The proposed development is in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment
- There is no satisfactory alternative
- There is no detriment to the maintenance of the species population at favourable conservation status in its natural range.

Current case law instructs that if it is considered clear or very likely that the requirements of the directive cannot be met because there is a satisfactory alternative, or because there are no conceivable “other imperative reasons of overriding public interest”, then planning permission should be refused. Conversely, if it seems that the requirements are likely to be met, then there would be no impediment to planning permission be granted. If it is unclear whether the requirements would be met or not, a balanced view taking into account the particular circumstances of the application should be taken.

#### Overriding Public Interest

The provision of mitigation would assist with the continued presence of Great Crested Newts.

#### Alternatives

There is an alternative scenario that needs to be assessed, this is:

- No Development on the Site

Without any development, specialist mitigation for Great Crested Newts would not be provided which would be of benefit to the species. Other wider benefits of the scheme need to be considered.

#### Detriment to the maintenance of the species

The applicant's ecological consultant has indicated an intention to enter the proposed scheme into Natural England's district licencing scheme.

It is advised that in the event that planning consent was granted entry into the district licencing scheme would be sufficient to maintain the favourable conservation status of the species.

To confirm that the proposed development has been accepted onto the district licencing scheme the applicant must submit a copy of the Impact Assessment and Conservation Payment Certificate signed by Natural England.

#### Common Toad

This priority species is present at the on-site pond. The pond would be retained as part of the proposed development, however the proposals would result in the loss of an area of terrestrial habitat for this species. It is advised that this would have an localised adverse impact upon this species.

#### Lesser Silver Diving Beetle

This protected and priority species has been recorded at two ponds adjacent to the application site. Whilst the proposed development would not result in a direct impact upon these ponds. The proposed development in-combination with the consented bypass would have an adverse impact upon this species due to changes in land use affecting the long term viability of the adjacent breeding ponds. This impact is likely to be compensated for as part of the bypass development.

#### Badger

There is extensive badger activity in the vicinity of the application site. There are no conventional setts within the boundary of the current application boundary however an above ground 'nest' (sett) was recorded within a hollow tree on the banks of the stream. It is advised that this structure receives the same level of legal protection as any other sett. It is therefore advised that the application must be supported by a revised outline mitigation method statement to address the impacts of the proposed development upon this sett. This should include a commitment to the undertaking of the works under the terms of a Natural England license.

The proposed development would also result in the loss of badger foraging habitat which would result in a localised adverse impact upon this species. It is unclear at present as to

whether badgers would continue to have access to the available habitat located to the south of the application site. The revised badger mitigation strategy should include further details of how connectivity for badgers would be maintained as part of the proposals. An update on this outstanding matter will be reported to Members in an update report.

### Hedgerows

Hedgerows are a priority habitat and hence a material consideration. In addition hedgerows H3, H9 and H8 have been found to be Important under the Hedgerow Regulations.

Important hedgerows H3 and H9 would be retained part of the proposed development. The proposed development would however result in the loss of a 40m section of Important Hedgerow H8 and all of Hedgerow H7 within the application boundary would be lost. .

The submitted ecological assessment states that the Biodiversity metric calculations show that the scheme would deliver an overall gain of 23% in respect of hedgerows. The results of the metric must however be formally submitted in support of the application to confirm that this is the case. An update on this outstanding matter will be reported to Members in an update report

### Bats

Two trees have been identified as having moderate bat roost potential. The submitted ecological assessment advises that these trees would be retained as part of the proposed development. This does appear to be the case based on the submitted landscaping drawings.

A number of trees with low bat roost potential would be lost as a result of the proposed development. The submitted ecological assessment recommends that these be felled under a precautionary method statement. It is advised that If planning consent is should be conditioned.

### Lighting

To avoid any adverse impacts on bats resulting from any lighting associated with the development it is recommend that if planning permission is granted a condition should be attached requiring any additional lighting to be agreed with the LPA.

This condition can be avoided if lighting proposals are submitted prior to determination. At the time of writing this report has not been submitted.

### Water vole and otter

No evidence of water vole was recorded during the submitted surveys, therefore this species was not reasonable likely to be affected by the proposed development.

Whilst no evidence of otters was recorded during this latest survey, evidence of otter presence was recorded on the stream affected by this development during surveys undertaken to inform the Middlewich By pass application. Otters are therefore likely to occur on the water course affected by the proposed development on at least an occasional basis.

It is advised that whilst the proposed development is not likely to result in an offence in respect of otters a condition should be attached which requires to completion and submission of an updated otter survey prior to the commencement of development.

### Nesting birds interest

The application site supports a number of breeding bird species including two widespread priority species which are a material consideration for planning. It is advised that provided sufficient habitat is delivered to achieve an overall net gain for biodiversity this would be sufficient to address the potential impacts of loss of habitat upon birds.

If planning consent is granted a condition is required to safeguard nesting birds:

### Biodiversity net gain

Any development proposals must seek to lead to an overall enhancement for biodiversity in accordance with Local Plan policy SE3(5). In order to assess the overall loss/gains of biodiversity an assessment undertaken in accordance with the Defra Biodiversity 'Metric'.

The submitted ecological assessment advises that this assessment has been completed and the scheme has been found not to deliver the required net gain for biodiversity. Whilst the council has discussed the results of the assessment with the application the pre-application stage the results of the metric do not appear to have been submitted in support of the application. A copy of the assessment must be submitted as part of the application.

The applicant has proposed offsite habitat creation as a means of delivering additional habitat creation to achieve net gain, however a suitable site or a level of commuted sum required has yet to be agreed. An update on this outstanding matter will be reported to Members in an update report

This planning application also provides an opportunity to incorporate features to increase the biodiversity value of the final development.

It is therefore recommended that the applicant submits an ecological enhancement strategy prior to the determination of the application or if planning permission is granted a condition should be attached which requires the submission of an ecological enhancement strategy.

This condition can be avoided if proposals are submitted prior to the determination of the application. At the time of writing this report has not been submitted.

### Habitat Management Plan

If planning consent is granted a condition is required to ensure the submission and implementation of a 25 year habitat management plan. All of the areas of habitat requiring management are within the area of the detailed application so management should commence at the time of implementation of the first phase of the development.

The management plan should include proposals for the control of non-native invasive plant species and a time table for implementation.

### Conclusion

Whilst there are a number of outstanding ecological matters at the time of writing this report, discussions have been positive, and all these matters are likely to be resolved by the Committee meeting.

## **Water course and hydrology/flooding**

Protecting the River Croco and other watercourses and is a significant issue with this application as a water course flows through the site, as a designated “Main River”. The EA originally objected to the application as they were concerned about the proposals to alter the brook alignment and subsequent impacts on its ecological value. This matter as discussed above has been discussed with the applicant, and the EA have recently written:

“We have received an alternative watercourse location plan and indicative cross-sections from the consultants, which removes the need for a channel crossing and demonstrates that an 8m buffer can be achieved with bank slopes of 1:1.5. However we still need to see the engineering drawings for the cross-section design and how these fit within the location plan.”

It is now understood these drawings have been submitted to the EA and it is hoped that this will now address their concerns. This will need to be confirmed in an update report to Members.

The Flood Risk Team have requested the model details to be included within the Flood Risk Assessment ensuring all greenfield run-off rates are correctly calculated. This information has been provided and their updated comments are awaited. They also note that the EA are responsible for the water course as it is a Main River.

Whilst there are outstanding matters to finalise with regards to impacts on the watercourse, flooding and drainage the applicant, following discussions, has submitted the information required and as such it is considered that this matter should be resolved shortly and will be reported to Members accordingly.

## **Impact on Trees**

The application is submitted with an Arboricultural Impact Assessment dated February 2020. This sets out the trees and hedgerows to be removed retained and protection measures for those to be retained.

The trees essentially are located in three areas, firstly and most significantly along the water course. All the trees on this northern section (approximately 20) – closest to where the site entrance and building frontage will be will be removed. These mainly consist of smaller shrub species, or smaller trees in Class C (Trees of low value), but does include 2 Class B trees (Trees of Moderate Value) an Ash tree (T18) and an Oak (T20). A significant length (298 linear metres) of hedgerow would be removed in the centre of the site.

Along the southern section of the water course, and in the other two locations, essentially around two water features off site to the north and south of the proposed main building, all the trees would be retained. This includes a veteran oak tree (T4).

Whilst the loss of trees, and in particular the loss of T18 & T20 referenced above, and hedgerows is regrettable, it needs to be balanced against the proposed re-planting which is dealt with in more detail below, but in absolute terms the replacement planting consists of 78

specimen (larger) trees and 2700 whips (smaller trees) and 912 linear metres of hedgerow planting,

## **Landscaping**

The proposed building is clearly substantial, and will have a significant visual impact. This matter was discussed with the applicant at the pre application stage and full landscaping proposals have been submitted to go some way to mitigate this impact. It needs to be remembered that the building will be seen in the context of the adjacent, equally large industrial units and the eastern site boundary – that with the open countryside, will be formed by the Middlewich Eastern Bypass, with its associated landscaping.

The Council's Landscape Architect was keen to ensure that the buildings visual impact was minimised from two important visual receptors.

Firstly the field footpath that runs to the east of the site (and bypass) which is actually located in Cheshire West, and Kinderton Lodge Farm beyond. This impact is largely mitigated for by landscaping associated with the bypass.

Secondly there was a concern for users of the bypass itself. Whilst there is not sufficient space within the site itself to have significant landscaping all along the site boundary, landscaped blocks have been proposed to the north and south of the building to help soften its impact from views approach the site – the main views users will experience. These proposals (in their slightly revised form), the Council's Landscape Architect now considers are acceptable.

## **Building design**

As set out above the application is in two parts. The first, and major element is in full and proposes a sizable manufacturing/warehousing facility totalling some 42,675sq m (excluding the 1<sup>st</sup> floor offices), the second being the outline for smaller elements totalling some 4,181 sqm. The indicative layout shows this consisting of two buildings.

In addition to these two elements other structures applied for include a security gatehouse, boiler house and water treatment plant.

The main building is designed to be built in phases with Phase 1 being approximately a third of the overall building size. The building would be metal clad with a series of panels breaking up the elevations, with a dark grey finish on the lower elements, with a lighter grey for the upper sections and roof. An area of glazing is proposed on the front elevations facing the access road to the site giving the building a more interesting frontage. The building height at its maximum would be 17m high which is typical of other similar buildings nearby for example the recently approved development referenced above (17/5116C) is some 14m tall. It is therefore considered acceptable.

The building(s) sought in outline are likely to be of a similar design but these matters would be determined at the reserved matters stage. The ancillary buildings are small – relative to the size of the main building, but are again considered acceptable.

## **Amenity**

The proposed site is in a relatively isolated location, with the nearest residential property Briary Pool Farm off Cledford Lane, being in excess of 350m away from the site boundary. The other occupiers in the vicinity of the site are all commercial in nature being manufacturing or warehousing uses. Environmental Protection recommend a series of Informatives to cover the construction phase of the development.

## **Noise**

The proposal is for an employment development with associated infrastructure and is located in close proximity to existing residential and commercial properties.

In support of the application, the applicant has submitted an acoustic report dated February 2020.

The impact of the noise from key work associated with the development has been assessed in accordance with:

- BS4142:2014 Methods for rating and assessing industrial and commercial sound

An agreed methodology for the assessment of the noise source has been submitted and the conclusion and recommendations are accepted, with no noise mitigation measures required.

## **Lighting**

Impacts in relation to ecology are set out above, but in relation to amenity it is recommended that the level/location of lighting is controlled by condition to avoid any possible impacts.

## **Air Quality**

This is a full/outline application proposal for an industrial development. Air quality impacts have been considered within the air quality assessment submitted in support of the application by Redmore Environmental Ltd. dated the 20th February 2020. 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. 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:

- Scenario 1: 2018 Model Verification;
- Scenario 2: 2022 Completion Year 'without development'; and
- Scenario 3: 2022 Completion Year 'with development'.

The assessment concludes that the impact of the future development on the chosen receptors will be not significant with regards to NO<sub>2</sub> and PM<sub>10</sub> concentrations. Only two of the receptors are predicted to experience greater than a 1% increase relative to the AQAL, these being 2 – 5% and they are also classed as having a negligible impact experienced. However, some of these receptors are located within the two nearby AQMAs and it is

Environmental Protection's opinion that any increase in concentrations within an AQMA, no matter how small, 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.

There is also 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.

Middlewich has two Air Quality Management Areas, and as such the cumulative impact of developments in the area is 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.

A development of this scale and duration would be expected to have an adequate demolition, construction and track-out dust control plan implemented to protect sensitive receptors from impacts during this stage of the proposal and this is mentioned within the assessment as a form of mitigation. Conditions in relation to electric vehicle charging and low emission boilers are recommended.

## **Contaminated Land**

The Contaminated Land team has no objection to the above application subject to the following comments with regard to contaminated land:

- This site is within 250m of a known landfill site or area of ground that has the potential to create gas.
- A Phase I Preliminary Risk Assessment for land contamination has been submitted in support of the planning application (Shepherd Gilmour Infrastructure Ltd., February 2020):
  - o With regards to Section 5.1, upon checking our records, we are not aware of an environmental search being requested for this site. We should be contacted at [landquality@cheshireeast.gov.uk](mailto:landquality@cheshireeast.gov.uk) if this is still required.
  - o It is unclear why consumption of homegrown produce is a potential pathway within the Initial Conceptual Site Model in Section 6.1, given the proposal for the site. Further clarification should be provided.
  - o A Phase II ground investigation has been recommended for the site in order to assess risks posed by possible ground gases. There is an agreement with this recommendation and would add that best practice guidance should be adhered to in designing the ground investigation and monitoring wells, undertaking the monitoring and the risk assessment.

As such, and in accordance with the NPPF, Environmental Protection recommends that conditions, reasons and notes be attached should planning permission be granted.

## **Public Right of Way**

Middlewich Field Footpath 19 runs along the western and southern boundaries of the site, utilizing ERF Way for a short stretch before crossing fields to the south. Whilst the footpath would not be directly impacted by the development, the proposed site access would cut across the footpath (where it runs along the highway) and as such in the absence of the Public Rights of Way Teams comments, a condition is considered necessary to ensure the works are managed to ensure minimum impact on the PROW.

### **Kinderton Lodge Farm**

Cheshire West have raised the possible issue on this consented scheme for mineral extraction and subsequent landfilling. No representations have been received on this matter and as the site is some distance from the application site, and will be separated by the Middlewich bypass it is not considered there are any significant issues in this regard.

### **Conclusions**

The proposed development of this site for B2/B8 uses accords with the allocations in Local Plan policy Site LPS 44 Midpoint 18, Middlewich which allocates the site for employment uses.

Highways have raised no objections, subject to a contribution to the Middlewich Eastern Bypass to mitigate any impacts on traffic in Middlewich.

Whilst there will be impacts on ecology, trees and the landscape these can be mitigated by measures set out in the application. An update on outstanding ecology matters will be provided prior to the meeting.

The Environment Agency originally had concerns about the impact of the proposals on the water course within the site, and subsequently ecology, however following negotiations it is understood an agreed way forward has been reached and this will be confirmed in a subsequent update report.

Impacts on Environmental Matters, including amenity, noise, air quality and contaminated land are all capable of being mitigated by measures that can be conditioned.

Finally impacts on the public right of way can be managed by use of an appropriate condition.

Whilst at the time of writing this report there remain a number of outstanding matters regarding the water course through the site, and ecology, however discussions with the Environment Agency and the Council's Ecologist have indicated these matters should all be resolved in advance of the Committee meeting.

### **SECTION 106**

In line with other recent approvals on Midpoint 18, and in line with policy LPS 44 the development shall:

“2. Provision of and where appropriate, contributions to the completion of the Middlewich Eastern Bypass.”

Highways have calculated a figure of £30 Sq.m is applicable. This equates to £1,276,980 Phase 1 and £125,430 Phase 2 based upon the floor area, and as such the development should contribute this figure by way of a Section 106 Agreement.

The applicant is agreeable in principle to a contribution of 30 per sqm as part of the planning application subject to working with Cheshire East Council to undertake a review of the contribution for each phase of the development prior to the occupation of the first phase of the development.

## **CIL REGULATIONS**

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010, it is necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following: a) Necessary to make the development acceptable in planning terms; a) Directly related to the development; and b) Fair and reasonably related in scale and kind to the development. It is considered that the contributions required as part of the application are justified meet the Council's requirement for policy compliance. All elements are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of development. The non-financial requirements ensure that the development will be delivered in full. On this basis the S106 the scheme is compliant with the CIL Regulations 2010.

## **RECOMMENDATION**

**Approve subject to a Section 106 Agreement and subject to the following conditions;**

### **FULL APPLICATION:**

- 1. 3 Year start date**
- 2. Approved plans/documents**
- 3. Materials**
- 4. Landscaping**
- 5. Landscape maintenance**
- 6. Arboricultural Impact Assessment**
- 7. Tree Retention/Protection**
- 8. Levels**
- 9. Electric vehicle infrastructure**
- 10. Ultra Low Emission Boiler(s)**
- 11. Importation of soils**
- 12. Contaminated land assessment (Phase II)**
- 13. Contaminated land verification report**
- 14. Measures to deal with unexpected contamination**
- 15. Foul and surface water on separate systems**
- 16. Surface water drainage**
- 17. Tree felling under supervision (Bats)**
- 18. Lighting (Amenity & Bats)**
- 19. Updated Otter survey**
- 20. Bird nesting season**
- 21. Ecological mitigation measures**

22. 25 Year habitat management plan
23. PROW Management scheme

**OUTLINE APPLICATION:**

1. Outline timescales
2. Approved plans/documents
3. Materials
4. Landscaping
5. Landscape maintenance
6. Arboricultural Impact Assessment
7. Tree Retention/Protection
8. Levels
9. Electric vehicle infrastructure
10. Ultra Low Emission Boiler(s)
11. Importation of soils
12. Contaminated land assessment (Phase II)
13. Contaminated land verification report
14. Measures to deal with unexpected contamination
15. Foul and surface water on separate systems
16. Surface water drainage
17. Tree felling under supervision (Bats)
18. Lighting (Amenity & Bats)
19. Updated Otter survey
20. Bird nesting season
21. Ecological mitigation measures
22. 25 Year habitat management plan
23. PROW Management scheme

**Informatives**

- NPPF
- Hours of working
- Pile foundations
- Dust management
- Floor floating
- EPA
- Land drainage Act
- PROW

**In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Planning has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.**

