

Application No: 17/6366C

Location: Intertechnic Uk Ltd, Road Beta, Middlewich, CW10 0QF

Proposal: Outline proposal for a mixed use development including residential, cafe, marina and other ancillary works.

Applicant: Mr Peter Nunn

Expiry Date: 25-Sep-2020

SUMMARY

The proposed development forms part of Site LPS 43 Brooks Lane, Middlewich and as a result the principle of development is considered to be acceptable. LPS 43 supports development on this site through a masterplan led approach and the Brooks Lane SPD is now adopted and is a material consideration.

The matters of layout, scale, appearance and landscaping of the development are all reserved for later approval. The proposed development is in general conformity with the SPD but there are areas where further work and detail will be required (such as parking layout, connections, landscaping and street design). These details will be considered as part of the future reserved matter(s) applications on the site.

The development would provide a policy compliant level of affordable housing in accordance with Policy SC5 and this would be secured as part of a S106 Agreement.

Although the application is in outline form the development has the potential to bring extensive improvements to the appearance of the site from the Canal and Conservation Area and the designated and non-designated heritage assets. A further assessment would be undertaken at the Reserved Matters stage and at this stage there is no conflict with Policy SE7 of the CELPS and Policies BH4, BH5 and BH9 of the CLP.

The development would provide economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in Middlewich. The development would comply with point 1 of SD1 which aims to create a strong, responsive and competitive economy for Cheshire East.

The impact upon education infrastructure would be neutral as the impact would be mitigated through the provision of a contribution. This is consistent with policies ID1 and ID2 of the CELPS.

The site has limited ecological value and the impact upon protected species/ecology is considered to be neutral subject to the imposition of conditions to secure mitigation. The development would comply with Policy SE3 of the CELPS and NR4 of the CLP.

There is not considered to be any drainage implications raised by this development subject to the imposition of planning conditions. There is not considered to be any conflict with Policy SE13 of the CELPS

The impact upon trees is considered to be neutral at this stage and further details would be provided at the reserved matters stage.

The impact upon residential amenity/air quality and contaminated land could be mitigated through the imposition of planning conditions. There would be no conflict with SE12 of the CELPS or GR6-GR8 in terms of air quality or contaminated land.

There are concerns raised in relation to noise from the existing businesses in the area, particularly in relation to how external amenity areas of the proposed development would be affected. As explained within the report the site forms part of a strategic allocation within the CELPS and there is now an adopted masterplan SPD. It is anticipated that the noise environment in this area will be the subject of change as the wider development is brought forward. The noise concerns do carry significant weight against the scheme, but they are not considered to outweigh the compliance with the SPD and LPS 43. This balanced view is taken on the basis that further specific noise implications can be reviewed at the Reserved Matter stage in a detailed layout.

The layout of the open space would be secured at the Reserved Matters stage. Based on the submitted plan there would be a very small shortfall of open space. The provision of a NEAP, and contributions towards indoor and outdoor recreation will be secured at the Reserved Matters stage.

The archaeological implications would be mitigated through the imposition of a planning condition.

Subject to conditions the development would not impact upon the Canal in terms of water resource, navigational safety or structural integrity.

There would be no significant impact upon the PROW and the highways impact of the development would be acceptable subject to the S106 requirements to mitigate the proposed impact. The development does not conflict with Policies CO1 or CO2 of the CELPS or GR14-16 and GR18 of the CLP. However as noted above there are concerns over parking provision which would need to be resolved at the Reserved Matters stage.

On this basis the potential harm such as noise from the adjacent businesses is acknowledged, but on balance the development complies with the Development Plan as a whole and is recommended for approval.

RECOMMENDATION

APPROVE subject to the completion of a S106 Agreement and conditions

PROPOSAL

This is an outline planning application for a mixed use development including residential, cafe, marina and other ancillary works (access). Access is to be determined at this stage with all other matters reserved. The applicant has confirmed that the development is for up to 114 dwellings including 16 retirement apartments (reduced from 137 during the course of this application).

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

The development would be up to three stories in height. The development would include an 18 berth marina.

SITE DESCRIPTION

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

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

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

RELEVANT HISTORY

16/3209C - Outline proposal for a mixed use development including residential, retail, cafes, access to marina and other ancillary works (access) – Refused 28th June 2017 for the following reason;

1. The proposed development in isolation would result in a piecemeal form of development which could result in a poorly planned development in advance of a masterplan led approach which will determine the precise nature and quantum of development for the wider site as required by Policy SL9 of the Cheshire East Local Plan Strategy and Policies DP1 and DP3 of the Congleton Borough Local Plan First Review. Without a masterplan the development would be piecemeal and it is not possible to determine whether the significant adverse noise impacts could be mitigated. Furthermore pedestrian/cycle links, green infrastructure, noise mitigation and open space for nature conservation and recreation cannot be secured. As a result the proposal does not represent sustainable development and is contrary to Policies DP1, DP3, DP8, GR1, GR2, GR6, GR7 and GR8 of the Congleton Borough Local Plan; Site SL9 and Policies SD1, SD2, SE1, SE6 and SE12 of the Cheshire East Local Plan Strategy.

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

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

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

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

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

9829/3 – Proposed gatehouse – Approved 10th September 1979

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

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

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

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

NATIONAL & LOCAL POLICY

National Policy

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

Of particular relevance are paragraphs:

11. Presumption in favour of sustainable development.

59. Wide choice of quality homes

124-132 Requiring good design

Cheshire East Local Plan Strategy (CELPS)

PG1 – Overall Development Strategy

PG2 – Settlement Hierarchy

PG7 – Spatial Distribution of Development

EG3 – Existing and Allocated Employment Sites

SC4 – Residential Mix

SC5 – Affordable Homes

CO1 - Sustainable Travel and Transport
CO4 – Travel Plans and Transport Assessments
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE 1 - Design
SE 2 - Efficient Use of Land
SE 3 - Biodiversity and Geodiversity
SE 4 - The Landscape
SE 5 - Trees, Hedgerows and Woodland
SE 6 – Green Infrastructure
SE 7 – The Historic Environment
SE 8 – Renewable and Low Carbon Energy
SE 9 – Energy Efficient Development
SE12 – Pollution, Land Contamination and Land Instability
SE 13 - Flood Risk and Water Management
IN1 – Infrastructure
IN2 – Developer Contributions
Strategic Location LPS43 – Brooks Lane, Middlewich

Congleton Local Plan

The relevant Saved Policies are:

GR6–GR8 Amenity and Health
GR9 - Accessibility, servicing and provision of parking
GR14 - Cycling Measures
GR15 - Pedestrian Measures
GR16 - Footpaths Bridleway and Cycleway Networks
GR17 - Car parking
GR18 - Traffic Generation
NR3 – Habitats
NR4 - Non-statutory sites
NR5 – Habitats
RC2 – Protected Areas of Open Space
RC7 – Water Based Activities
RC8 – Canal/Riverside Recreational Developments
RC9 - Canal/Riverside Recreational Developments (Moorings)
DP1 – Employment Sites
DP3 – Mixed Use Sites
DP7 – Development Requirements
DP8 – Supplementary Planning Guidance
DP9 – Transport Assessments
BH4-BH5 – Listed Buildings Effect of Proposals
BH8-BH10 – Conservation Areas

Middlewich Neighbourhood Plan

There is no Neighbourhood Plan covering Middlewich

Supplementary Planning Documents:

The EC Habitats Directive 1992

CONSULTATIONS

Canal & Rivers Trust: Offer the following general advice;

- The marina requires the trusts agreement to connect and gain access to the waterway network. This will require an application process to the C&RT.
- The revised plan shows that the marina has increased in size and the waterfront buildings have been removed. This would allow for the retention of trees along the boundary, soften the development and open up views of the marina. The revised plan has improved visibility and space for craft entering/leaving the marina
- A condition is suggested to safeguard the structural integrity of the canal infrastructure
- Concern about the impact upon Brooks Lane Bridge a non-designated heritage asset. To help preserve the asset the Trust would prefer to see Brooks Lane Bridge reduced to a pedestrian/cycle bridge only and any vehicular access should be restricted to use Kinderton Street.
- The LPA should consider the imposition of a condition relating to a Construction Management Plan
- The D&A Statement makes positive references to the development utilising its canal side location. This is welcome subject to the final design of the proposed development.
- Further details would be required in terms of the proposed footbridge crossing. The siting of the footbridge may need to be reconsidered
- A condition is suggested in relation to contaminated land
- A condition is suggested in relation to surface water drainage
- A condition is suggested in relation to construction details of the marina access onto the canal
- It is important that the site is designed to avoid potential conflict between future residents and the existing business and Kingslock Chandlery Ltd.
- A number of informatives are also suggested.

Environment Agency: Comments made in relation to the contamination issues on the site. Conditions suggested.

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

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

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

CEC Strategic Housing Manager: No objection.

CEC Strategic Highways Manager: The development is considered to be acceptable in highways terms subject to the following;

- A highways contribution of £300,000 towards the highway improvement scheme at the A54/King Street/Leadsmythy Street junction
- A highways contribution of £50,000 to fund traffic management measures along Brook Lane
- The provision of a Travel Plan and provision of a cycle/bus pass up to the value of £150/3 month period respectively.
- Conditions suggested relating to the construction of the access, Construction Traffic Management Plan and the provision of a footpath access connection from the site boundary to Booth Lane
- Informatives – the internal access is indicative and not the subject to formal approval at this time. The provision of the access will require the developer to enter into a legal agreement with CEC.

CEC Environmental Health: Conditions suggested in relation to Noise Impact Assessment and mitigation, construction management plan, a travel plan, electric vehicle charging points, Phase II Contaminated Land, contaminated land verification report, details of any soils imported to the site and works to stop if further unexpected contamination is discovered.

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

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

CEC POS: Policy SE.6 table 13.1 sets out the open space requirements for this development.

The green infrastructure (GI) on site has increased since the revised plans reduced the number of dwellings. However this mainly improves the greening/landscaping of the scheme. The GI consists of a small pocket park for the retention of trees, landscaped areas, incidental verges, SUDS and urban greening adjacent to the canal.

The green corridor/linear park adjacent to the wildlife corridor running along the waterfront are the main focus of significant open space provision. It has a useable quality, allowing for the retention of mature trees, offering a green frontage and encouraging community cohesion. However it is disappointing further open space has not been allocated with the removal of the commercial area, most of which has been replaced with car parking and the increase in size of marina.

It is suggested that further informal amenity green space should next to the marina/parking area being central to the development therefore in line with policy. Should any trees have to be felled as part of the application which are suitable for use re-use in the form of art then they should be considered as part of the public art proposal.

It is extremely encouraging a Public Art Strategy has been submitted within the Design and Access Statement as this is something of great value. It states *local artists can be contacted to create a collaborative creative group and to engage in the site planning of Intertechnic.*

The NEAP required as part of this development should cater for predominantly older children but include opportunities for all ages. The facility should be to Fields in Trust standards including a minimum 30m separation between activity zone and boundary of the nearest dwellings.

A 'play area' is identified on the Proposed Site Plan. It is visible from Booth Lane and the waterfront but does not enjoy natural surveillance from dwellings within the site therefore this should be addressed. It is noted that approximately 8 parking spaces adjacent to the open space and play area. Parking in this location next to a children's play area where informal games such as ball games, tag etc. are likely to be played does not blend well with residents or their vehicles. These parking spaces should be removed.

The proposal will increase demand for outdoor sports facilities and a financial contribution is sought; £1,000 per family (2+ bed) dwelling and £500 per 2+ bed apartment.

An indoor recreation contribution of £20,540 will be required to improve fitness facilities and equipment at Middlewich Leisure Centre.

Should committee deem this application acceptable, full details of landscaping, levels, open space quantity, layout and design including formal play provision should be submitted at RM stage or by way of condition.

CEC PROW: The previous refusal states that the pedestrian/cycle links could not be secured. This remains the case.

The D&A Statement depicts a new cycling and pedestrian path between the site and Booth Lane. There is no evidence to suggest that the necessary permissions have been secured; there is no recorded public right of access along this route and therefore no certainty that this route could be delivered. Third party land ownership would be involved to create this route.

There is neither confidence nor demonstration of improved connectivity between the site and the facilities of the town for pedestrians and cyclists and no certainty to the deliverability of the new cycling/pedestrian path. It is not possible to conclude that the site is accessible or permeable for non-motorised users.

The Heads of Terms of any S106 Agreement should include a contribution to upgrade Middlewich Footpath No. 21 and these works would take the form of signage, access point furniture, minor surface works and vegetation clearance. The aspirations behind these improvements is to enable the route to be used by cyclist as well as pedestrians. However as Footpath 21 runs over land in the ownership of a third party the developer would be required to seek the consent of this third party.

CEC Archaeology: No objection – planning condition requested.

CEC Education: This development would be expected to generate up to 18 primary aged pupils, 15 secondary aged pupils and 1 child with Special Educational Needs. The following contributions should be secured:

Primary = No education contribution required

Secondary = £245,140

SEN = £45,500

Total = £290,640.

VIEWS OF THE PARISH COUNCIL

Middlewich Town Council: No comments received.

REPRESENTATIONS

Letters of objection have been received from 1 local household and 4 local businesses and 1 letter of concern has been received from a local business raising the following points:

Principle of development

- The proposal will put homes into operational brownfield land
- It is not clear how many dwellings are proposed
- This development is not for the betterment of the community of Middlewich
- The previous reason for refusal is still relevant as no masterplan has been produced and no amendments have been made to the proposal
- Some local businesses have not been consulted in relation to this planning application
- The only change since the previous refusal is that the CELPS was adopted in July 2017
- It is important that the development of Brooks Lane is a masterplan led approach
- Objections have been made to the Brooks Lane SPD
- The development will result in a piecemeal form of development
- The application should be refused on the same basis as the previous application
- The development is contrary to the Development Plan
- The development is contrary to the NPPF
- The development is contrary to Policies GR1, GR2, GR6, GR7, GR8, RC7, RC8 and RC9

Impact upon Existing Businesses/Jobs

- The impact upon the Moorings above Kings Lock will impact on the income and viability of the Kings Lock Chandlery. This could lead to a potential loss of jobs.
- The site is allocated for predominantly employment purposes.
- Loss of employment on this site is a significant material consideration in the development plan and the NPPF
- Centec is a highly specialised business and the costs of relocation are prohibitive due to the nature of the work conducted on the site. Centec is regulated by the HSE and is also subject to a COMAH classification
- In order for Centec to relocate it would require considerable support from CEC
- Centec has no intention of relocating and intends to stay on the Science Park part of Brooks Lane for the entire plan period. The master planning of the site needs to be taken into account.
- This application cannot be properly assessed until a masterplan has been agreed by the Council as required by LPS 43

B2 uses are not a suitable neighbour for a residential development

- Centec has aspirations to move up to the next tier of COMAH. The LPA should ensure that planning decisions are not taken which undermine the ability of the business to operate successfully including achieving future aspirations to increase employment numbers
- THCL is one of a number of industrial businesses within the vicinity of the site which operate 24 hours a day and 365 days per year.

- THCL generates approximately 100 day and night vehicle movements. Other businesses require access for HGV movements outside conventional working hours. The adjacent business would give rise to air, noise and health impacts upon the future occupants.
- Should the application be approved then THCL will be forced to consider the potential risks of its continued use of the Depot when planning future operations in Middlewich

Highways

- Road Beta is a private road and the impact of vehicles from the construction estate has not been considered
 - Road Beta is regularly blocked with HGV's accessing the chemical plant
 - Concern raised regarding the increase of traffic within the industrial estate and at the junction of Brooks Lane/A54
 - The previously requested contribution of £150,000 is not considered to be enough to mitigate the increase in traffic generated by the development
 - The impact upon the junction of Brooks Lane and the A54 has not been properly assessed
- The Transport Assessment has not been updated since the previous refusal

Impact upon the Canal Network

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

Amenity Issues

- People would not consider living on an industrial estate
 - A masterplan should demonstrate how the amenity of future occupiers will be protected by the existing commercial and industrial occupiers of the estate
- Noise should be assessed in principle at the outline stage
- A number of existing businesses would be retained on the wider site
 - No evidence of external noise mitigation measures can be found within the submitted application
 - The applicant has no control over the retained uses and consent can only be granted if an acceptable mitigation scheme is provided on land controlled by the applicant
 - A Noise Assessment has been produced by a local business and submitted in response to the application. This is critical of the noise testing which has taken place and concludes that the suggested noise condition 'does not fully protect the amenity of future residents, nor does it safeguard the interests of neighbouring businesses, and therefore does not comply fully with para 182 of the NPPF'
 - On the basis of the Hepworth Acoustics report the application should be refused
 - There is no assessment of odour contained within the application
 - The noise assessment has only been undertaken at two points on the site
 - No detailed noise measurements have been taken adjoining Rockford Stone.
 - As things stand the inadequacies within the submitted noise assessment could lead to a scenario where future residents could complain about noise emissions from the surrounding employment sites. This would be unacceptable to the adjacent business.
 - The impact caused by the adjacent noise needs to be fully assessed.

- The LPA should not put unreasonable restrictions on the existing businesses by allowing this development.
- Increased air pollution
- The noise assessment relies on incorrect assumptions to the baseline. The noise assessment does not make more than passing reference to the THCL depot.
- The proposed noise mitigation would not be sufficient to mitigate the impact.
- The application does not take into account the hazardous substances consent application submitted in June 2020 (20/2257C)

Contaminated Land

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

OFFICER APPRAISAL

Principle of Development

The site is a previously developed site which lies within the Middlewich Settlement Boundary.

In terms of the Cheshire East Local Plan Strategy the site forms a small part of Site LPS43 Brooks Lane, Middlewich. This identifies that the development will be achieved through a masterplan led approach that will determine the precise nature and quantum of development that is appropriate for the strategic site. This is likely to include;

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

LPS43 then goes on to identify the following site specific principles of development;

- The masterplan will need to consider the constraints such as the heritage constraints as well as opportunities for the site to provide a new railway station
- Pedestrian/cycle links set within green infrastructure
- Enhancements to the Trent and Mersey Canal corridor
- On site provision for open spaces for recreation/nature conservation
- Contributions towards public transport and highways improvements (including the A54 through Middlewich)
- Contributions towards education and health infrastructure

- Consideration of the impact upon the Cledford Lane Lime Beds Grade B Site of Biological Importance
- To determine the archaeological implications and the impact upon the Scheduled Monument
- Affordable housing provision
- Contribute to the long term conservation and enhancement of the Scheduled Monument
- Future policy development and master planning shall be informed by the suggested mitigation set out in the HIA prepared by the Councils Heritage and Design Team

As can be seen LPS43 requires a masterplan led approach to determine the precise nature and quantum of development on the site.

In line with LPS43, a development framework (masterplan) supplementary planning document (SPD) has been prepared.

Cheshire East Cabinet on the 8 September 2020 approved the Brooks Lane (Middlewich) Development Framework (Masterplan) as a Supplementary Planning Document ("SPD"). At the Cabinet meeting, a modification to the SPD was agreed so that references to 'circa 20 berths' is replaced with 'up to 50 berths' with reference to the potential marina noted in the SPD. The SPD is now a material consideration in decision making.

The vision within the SPD states that *'the site provides an exciting opportunity to deliver an attractive mixed-use development comprising new homes, leisure, community facilities, a potential new train station and a Marina. The transformation from industrial uses to a new mixed-use community could regenerate the canal-side, enhance the vitality of the Town Centre and provide significant benefits to the Middlewich community'*.

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

The SPD identifies core elements of the Masterplan Framework (page 32) and this includes 'redevelopment of the site in the shorter-term (Phase 1), subject to securing an acceptable relationship between the employment and residential uses'. The Development Framework divides the 'short term opportunity' into two separate character areas the Marina Village and the Canal Village. The application site is located within the Marina Village character area.

Within the Congleton Borough Local Plan the site forms part of a mixed use development allocation under Policies DP1 and DP3. Policy DP3 allocates the site for employment/leisure/non-food bulky goods retail/community facilities.

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

'The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist (Paragraph 84)'

It is also noted that there is other guidance within the NPPF which relates to this development and this includes matters such as the impact of pollution and health upon living conditions (para

180) and the impact upon adjacent businesses (para 182). Issues such as these will be considered as part of the assessment below.

It is clear that there are differences between the allocation within the Congleton Local Plan Policies DP1 and DP3 and the allocation within the Cheshire East Local Plan Strategy Location LPS43. In this case greater weight should be given to the site Cheshire East Local Plan Policy which signals the current up-to-date intentions for Middlewich.

Affordable Housing

Information taken from Cheshire Homechoice shows there are currently 353 applicants who have selected the Middlewich lettings area as their first choice. These applicants require 154 x one bed, 96 x two bed, 69 x three bed, 18 x four bed and 16 x five bed units.

In order to meet the Council's Policy on Affordable Housing there is a requirement for 34 dwellings to be provided as affordable dwellings (22 units should be provided as rented units and 12 units as Intermediate tenure).

The applicant has confirmed that 30% of the units will be provided as affordable with the tenure split being 65% rented and 35% intermediate tenure (the mix of units will be determined at the outline stage). This is in line with the requirements of Policy SC5 of the CELPS and represents a benefit of this development.

Public Open Space

Policy SE6 of the CELPS sets out the open space requirements for this development which includes a minimum requirement of combined amenity green space and children's play space of 40m² per family dwelling, 20m² for green infrastructure connectivity, 5m² for community food growth/allotments with developer contributions for outdoor sports facilities.

The green corridor/linear park adjacent to the canal is the only open space provision of useable quality, allowing for the retention of mature trees (which may be removed as part of the remediation of the site), offering a green frontage and encouraging community cohesion. The useable open space on site measures approximately 4,250sqm against a policy requirement of 4,560sqm (based on 114 x 40sqm). In this case it should be noted that the submitted plans identify an area of 10,147.5sqm of public open space but this includes space around the apartment blocks, landscaping and unusable strips of land. The final level of open space and its layout will be determined at the Reserved Matters stage.

A Neighbourhood Equipped Area for Play (NEAP) would be required as part of this development should cater for predominantly older children but include or is combined with opportunities for all ages. The facility should include a minimum 30m separation between activity zone and boundary of the nearest dwellings. A play area is specified on the submitted plans but this is not of sufficient size to accommodate a NEAP and it is unclear if the separation distances can be met.

Outdoor Sports Provision

Both Policy SE6 and SC2 require appropriate sports facilities. The proposal will increase demand on existing facilities and as such a financial contribution towards off site provision will be required. The financial contribution is required at a rate of £1,000 per family (2+bed) dwelling and £500 per 2+ bed apartment. The funds would be used in line with the Council's adopted Playing Pitch Strategy and the FA's Local Football Facilities Plan.

Indoor Sports Provision

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 indoor recreation.

In this case contributions would be required to improve the quality and number of health and fitness provision/stations at Middlewich Leisure Centre. In this case there has been a request for a contribution of £20,540. This would be secured as part of a S106 Agreement.

Education

An application of up to 98 dwellings (minus the 16 retirement apartments) is expected to generate 18 primary aged children, 15 secondary aged children and 1 SEN child.

The Education Department have confirmed that there is capacity to accommodate the primary school children generated by this development. As a result there is no requirement for a primary school contribution.

In terms of secondary school education, there is a shortfall of provision in Middlewich and this development will exacerbate the issue. As a result the 18 secondary school children generated by this development cannot be accommodated within the local secondary schools. As there are capacity issues at these local schools the education department has requested a contribution of £245,140 to mitigate the impact of this proposed development. This will be secured via a S106 Agreement should the application be approved.

The Council's Education department have confirmed that SEN 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. This will be secured via a S106 Agreement should the application be approved.

Residential Amenity

In this case the Congleton Borough SPG requires the following separation distances:

21.3 metres between principal elevations

13.8 metres between a non-principal and principal elevations

It should also be noted that the recently adopted Cheshire East Design Guide SPD also includes reference to separation distances and states that separation distances should be seen as a guide rather than a hard and fast rule.

Figure 11:13 of the Design Guide identifies the following separation distances;

21 metres for typical rear separation distance
18 metres for typical frontage separation distance
12 metres for reduced frontage separation distance (minimum)

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

Internally within the site some of the indicative separation distances fall below the required standards. As layout, scale and appearance are reserved matters these issues will be dealt with as part of the Reserved Matters application and it is considered that adequate interface distances in line with the Cheshire East Design Guide could be achieved.

Noise

The applicant has submitted a Noise Assessment (NA) in support of this application.

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

Background

The acoustic environment at this location is substantially affected by:

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

CCP Building Products Limited (Cheshire Concrete Products) is referenced as a major noise source. CCP is a permitted installation under the Environmental Permit Regulations (EPR) regime for the: Blending cement in bulk or using cement in bulk other than at a construction site, including the bagging of cement and cement mixtures, the batching of ready mixed concrete and the manufacture of concrete blocks and other cement products. It holds a Cheshire East Council EPR Permit Reference: PPC 24A. All activities are carried out in the open yard. CCP has no hours of use restriction.

Indoor Acoustic Environment

The submitted NA identifies construction details will protect the internal acoustic environment. This includes a specification for external wall construction, double glazing specification (windows to be should be sealed and non-opening), passive ventilation and roof construction specification. If these mitigation measures are applied then it will offer sound levels at habitable rooms that are at or below the BS2833:2014.

Outdoor Acoustic Environment

BS8233:2014 states that for private gardens it is desirable that the external noise level does not exceed 50dB LAEQ with an upper value of 55dB LAEQ (which would be acceptable in noisier environments). However it also goes onto state that it is recognised that these guidelines are not

achievable in all circumstances where development might be desirable (such as city centres or urban areas adjoining the strategic transport network). In these locations a compromise between elevated noise levels and other factors (such as making efficient use of land) might be warranted. In such scenarios development should be designed to achieve the lowest practicable levels.

Using BS8233:2014 the submitted NA identifies that the minimal adverse impacts between 2 and 7dB(A) respectively above the 55 and 50dB(A) external amenity preferred maximums. The NA states that mitigation is realistically possible by the use of 2m high timber acoustic fencing which would typically give a sound reduction of 5-8dB(A).

BS4142:2014, 'Methods for Rating and Assessing Industrial and Commercial Sound', describes methods for rating and assessing sound of an industrial and/or commercial nature and includes sound from fixed installations which comprise mechanical and electrical plant and equipment. Outdoor sound levels are used to assess the likely effects of sound on people who might be inside or outside a dwelling or premises used for residential purposes upon which the sound is incident.

Using BS4142:2014 the submitted NA indicates a 'significant adverse impact on external residential amenity when considering what are thought to be industrial sound sources from the adjacent CCP site operating through the night'.

A BS4142:2014 impact assessment should not be confused with the BS8233:2014 impact assessment when referring to an impact assessment for external amenity. BS4142:2014 is concerned with the audibility of specific industrial and/or commercial noise sources at the most sensitive times (when background noises are at their quietest).

The NA states that the major contribution will be from HGV raw materials and fork lift activities at the neighbouring CCP site. The NA then states that the 2m acoustic fence will offer some benefits but 'will come nowhere near the required 23 to 26 dB(A) noise reduction required'.

The NA then states that the most effective mitigation to eliminate sensitive external areas along the northern boundary would be by building a continuous line of flats with no external gardens to this boundary and the northern facades including windows serving bathrooms, kitchens, stairways and corridors. Clearly this is not an acceptable solution from a design point of view.

Appendix E of the submitted NA identifies the following noise sensitivity plan;



The areas highlighted orange are of the highest sensitivity and should include no external amenity space or balconies. The area highlighted blue are of medium sensitivity external amenity space is permitted with acoustic mitigation. The area highlighted green has the lowest sensitivity external amenity space which is unaffected by surrounding noise sources.

The NA then refers to the need and desire for a development on this site and this would include a development of the CCP site.

Third Party Noise Comments

There are a number of objections from local businesses raising noise issues and one objector has submitted a Technical Review of the applicants Noise Assessment. This concludes that *'the noise report has a number of inadequacies such that further noise assessment work should be undertaken prior to consideration of the planning application at Committee. As it stands, the findings of the BS4142 assessment highlighted in this review should be of concern to the Environmental Health Officer who is the internal consultee on environmental noise matters'*.

Noise Conclusion

Both the applicants Noise Assessment and the objectors Technical Review have been considered by the Councils Environmental Health Officer.

The Environmental Health Officer has stated that the third party technical review does highlight the potential for future concerns. The EHO states that as part of any planning permission that the applicant needs to revisit the noise assessment and proposed mitigation so that future businesses and residents are not affected by either.

In the noise assessment it is noted that CCP will give rise to a significant adverse effect. However it is anticipated that the CCP site will be developed as part of the wider development

identified within LPS43 (the CCP site is identified within as a 'Short Term Opportunity' within the masterplan).

On this basis the Environmental Health Officer has suggested the imposition of a planning condition for a detailed acoustic mitigation scheme demonstrating compliance with BS8233:2014 to be submitted at the Reserved Matters stage. This will ensure that required noise standards can be achieved internally and within private amenity spaces (and will consider the position of the adjacent employment uses at that time).

In conjunction with the above proposed condition at or before reserved matters stage, an additional attended noise assessment shall be undertaken to undertake a BS4142 assessment in order that the future design protects existing businesses and does not impose an impact on their existing operations

The exact details of the mitigation scheme will depend on the final layout and other circumstances, and at this time it is not possible to determine the nature of the acoustic scheme. It is for the applicant to ensure that any acoustic mitigation scheme meets the acoustic requirements above, and is also acceptable in terms of other planning considerations (such as visual amenity).

Air Quality

An Air Quality Impact Assessment has been submitted as part of this application. Policy SE12 of the CELPS states that the Council will seek to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon air quality. This is in accordance with paragraph 170 of the NPPF and the Government's Air Quality Strategy.

The applicant has provided an Air Quality Assessment in support of this application. The report considers whether the development will cause an increased exposure to airborne pollutants, particularly as a result of additional traffic and changes to traffic flows. A number of modelled scenarios have been considered within the assessment. These were:

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

The assessment uses the Defra emissions factor toolkit and ADMS to model NO₂ and PM₁₀ impacts from additional road traffic associated with this development. An air quality damage cost calculation has also been undertaken. The damage costs associated with emissions arising from vehicle movements from the development for 5 years have been calculated by the Environmental Health Officer. The cost of mitigation to be implemented to offset the impact of emissions should reflect this value.

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

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

It is considered appropriate that mitigation should be sought in the form of direct measures to reduce the adverse air quality impact. The Air Quality Assessment also states that the developer should implement an adequate demolition and construction dust control plan to protect sensitive receptors from impacts during this stage of the proposal and there has also been a Travel Plan submitted in support of the development.

As part of any future reserved matters application the developer should submit information relating to travel planning, dust control, low emission boilers and electric vehicle charging points.

Contaminated Land

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

Further investigations have been undertaken on site, this work has identified significant contamination issues including widespread Asbestos, Poly Aromatic Hydrocarbons (PAHs), Trichloroethylene (TCE) and Chloromethane (Vinyl Chloride), Lead and Mercury. Contamination is present both in the soil and the groundwater.

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

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

Public Rights of Way

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

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

LPS43 identifies that the development should *'incorporate pedestrian and cycle links set within green infrastructure, which connects and enhances links to existing employment, residential areas, shops, schools, health facilities, recreation and leisure opportunities and the town centre'*.

There is also guidance within the SPD which states that there is *'potential to provide new pedestrian/ cycle routes through the Site, including new canal-side footpaths'*. The submitted plans now show the provision of pedestrian and cycle links within the site and to the boundaries of the red-edge it is considered that an acceptable scheme in compliance with the SPD can be secured at the Reserved Matters Stage.

The SPD figure.20 identifies the provision of a pedestrian and cycle route within the site and this includes a link across the canal onto Booth Lane. This is referred to within some of the supporting reports for this application but is not clearly identified on the submitted site plan. There is no evidence to suggest that the necessary permissions have been secured; there is no recorded public right of access along this route and therefore no certainty that this route could be delivered. Third party landownership would be involved to create this route. A condition will be attached to ensure that investigations continue and that details are provided as part of the Reserved Matters application.

Impact upon the Trent and Mersey Canal

The proposed marina would have 18 berths (increased from 12 during the course of the application) and the potential for a new marina is identified within Policy LPS43. The SPD identifies that the marina would have 'up to 50 berths'. A development of an 18 berth marina would comply with this.

The SPD also states that *'the marina is positioned with its longest edge adjacent to the canal to ensure maximum physical and visual connectivity with the waterway which will be favoured by canal boat users'*. The revised plans show that this would be the case.

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

The Canal and River Trust have stated that the siting of the entrance to the marina is acceptable in principle. However boat turning within the marina would need to be demonstrated and a condition has been suggested. This would be agreed as part of the Reserved Matters phase.

In terms of the structural integrity of the canal during the construction phase the Canal & Rivers Trust have suggested the imposition of a planning condition to deal with this matter.

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

Impact upon Built Heritage

Scheduled Ancient Monument

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

Listed Buildings

The nearest Listed Buildings/Structures to this development are Trent and Mersey Canal Kings Lock (Grade II), Trent and Mersey Canal Bridge Number 167 (Bridge at Kings Lock) (Grade II) and Trent and Mersey Canal Bridge Number 168 (Bridge at Booth Lane) (Grade II). All 3 listed structures are located to the north-west of the site. The bridge at Brooks Lane is not a listed structure but is considered to be a non-designated heritage asset.

This is an outline submission with all matters (excluding access). Given the existing industrial nature of the site if the development is constructed in compliance with the Brooks Lane SPD then the proposed development is likely to preserve and enhance the setting of the nearby listed structures.

Conservation Area

The Trent and Mersey Canal and a small section of the application site to this boundary are located within a Conservation Area. The non-designated heritage asset Brooks Lane Bridge is also within the Conservation Area.

The site is currently part of the Brooks Lane Industrial Estate and presently contains two large Intertech industrial units and associated hard standing; the buildings are unsuitable for retention and conversion. The outline proposal does effectively open up the canal side and would maximise the potential of this key heritage asset, indeed the way in which the canal heritage is the driver for this development enhancing the Trent and Mersey Canal Conservation area is very positive aspect of this scheme. However as this is an outline application the final details will only be secured at the Reserved Matters stage.

The Canal & River Trust have raised concerns over the continued use of Brooks Lane Bridge for vehicular traffic and they have stated that it is their preference that the bridge is only used for pedestrian and cyclist movements. This suggestion does not comply with the SPD which identifies Brooks Lane Bridge as a secondary access point.

Archaeology

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

Whilst the report has not identified any archaeological grounds for refusal of planning consent, the groundworks associated with the proposed development would lead to the destruction of any surviving below ground archaeological remains associated with the Boat Yard and Roman Road. Therefore Cheshire Archaeology Planning Advisory Service (APAS) would advise that a

programme of archaeological mitigation be made as a condition of any planning permission which might be granted. In this instance the mitigation would take the form of:

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

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

Design

The application is outline with details of scale, layout, appearance and landscaping to be determined at a later date. In support of this planning application, a Design and Access Statement has been provided (but this application was submitted before the Masterplan SPD was drafted).

The importance of securing high quality design is specified within the NPPF and paragraph 130 states that:

'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development'.

The development site would have a density of 39 dwellings per hectare. This is considered to be reasonable on this site and complies with the SPD (the site is within the Marina Village Character Area where a density of c.40dph is identified).

The character of the Marina Village will be heavily influenced by the provision of a new canal boat marina which is proposed as part of this application in compliance with the SPD. Page 34 of the SPD identifies that new development will be positioned immediately adjacent to the marina and will comprise a range of house types from 2.5 storey town houses and 3 storey apartment blocks (page 58 says 2-3 storeys). This development proposes 2-3 storey development and complies with the SPD.

The importance of the marina will be emphasised through the provision of a high-quality public realm and landscaping alongside the potential for the occasional commercial use (i.e. small café with seating area). The commercial uses have been reduced as part of this application and the provision of a small café is now proposed in compliance with the SPD.

The proposed residential development is orientated to avoid directly overlooking the dry dock. This would comply with the requirements of the SPD.

The SPD identifies that the amenity standards will be protected by the provision of adequate separation distances and well considered landscape design. This will be considered as part of the Reserved Matter application.

The parking provision on the development is considered within the highways section below. In design terms there are concerns that the car-parking provision on the development is largely to the front of the proposed dwellings. This has the potential to dominate the street-scene and cause harm to the character of the development. However, the matter will be considered in greater detail at the Reserved Matters stage.

The SPD identifies that the internal street design should be in accordance with the CEC Design Guide. Again this matter will be considered as part of the Reserved Matters stage.

The scheme has the potential to respect the heritage of the site in particular by revitalising the waterside, creating a new marina and respecting the industrial character of the area. Although this is an outline application considerable work has been undertaken to ensure that the proposal is for a place with a locally inspired and distinctive character and this is well explained in the Design and Access Statement.

The opening up and proper utilisation of the Trent and Mersey Canal, the incorporation of a mix of uses alongside housing and the bold approach to design that draws heavily from the local context are all warmly welcomed. It is however an outline application and it is considered that an appropriate design solution can be secured at the reserved matters stage.

Highways

This is an outline application with all matters reserved except for access. The proposal is to be accessed from Road Beta by a priority type access.

Access

A key component of a development proposal is to provide a safe and suitable access for all highway users both vehicular and pedestrian. The proposals have been audited against this requirement and there is no objection to the safety of the access.

Network Capacity

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

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

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

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

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

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

The results of this analysis have shown the development would be acceptable in highway terms subject to a S106 contribution of £300,000 towards a proposed improvement scheme at A54/Leadsmythy Street/Kings Street junction which has been designed by Cheshire East Council.

In addition, due to increased traffic utilising Brooks Lane as a result of the development , the Head of Strategic Infrastructure has requested a contribution of £50,000. This would help to mitigate the impact through the provision of the additional traffic management measures. This contribution would be secured as part of a S106 Agreement.

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

Walking & Cycling

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

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

Public Transport

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

Travel plan

A travel plan has been submitted which proposes single car occupancy reductions of 10-15% over the first 5 years of the development assisted by the appointment of a future Travel Plan Co-ordinator who will promote and implement the measures described in the framework plan. The proposed householder travel plan information pack issued to all new first occupation residents must include a cycle voucher that can be redeemed in exchange for a bike worth up to £150.00 and a travel voucher that can be redeemed in exchange for a 3 month bus pass valid on services connecting the development to surrounding destinations. This can be secured via Section 106 agreement.

Car Parking

The SPD emphasises that the residential dwellings will be provided with parking in compliance with the CELPS Parking Standards. The CEC Parking Standards require 1 parking space for a 1 bedroom unit and 2 spaces for 2+ bedroom units. Based on the indicative site plan there would be a shortfall of spaces within the development for the apartments. This is a weakness in the design but the issue will be considered in more detail at the Reserved Matters stage.

As stated within the design section it is considered that the car-parking provision on the development is largely to the front of the proposed dwellings. This has the potential to dominate the street-scene and cause harm to the character of the development. However the matter will be considered in greater detail at the Reserved Matters stage.

The submitted plans identify that car parking would be provided for canal users and this would comply with the SPD.

Highways Summary and Conclusions

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

Trees and Hedgerows

The trees on the site have not been resurveyed since original survey in September 2016.

On the basis of the revised masterplan, the report provides comments to the effect that all existing trees can be retained as part of the development and that no trees will be impacted by remediation. The report indicates that tree grades have not been revised and that the issue has been addressed by amending the layout to ensure that all trees are retained, irrespective of their value.

Elsewhere within the application is a reference that the proposals will require the removal of some trees in the canal side shelterbelt. This may not have been corrected since the original report.

The relationship between trees and proposed development would have to be considered in further detail at reserved matters stage.

It appears that further ground investigations are sought by the Council's contaminated land officer and that final remediation proposals are not agreed. On this basis, it is unlikely a definitive view can be taken on arboricultural impacts associated with remediation works at this stage.

Landscape

The site is a brownfield site within the settlement boundary which includes a number of utilitarian employment buildings. The SPD identifies a number of key landscape issues which should be addressed as follows;

- High quality public realm adjacent to the marina
- Buffer planting and land-forming along the eastern edge of the Character Area between the new residential development and the retained/enhanced employment.
- Retention of existing landscape features including mature trees between the marina and the canal.
- Scattered tree planting to property frontages and native hedgerow planting to front boundaries.
- New landscape planting along Road Beta.
- Canal side park – separating new development from the retained canal basin.

As landscape is a Reserved Matter these issues will be considered at the reserved matters stage (although the indicative plans do show a buffer to the eastern boundary of the site with Road Beta and a canal side park).

Ecology

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

The trees along the boundary with the Trent and Mersey Canal are likely to provide both suitable foraging/commuting habitat for bats and potential roosting opportunities. The loss of these trees could have an adverse effect on the local bat population. In this case the plans show the retention of these trees.

Subject to the imposition of planning conditions the impact upon ecology is considered to be acceptable.

Flood Risk

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

The current site is largely occupied by existing building and hardstanding with large areas of impermeable surfacing.

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

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

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

Impact upon Hazardous Installations

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

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

In this case there are two undetermined applications for Hazardous Substances Consent within the vicinity of the site (20/2257C and 20/2258C). As both are undetermined they cannot be material considerations. The HSE website identifies that they will consider the hazards and risks which the hazardous substance may present to people in the surrounding area, and take account of existing and potential developments, in advising the LPA on whether or not consent Hazardous Substances Consent should be granted.

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

Brine Subsidence

Cheshire Brine Subsidence Compensation Board have been consulted on this application and have stated that as the site is located outside of the consultation area the Board would not normally make any comments. However there may be stability considerations relating to natural dissolution which are relevant to sites outside the Board’s consultation areas which may require suitable risk assessment and mitigation. An informative will be attached to any approval to advise the applicant of these comments.

Economic Benefits

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

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

The Cheshire East Visitor Economy Strategy (2016-2020) articulates strategic themes that help to guide the identification of priorities in seeking to maximise the contribution of the visitor economy. It also identifies strategic priorities including developing a distinctive rural tourism offer and profiling a quality food & drink offer in Cheshire East.

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

The comments raised in relation to the loss of the existing employment site are noted. However in this case the site is part of a strategic allocation (LPS43) and there is an adopted SPD for this site. On this basis it can be demonstrated that there is a case for alternative development on this existing employment site to meet the sustainable development objectives set out in policies MP1, SD1 and SD2. As a result the development does not conflict with Policy EG3 of the CELPS.

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

CIL Regulations

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

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

The development would result in increased demand for secondary school places in the area and SEN in Cheshire East where there is very limited spare capacity. In order to increase capacity of the school(s) which would support the proposed development, a contribution towards secondary school education and SEN is required. This is considered to be necessary and fair and reasonable in relation to the development.

The development would result in increased highway movements and there are currently capacity issues at A54/King Street/Leadsmithy Street whilst Brooks Lane is in need of traffic management. In order to increase capacity and mitigate the impact of the development, a contribution towards the Councils scheme of improvements at the A54/King Street/Leadsmithy Street junction is required together with a contribution to provide traffic management along

Brooks Lane. This is considered to be necessary and fair and reasonable in relation to the development.

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

The provision of open space, a NEAP, and contributions to outdoor and indoor sports provision are all required in planning policy. These are all required to mitigate the impact of this development and to support the health and well-being of the future occupants of the development. These requirements are considered to be necessary, fair and reasonable.

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

PLANNING BALANCE

The proposed development forms part of Site LPS 43 Brooks Lane, Middlewich and as a result the principle of development is considered to be acceptable. LPS 43 supports development on this site through a masterplan led approach and the Brooks Lane SPD is now adopted and is a material consideration.

The matters of layout, scale, appearance and landscaping of the development are all reserved for later approval. In this case the development does generally conform with the SPD but there are areas where further work and detail will be required (such as parking layout, connections, landscaping and street design). These details will be considered as part of the future reserved matter(s) applications on the site.

The development would provide a policy compliant level of affordable housing in accordance with Policy SC5 and this would be secured as part of a S106 Agreement.

Although the application is in outline form the development has the potential to bring extensive improvements to the appearance of the site from the Canal and Conservation Area and the designated and non-designated heritage assets. A further assessment would be undertaken at the Reserved Matters stage and at this stage there is no conflict with Policy SE7 of the CELPS and Policies BH4, BH5 and BH9 of the CLP.

The development would provide economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in Middlewich. The development would comply with point 1 of SD1 which aims to create a strong, responsive and competitive economy for Cheshire East.

The impact upon education infrastructure would be neutral as the impact would be mitigated through the provision of a contribution. This is consistent with policies ID1 and ID2 of the CELPS.

The site has limited ecological value and the impact upon protected species/ecology is considered to be neutral subject to the imposition of conditions to secure mitigation. The development would comply with Policy SE3 of the CELPS and NR4 of the CLP.

There is not considered to be any drainage implications raised by this development subject to the imposition of planning conditions. There is not considered to be any conflict with Policy SE13 of the CELPS

The impact upon trees is considered to be neutral at this stage and further details would be provided at the reserved matters stage.

The impact upon residential amenity/air quality and contaminated land could be mitigated through the imposition of planning conditions. There would be no conflict with SE12 of the CELPS or GR6-GR8 in terms of air quality or contaminated land.

There are serious concerns raised in relation to noise from the existing businesses in the area. As explained within the report the site forms part of a strategic allocation within the CELPS and there is now an adopted masterplan SPD. It is anticipated that the noise environment in this area will be the subject of change as the wider development is brought forward. The noise concerns do carry significant weight against the scheme, but they are not considered to outweigh the compliance with the SPD and LPS 43. The noise implications can be reviewed at the Reserved Matter stage and the position may have changed at this point.

The layout of the open space would be secured at the Reserved Matters stage. Based on the submitted plan there would be a very small shortfall of open space. The provision of a NEAP, and contributions towards indoor and outdoor recreation will be secured at the Reserved Matters stage.

The archaeological implications would be mitigated through the imposition of a planning condition.

Subject to conditions the development would not impact upon the Canal in terms of water resource, navigational safety or structural integrity.

There would be no significant impact upon the PROW and the highways impact of the development would be acceptable subject to the S106 requirements to mitigate the proposed impact. The development does not conflict with Policies CO1 or CO2 of the CELPS or GR14-16 and GR18 of the CLP. However as noted above there are concerns over parking provision which would need to be resolved at the Reserved Matters stage.

On this basis the potential harm such as noise from the adjacent businesses is acknowledged, but on balance the development complies with the Development Plan as a whole and is recommended for approval.

RECOMMENDATION:

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

S106	Amount	Triggers
Affordable Housing	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.
Education	For a development of up to dwellings; Secondary = £245,140 SEN = £45,500 Total = £290,640.	50% of the total education sum to be paid on the occupation of the 25 th dwelling. The next 50% of the total education sum to be paid on the occupation of the 50 th dwelling.
Indoor recreation	£20,540	Prior to first occupation
Outdoor recreation	£1,000 per family (2+bed) dwelling and £500 per 2+ bed apartment	Prior to occupation of 50% of the dwellings
Travel Plan	A revised travel plan shall be submitted to include the commitment to provide first occupiers cycle and bus pass up to the value of £150.00 / 3 month period respectively.	Prior to commencement
Public Open Space	Private Management Company	On first occupation
	Provision of a NEAP and the open space	On occupation of 50% of the dwellings
Highways Contribution	£300,000 towards highway improvements at A54/King Street/Leadsmithy Street £50,000 to fund traffic management measures along Brooks Lane	50% of the total highways sum to be paid on the prior to the occupation of the development The next 50% of the total education sum to be paid on the occupation of the 25 th dwelling.
PROW contribution	£5,000 for improvements to FP Middlewich 21	Prior to first occupation

And the following conditions;

- 1. Standard Outline 1**
- 2. Standard Outline 2**
- 3. Standard Outline 3**
- 4. Approved Plans**
- 5. Phasing details to be agreed**

6. The reserved matters for the proposed development shall be in general accordance with the Brooks Lane SPD
7. Reserved Matters to include plans to demonstrate that boats can turn safely into the marina from the canal (to also demonstrate the turning of craft would not impact upon visitor moorings or cause damage to the towpath wall)
8. Canal Risk Assessment and Method Statement (structural integrity) to be submitted to the LPA for approval in writing
9. Details of appropriate mitigation measures to prevent any risk of pollution or harm to the adjacent Trent and Mersey Canal to be submitted to the LPA for approval in writing
10. No development shall take place until a scheme for the provision and implementation of a surface water drainage system to serve the development has first been submitted to and approved in writing by the Local Planning Authority
11. Reserved matters to include details of the footbridge over the marina
12. Submission and approval of a Construction Management Plan
13. Electric Vehicle Charging provision to be submitted and approved
14. Provision of low emission boilers within the development
15. Contaminated Land details to be submitted and approved
16. No occupation of each phase of development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved
17. Details of any soil or soil forming materials to be tested for contamination prior to being brought onto site
18. If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority as soon as reasonably practicable (but within a maximum of 5 days from the find).
19. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater.
20. No infiltration of surface water drainage into the ground where adverse concentrations of contamination are known (or suspected) to be present is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.
21. Reserved Matters to include an updated noise assessment (BS4142 Assessment)
22. Reserved Matters to include an updated acoustic mitigation scheme
23. Reserved matters application to be supported a lighting strategy informed by the advice in *Bats and lighting in the UK- bats and the built environment series*, (Bat Conservation Trust, 2009).
24. Reserved matters application to be supported by proposals for the incorporation of features for nesting birds and roosting bats.
25. Reserved matters application to be supported by a management plan for the control of Himalayan Balsam.
26. No development shall take place within the area described above until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning

authority. The work shall be carried out strictly in accordance with the approved scheme.

27. Retention of trees on site unless otherwise agreed
28. Any future reserved matters application shall be supported by a Tree Survey no more than 12 months old, an Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan that shall inform the design of the definitive site layout and accord with the guidelines contained within *BS5837:2012 Trees in relation to design, demolition and Construction – Recommendations*
29. The Reserved Matters shall include an assessment of the facilitation of a footpath connection from the site boundary to Booth Lane.
30. The site access arrangements shall be completed prior to the development being brought into use.
31. Construction Traffic Management Plan to be submitted and approved
32. Prior to commencement a full detailed drainage strategy to be submitted and approved
33. No development should commence on site until such time as detailed calculations showing the effects of a 1 in 100 year rainfall event plus 30% allowance for climate change to support the chosen method of surface water drainage have been submitted to and agreed in writing

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

Should the application be subject to an appeal, the following Heads of Terms should be secured as part of any S106 Agreement:

S106	Amount	Triggers
Affordable Housing	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.
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