

Application No: 20/2162C

Location: Land At, POCHIN WAY, MIDDLEWICH

Proposal: Proposed additional areas associated with the approved road scheme (18/5833C), referred to as the 'Middlewich Eastern Bypass' and consisting of ecological and landscape mitigation and a revised farmer's underpass

Applicant: Mr Chris Hindle, Cheshire East Council

Expiry Date: 28-Aug-2020

SUMMARY

This application relates to a number of relatively minor changes to the consented scheme for the Middlewich Eastern Bypass, and requires a separate application as the proposals fall outside its site edged red. The works are largely associated with areas of alternative ecological mitigation and are concentrated towards the southern areas of the road scheme, especially north of the railway line.

Objections have been raised from a landowner, concerned that the works will impact on the delivery of some of the employment land in LPS44, but as set out in the report, this application proposes alternate areas of mitigation, and have less overall impact on overall provision of employment land than the originally consented scheme.

Overall the proposals have no significant impact on Landscape, Ecology, Flood Risk, and Contaminated Land. Whilst no significant impact on trees and hedgerows is considered likely, this will be confirmed in an update report to Members.

The proposals are reflected to be acceptable and are in accordance with Development Plan policy. As such the application is recommended for approval subject to conditions.

RECOMMENDATION

APPROVE with conditions

SITE DESCRIPTION

This application relates to areas of land lying to the east of Middlewich, along the consented route of the Middlewich Eastern Bypass. The sites can be broken down as follows:

- Small areas to be added at the northern end of the road scheme to extend a pond and area of embankment.
- A small area required for a re-positioned underpass on land to the north of Cledford Lane.
- More sizable additional areas of mitigation alongside the road just to the north of the railway line.
- A strip of land north of the canal to provide access to an attenuation pond.

The first three areas consist of open relatively flat farmland, the latter utilizes an existing track. The farmland is mainly used for grazing, and is bound by hedgerows and some trees.

PROPOSAL

This application accompanies a revised application (20/2064C) for amendments to the approved Middlewich Eastern Bypass (18/5833C), and proposes additional works which fall outside the original site edged red, hence the need for a separate planning application.

The additional areas required are described as being:

- 1, Vertical alignment changes – 2m strip of land added to road envelop (0.021 ha) for hedgerow planting/fence following minor scheme change.
2. Changes to farm underpass location & cutting under road (0.061 ha).
3. Changes to badger set location, and changes to habitat creation locations (1.082 ha).
4. Changes to badger set location, and changes to habitat creation locations (0.518 ha).
5. Changes at southern end where Lesser Silver Diving Beetle ponds and habitat relocated (2.717 ha).
6. Vertical alignment change – part of drainage pond C (0.02 ha)
7. Vertical alignment change – access to drainage pond (0.11 ha)

The majority of the changes, and certainly those involving most land are towards the southern area of the scheme, especially just to the north of the railway line.

The changes are considered necessary following negotiations with landowners, as a result of District Licensing for Great Crested Newts and changes identified by the appointed contractor.

The application is accompanied by an Additional Areas Environmental Assessment Report, and is considered alongside the Environmental Assessment Report submitted with the amendment to the approved Middlewich Eastern Bypass application. A standalone Environmental Statement is not required for this development.

SCHEME HISTORY

A previous bypass scheme for Middlewich was partially completed a number of years ago and which currently passes from the A54 and into the Midpoint 18 Business Park. The partially completed route, called Pochin Way, currently serves several commercial units. In 2008, planning permission was

granted for the remaining part of this proposed Middlewich Bypass, i.e. to connect Pochin Way to the A533 and for several commercial units of the remaining part of the Midpoint 18 site. A five-year extension to the planning permission was then granted in July 2011, but it was not implemented.

In June 2016, Section 73 consent was subsequently granted to vary certain planning permissions that were attached to the previous 2011 planning permission extension, in order to keep it valid. This latter permission enabled the former proposed bypass scheme to be considered as part of the 'options process' for a new Middlewich Eastern Bypass, which also now needed to take account of CEC's aspiration to enable further expansion of the existing Midpoint 18 site, as well as meeting different strategic needs to those which existed when the previous bypass proposals were developed.

An options assessment was undertaken as part of the Outline Business Case (OBC) development, which identified a further seven potential routes for the bypass. An Options Assessment Report was produced which covered the initial sifting of options, and two options were taken forward for further design and assessment. The historic option (with planning permission and renamed as Option 1A) and a new alignment, connecting at its northernmost extent to Pochin Way (passing through open, largely farmland) and connecting into the existing A533 in the south (named as Option 2A), were taken forward for further design and assessment in 2017. The two route options were independently assessed on the key objectives, costs and economic benefits, and environmental impacts for the OBC.

Option 2A had a number of significant benefits compared with Option 1A including higher design speed/reduced journey times, lower flood risk, and improved connectivity potential with Cledford Lane. Whilst being the higher cost option, the OBC was approved by DfT with Option 2A in November 2017 as the preferred scheme due to its broader benefits.

Option 2A was therefore taken forward for further design and development in advance of this application for planning permission and was the subject of the Preferred Route Public Consultation in March/April 2018.

As set out above full approval was granted for the Middlewich Eastern Bypass in July 2019. A revised application for some relatively minor changes to the consented scheme was recently approved under reference 20/2064C.

RELEVANT PLANNING HISTORY

The approved scheme for the MEB is:

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 July 2019

There are numerous other applications affecting the site in question, but of particular relevance concerning the road schemes are:

16/3242C Reserved Matters application relating to Planning Condition No. 2 of Planning Permission 16/2006C - submission of a landscaping scheme. A full ES was submitted in relation to the original planning application (07/0323/OUT). Still live.

11/0899C 2011 Extension to Time Limit - 07/0323/OUT (Midpoint 18 Phase 3: Proposed development for B1, B2 and B8, appropriate leisure and tourism (including hotel) uses, the completion of the Southern section of the Middlewich Eastern bypass & associated landscaping mitigation and enhancement works.) APPROVED July 2011

07/0323/OUT 2005 Midpoint 18 Phase3: proposed development for B1, B2 and B8 employment uses, appropriate leisure and tourism (including hotel) uses, completion of the southern section of the Middlewich Eastern Bypass and associated landscaping, mitigation and enhancement works.

08/0557/REM 2009 Midpoint 18: Phase 3A: Landscaping Reserved Matters Application for the Middlewich Eastern Bypass, Unit 101 and Advanced Planting (to the North of Unit 101) following outline permission 07/0323/OUT

As referenced above, this application accompanies an application for changes to the scheme:

20/2064C Variation of condition no. 2 (approved plans) on planning approval 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

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

Congleton Local Plan (Saved policies)

- PS8 - Open Countryside
- PS12 - Strategic transport corridors
- GR6 – Amenity and health
- GR7 & GR8 – Amenity and Health
- GR11 – Development involving new roads and other Transport Projects
- GR13, GR14, GR 15 & GR 16 – Public transport/cycling/footpaths
- GR18 – Traffic Generation

DP10 - New Road Schemes
NR2, NR3, NR4 & NR5 - Nature Conservation
BH4 – Heritage Assets

Neighbourhood Plans:

The proposed bypass is largely located with Middlewich, although a small element to the south is located in Moston.

Middlewich Neighbourhood Plan: The local referendum for Middlewich Neighbourhood Plan was held on the 14 March 2019 and returned a 'no vote'.

Moston Neighbourhood Plan: Made following a referendum on 14 February 2019.

LCD1 – Design and Landscape Setting
LCD2 – Dark Skies
INF3 – Surface Water Management
ENV1 –Wildlife Habitats, Wildlife Corridors and Biodiversity
ENV2 – Trees, Hedgerows and Watercourses
REC1 – Footpaths, Bridleways, Cycleways and the Canal Towpath
HER1 – Heritage

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

CONSULTATIONS (External to Planning)

Environment Agency: Have no objections to the scheme, but agree with Environmental Protection that this proposal may require contaminated land pre-commencement conditions to be included as part of any subsequent planning approval.

Natural England: No objections

Heath and Safety Executive – Draw to our attention the high pressure gas main and therefore the need to consult the on-line advice..

United Utilities: No objections but asked that they be involved in further discussions and that the approved scheme must be in line with United Utilities' document 'Standard Conditions for works adjacent to pipelines'. A condition requiring a method statement to be submitted to protect UU assets was required.

Cadent Gas: No comments received.

Network Rail: Only comment as follows:

“The following note - which is repeated twice on the General Arrangement drawing, is incorrect and must be removed: ‘Existing level crossing to be used by construction vehicles’

Network Rail will not allow the use of the level crossing for construction vehicles.”

The applicant is aware of this

Canal And Rivers Trust: Have no comments to make.

Cheshire Wildlife Trust: No comments received.

Cheshire Brine: *“As the proposed development doesn’t appear to include foundations the board would not normally make any comments.”*

Cheshire West and Chester Council: No comments received.

CEC Head of Strategic Infrastructure: There a number of additional areas proposed as part of the approved MEB scheme. In regard to highways there are very minor changes to the embankments in some areas which raise no design concerns.

The revisions are considered acceptable and there are no objections to the application.

CEC Public Rights of Way: “The application does not appear to further affect any public rights of way, although the PROW Unit would expect the planning department to add an advice note to any planning consent to ensure that developers are aware of their obligations.”

CEC Environmental Health: No comments made in relation to Amenity, Noise and Air Quality, but conditions are recommended in relation to Contaminated Land.

CEC Flood Risk Manager: “Our previous comments under application 18/5833C, would remain the same. However, prior to further approval a detailed drainage strategy will need to be submitted and approved in line with previously approved FRA. Conditions are recommended.

Cheshire Archaeology: No comments are made, but refer to the previous need for an archaeological condition.

VIEWS OF THE TOWN/PARISH COUNCILS

Middlewich Town Council:

No Objections

Moston Parish Council:

No comments received

OTHER REPRESENTATIONS

An agent has written on behalf of a landowner (on both this application and the associated revised plans application 20/2064C), whilst fully supporting the scheme in principle, have raised the following issues:

“Magnitude Land LLP do have further comments with regards to point Ai) and B.

Additional Ecological Mitigation

Point B at table 2.2 refers to ‘other changes to environmental mitigation’. Point Bi) and Bii) refer specifically to changes of proposed badger sett locations and changes to habitat creation locations (into land to be owned and controlled by CEC) due to land assembly considerations.

Having reviewed the submitted plans, Area 4 (required for grassland habitat creation) and Area 5 (required for grassland habitat creation and badger sett,) are partially located on land within Magnitude Land LLP’s control. This area of land is located within the LPS 44 allocation and has historically been referred to as ‘Phase 3’. Phase 3 land benefits from planning permission for a mixed use, employment-led development (original outline planning permission reference 07/0323/OUT). The indicative masterplan shows a large employment building labelled as Unit 101 (59,260 sqm) on this land. Should the ecological mitigation be approved as proposed, the delivery of Unit 101 would no longer be achievable.

Similarly, point Biii) of table 2.2 refers to Area 6 (required for additional grassland habitat creation and proposed Lesser Silver Water Beetle ponds) to the east of the MEB alignment. This land is controlled by Magnitude Land LLP and whilst it does not currently benefit from planning permission, it is deliverable employment land allocated for employment within LPS 44.

Magnitude Land LLP strongly oppose the introduction of Area 4, Area 5 and Area 6 for use as ecological mitigation for the following reasons:

1. All the land referenced above is located within the LPS44 strategic employment allocation which seeks to deliver up to 70 hectares of employment land within the plan period (up to 2030) and therefore the land forms part of CEC’s employment land supply. The Local Plan states ‘the site delivers a significant contribution to the Local Plan Strategy. The introduction of the additional ecological mitigation and infrastructure associated with Magnitude Land LLP 20/2162C on land allocated for employment use undermines the objectives of the Local Plan and specifically Policy LPS 44.
2. Areas 4 and 5 are located on land which is subject to planning permission (original outline planning permission reference 07/0323/OUT) for an employment-led mixed use development and the use of this land for ecological mitigation would result in a significant reduction in the amount of floorspace able to be delivered as part of this planning permission. With reference to the Indicative Masterplan, the additional ecological mitigation would prevent the delivery of Unit 101;
3. Magnitude Land LLP have recently undertaken a master-planning exercise for the LPS44 allocation which was shared with CEC officers and all of the land proposed for ecological mitigation is considered to be developable employment land. This would make a significant contribution towards CEC’s Overall Development Strategy (Policy PG1) which is for ‘provision to be made for a minimum of 380 hectares of land for business, general industrial and storage and distribution uses over the period 2010 to 2030 to support the growth of the local economy’

In view of the above, Magnitude Land LLP strongly oppose the additional ecological mitigation proposed as part of 20/2162C and request that CEC considers the impact approving these changes would have on the deliverability of the LPS 44 allocation and wider Local Plan objectives.

Impact at Phase 4B (point Ai)

Point A refers to changes to the vertical alignment of the MEB and point Ai) specifies that there are minor changes to the MEB footprint on a section of the northern alignment.

It states that a minimum of 1.5m is required between the top of the earthworks and redline for hedgerow and fences, which results in a strip of land up to 2m wide beyond the boundary of the approved MEB scheme. This area of land is partially within the red line boundary for Phase 4B (planning application reference 20/0901C), albeit it is identified as CEC mitigation and therefore will have no impact on the proposals.

Summary

Overall, Magnitude Land LLP raises no objection to the principle of the proposed MEB, acknowledging that one of the scheme's primary objectives is to assist in the delivery of employment floorspace at the Magnitude (formerly Midpoint 18) strategic employment site. However, we have some significant concerns about amendments to the scheme proposed by planning application references 20/2064C and 20/2162C.

Magnitude Land LLP also strongly oppose the additional ecological mitigation proposed by 20/2162C which would have significant impacts on the amount of employment floorspace that can be delivered as part of the LPS44 strategic employment allocation. "In view of the above we request the following changes are considered by CEC before the planning applications are determined:

- i. Remove and relocate the proposed drainage pond on Plot 4A;
- ii. Remove and relocate the proposed drainage pond and field access to the south west of the Cledford Lane roundabout;
- iii. Remove and relocate the proposed pond to the south of the southernmost roundabout;
- iv. Remove and relocate the proposed additional ecological mitigation area identified as Areas 4 and 5 because it will stifle deliverable allocated employment land within LPS44 and land which already benefits from planning permission (Phase 3);
- v. Remove and relocate the proposed additional ecological mitigation area identified as Area 6 because it will stifle deliverable employment land within LPS 44.

Magnitude Land LLP and its technical team are willing to work with Officers to identify more appropriate locations within LPS 44 or within close proximity to the MEB for infrastructure and ecological mitigation to support the MEB which will not stifle deliverable allocated employment land and in particular, employment land which already benefits from planning permission."

OFFICER APPRAISAL

Principal of Development

The principle of the development for the road is established by the consent granted which is still extant, and mitigation works form part of those works. For completeness from the original report:

Within the Local Plan Strategy (LPS), Middlewich is identified as a 'Key Service Centre' and paragraph 15.491 states:

"The timely delivery of the Middlewich Eastern Bypass is key to ensuring that Middlewich realises its full sustainable growth potential as a Key Service Centre and also contributes to the prosperity of the borough as a whole. The completion of the bypass should be delivered alongside new developments."

A number of sites within Middlewich are identified, including LPS 44 Midpoint 18, Middlewich, which is allocated for the phased delivery of up to 70 hectares of employment land and the:

“provision of and where appropriate, contributions to the Middlewich Eastern Bypass”.

Whilst the line of this proposed road scheme has now changed, the principle has been established by the previous consents granted (see planning history above) and is clearly supported by the LPS and saved policies of the Congleton Local Plan. The Middlewich Neighbourhood Plan again supports the principle of the eastern bypass, although given the plan was rejected at referendum the weight this can be given is uncertain.

As well as the scheme being embedded in the adopted LPS for Cheshire East, the scheme is consistent with Cheshire & Warrington Local Enterprise Partnerships’ (LEP) Strategic Economic Plan and is a key element of the High Speed 2 (HS2) Growth Strategy for the Northern Gateway & Constellation Partnership.

All the falls within the Midpoint 18 allocation.”

The issue then is what difference do the changes make to the overall delivery of the road scheme and to the delivery of LPS44. This is also considered again at the end of the report in reply to representations made.

Contaminated Land

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

- The application area has a history of a variety of commercial and industrial use in places, and therefore the land in these areas may be contaminated.
- As part of the Environmental Statement, submitted in support of the previous planning application for the site (18/5833C), a Phase I Preliminary Risk Assessment for land contamination was appended (Report Ref: BRJ10403, Jacobs, 12 October 2018). We reviewed this, the Soils chapter (Chapter 11) in the Environmental Statement, and also the Human Health chapter (Chapter 15) as this is relevant to land contamination as well.
 - o With regards to Section 2.6.3 (c), when we provided our search response in 2016, the search area used was different to that of the current application area. We would suggest that an updated search would be beneficial, especially for the south west of the application area.
 - o A Phase II ground investigation has been proposed in order to further assess identified contaminant linkages. We are in agreement with this proposal, and appropriate sampling/monitoring should be undertaken within these works.
 - o Some assessment should be provided on how the proposed scheme may mobilise or change the regime of contaminants within the soil (for example increasing impacts upon water bodies or creating preferential pathways for migration), or in the example of ground gases, how the scheme may alter the gassing regime on infilled sites. This could be undertaken once the Phase II ground investigation has been completed, and more information is known.

- The contaminated Land team would expect the changes and additional areas detailed within this application to be taken into account in any updated Phase I report (if necessary) and the subsequent Phase II ground investigations upon which this is based.

Conditions are recommended.

Highway Implications

As set out above Highways do not believe there are any proposed changes to the scheme that have any significant highways considerations and raise no objections.

Public Rights of Way/Cycle routes:

As the PROW team do not believe these proposed changes to the scheme have any impact on footpaths they raise no objections.

Landscape

The Council's Landscape Architect does not consider that the inclusion of the additional areas will result in any significant landscape or visual impacts and offers no objections.

Trees

Comments from the Council's Tree Officer are outstanding at the time of writing this report, and will need to be picked up in an Update Report to Members.

That said although additional areas are affected by the proposed development, most are areas of ecological mitigation, and there is no indication that there will need to be any significant impacts on trees and hedgerows as part of this application.

Ecology

The two applications (the section 73 revisions to the approved road scheme and this application) combined, involve a number of revisions to the consented scheme both within the existing red line of the consented scheme and within additional land located outside the red line. A number of protected species surveys have been updated to inform the applications. The following comment deal only with those impacts that result directly from the proposed changes to the consented scheme.

Changes in the impacts of the proposed scheme upon habitats

Impacts on broad leaved semi-natural woodland are broadly the same as consented scheme. There is a reduction in the permanent loss of species rich hedgerows of 141m, but an increase in hedgerows temporarily lost to the scheme of 118m. There is an increase in the loss of species poor hedgerows permanently lost but a reduction of over 1000m of hedgerows temporarily lost. There is a reduction of neutral grassland permanently lost amounting to 0.47 ha but a very similar increase in neutral grassland temporarily lost.

Compensatory habitat is provided to address all of these losses, with a greater area of compensatory habitat provided in relation to that lost. A total of seven ponds are proposed to compensate for those

lost. The submitted Biodiversity Metric shows that the proposed development would deliver an overall net gain for biodiversity. This is discussed further below.

Culverts

A number of the culverts proposed under the scheme will be increased in size as a result of the proposed revisions. This change may result in a minor benefit for wildlife.

The submitted Environmental Assessment states that Culvert 4 is being replaced with a 900mm pipe. The applicant has however confirmed that is was an error in the report and no culverts are to be replaced by pipes.

Bats, Barn owl and Lesser Silver Diving Beetle

Two additional ponds have been identified as supporting breeding Lesser Silver Diving beetle. The loss of breeding ponds resulting from the revised scheme is however unchanged in relation to the consented scheme. The cumulative effect of the bypass scheme and an adjacent proposed development may result in change of land use in the vicinity of a pond known to be used by this species. The change in land use may lead an additional impacts resting in the deterioration of this pond. The current application includes measures to mitigate this effect and additional compensatory habitat in the form of an additional replacement pond have been provided. Due to the importance of this species in the national context, and the uncertainty associated with the mitigation and compensation measures proposed, the impacts of habitat loss and habitat degradation on this species is assessed as being significant at the regional level. This is the same level of impact anticipated by the consented scheme.

If planning consent is granted it is advised that a condition should be attached to require the submission of a detailed Lesser Silver Diving Beetle Mitigation method statement informed by the outline measures detailed in the submitted Environmental Assessment.

Fewer trees with bat roost potential will be lost in relation to the consented scheme. The vertical alignment of the road has changed, with much of the road now in a cutting. This will reduce the risk of road traffic collisions for species including bats, lesser silver diving beetle and barn owl.

Compensatory habitat for foraging and commuting bats has been relocated following the identification of constraints with the originally proposed location for the proposed habitat. The location of the proposed compensatory habitat is shown on the revised EMP (revision 5) Included with the submitted Planning Consultee Comments Response – Ecology report dated 18th September.

The updated bat survey identified an additional bat roost located at tree T6. The applicant has now confirmed that this tree would be retained. The applicant recommends that the CEMP should include measures to avoid disturbance of any trees with bat roost potential. This may be dealt with by means of a condition.

The changes to the alignment of the road mean that some wildlife tunnels and underpasses secured as part of the existing consent cannot now be provided. The total number of underpasses has been reduced from 6 to 3 with one relocated. Mammal ledges are now however proposed at three culverts and the farmer's underpass will assist with facilitating some connectivity under the road meaning each badger social group will have access to one underpass.

The submitted Environmental Assessment advises that the reduction in the number of underpasses will result in an increase in badger mortality associated with collisions with traffic. The impacts of the scheme on badgers are considered to be negative at the local level, which is the same assessment as the consented scheme. Under the consented scheme an artificial badger sett would be provided to compensate for the loss of setts to the development. The proposed location of the sett has been changed with two potential alternative locations now proposed. If planning consent is granted it is recommended that a condition be attached to ensure that the location of the artificial sett be agreed prior to the commencement of development. A condition to secure the detailed designs of the culvert and mammal tunnels is also required.

Great Crested Newts (GCN)

The consented road scheme would result in a significant adverse impact upon this protected species and a package of mitigation and compensation measures was agreed in respect of the consented scheme.

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 (GCNs), and as noted above the bypass is seen as a very important piece of infrastructure bringing significant public benefits.

Alternatives

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

No bypass

Without any development, specialist mitigation for GCNs would not be provided which would not be of benefit to the species.

The applicant's ecological consultant has now indicated an intention to enter the proposed development into Natural England's district licencing scheme. As a result of this the originally proposed GCN mitigation ponds and associated habitats have been removed from the 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.

If planning consent is granted a condition is required to ensure the development is entered into Natural England's District Licensing Scheme for Great Crested Newts.

Common Toad

Whilst Great Crested Newt mitigation ponds have been removed from the scheme a purpose designed common toad breeding pond has been provided to compensate for the potential impacts of the scheme upon this priority species.

area. If planning consent is granted it is recommended that a condition is attached to secure the detailed design of this feature.

Biodiversity Net Gain

Local Plan Policy SE3 requires all developments to seek to contribute positively to the conservation of biodiversity. The application is supported by a Biodiversity metric calculation. This calculation is used to determine whether the proposed development would lead to a net gain for biodiversity as required by this policy. The metric calculation has been discussed with Cheshire Wildlife Trust and Jacobs and the metric calculation has been amended accordingly.

The Biodiversity metric demonstrates that the proposed development would deliver a net gain for biodiversity.

Implementation of proposed environmental Mitigation and compensation measures

Condition 2 of the existing consent for which variation is being sought secures implementation of the development in accordance with the ES and ES addendum.

In the event that planning permission is granted for the variation of this condition, the condition wording must be amended to reflect the recommendations of the latest Environmental Assessments. The conditions should state that mitigation and compensation detailed in the ES and addendum ES be implemented unless varied by this latest assessment (Environmental Assessment Report May 2020 (BRJ10612-E-DOC-026, Rev No.0) in respect of 20/2064c and BRJ10612-E-Doc-032 dated May 2020 in respect of 20/2162c.

Built Heritage/Structures

The proposals have no more impact on heritage features than the approved scheme, and there are no new structures proposed, the changes only affecting embankments/water body designs.

Flood Risk/Drainage

This matter is fully considered in the supporting Environmental Statement, and the Councils Flood Risk team have raised no issues, subject to conditions/informatives. Similarly the Environment Agency have raised no objections subject to a number of conditions.

Issues raised by representation – loss of developable land

This issue raised on behalf of one of the landowners is that the proposals now been considered (over and above the approved scheme) will result in a reduction of developable areas for these important employment sites in Midpoint 18.

The applicant's agent has done a full response to the concerns raised, but in summary:

- A. Ecological mitigation is an integral part of LPS44 not just for the road scheme but also for future development proposals in this area. The proposals are therefore considered to be in accordance with the LPS. Additionally the land required by these proposals, albeit different from the original approved scheme, has less land- take.
- B. They question whether the planning approval referenced is still extant – granted in 2008, and that scheme was dependant on the earlier design of the MEB being implemented. This is not now possible, and the scheme cannot now be carried out as originally approved and would need to be revised. A revised scheme could address ecological issues in a different way.
- C. The master-planning exercise has no status, and ecological mitigation would still need to be fully considered.

Finally they question whether the landowner has an interest in all the land discussed, as it is not the agents understanding from land discussions on the road scheme.

These comments are acknowledged and largely endorsed. The planning approval referenced 07/0323/OUT formed part of a proposal for the original line of the Middlewich Bypass, to which it was closely associated, which is no longer being progressed. The master-planning exercise has indeed been shared with the LPA but there are no “workings” behind it and certainly no information has been shared on ecological assessments etc. It is a useful exercise to further discussions, but has no weight in the determination of this application. There is no reason to question the technical requirements for the changes proposed in this application, as set out elsewhere in this report.

The Middlewich Eastern Bypass is an integral part of the development of LPS44, and ecological mitigation (the main land-take requirement) is an important component of the road scheme. These proposals change the mitigation works but as set out above actually use less land, which frees up more land for development, than the consented scheme. Following negotiations with landowners it is also considered more deliverable. It is therefore not accepted that the changes undermine the delivery of LPS 44, in fact they help deliver more development overall.

Environmental Assessment

The submitted report looks at the application, read in conjunction with wider road scheme, but also considers this as a stand alone application – which is not in itself EA development.

In conclusion it states that there would be significant impacts on one land interest (land south of Cledford Lane) although this would not significantly compromise the viability of farm business, and an insignificant adverse effect on other land interest (Kinderton Lodge). The land take would also cause an insignificant adverse on development land. No other significant effects have been identified.

These matters are largely considered in the report above, but matters of impacts on businesses would need to be addressed through compensation discussions with landowners, and any subsequent Compulsory Purchase Order.

CONCLUSIONS

This application relates to relatively minor changes to the consented scheme for the Middlewich Eastern Bypass, and requires a separate application as the proposals fall outside its site edged red. The works are largely associated with areas of alternative ecological mitigation and are concentrated towards the southern areas of the road scheme, especially north of the railway line.

Objections have been raised from a landowner, concerned that the works will impact on the delivery of some of the employment land in LPS44, but as set out in the report, this application proposes alternate areas of mitigation, and have less overall impact on overall provision of employment land than the originally consented scheme.

Overall the proposals have no significant impact on Landscape, Ecology, Flood Risk, and Contaminated Land. Whilst no significant impact on trees and hedgerows is considered likely, this will be confirmed in an update report to Members.

The proposals are considered to be in line with the policy requirements are considered acceptable and as such the application is recommended for approval subject to conditions.

RECOMMENDATION

Approve subject to the following conditions;

- 1. 5 year start date**
- 2. Development to proceed in accordance with the approved plans/report recommendations.**
- 3. Landscaping**
- 4. Landscape implementation & maintenance (5 years)**
- 5. Submission of proposals for the safeguarding of LWS quality habitats located adjacent to permanent and temporary works. Updated protected species surveys and mitigation method statements for felling of any trees with bat roost potential lost as a result of the scheme and for otter, badgers and Lesser Silver Diving beetle. Mitigation and compensation proposals to be informed by the proposals included with the ES.**
- 6. Notwithstanding the proposals detailed in section 2.1 of the submitted Appendix K.2: Landscape and Ecology Supporting Information a Habitat Creation method statement is to**

be submitted for the creation of the species rich grassland and the grassland mitigation areas.

7. Timing of works to Safeguard Nesting Birds.
8. Method statement for the reinstatement of habitat for Little Ringed plover following the removal of the Temporary Works Compound. Method statement for the creation of species rich grassland
9. Time table for the implementation of habitat creation measures.
10. Grampian condition to secure off site barn owl habitat provision and management.
11. Confirmation of the location of the proposed artificial badger sett prior to commencement of the development.
12. Submission and implementation of an ecological monitoring strategy. If any deficiencies in the agreed ecological mitigation/compensation then revised proposals are to be submitted to the LPA for agreement and then implemented in full.
13. Submission of a 25 year habitat and landscape management plan. To include proposals for the management of woodland planting, species rich grassland ponds, lesser silver diving beetle, non-native invasive plant species, hedgerows and the control of non-native invasive plant species. The management plan should also include a strategy to secure the long term future of the created habitats such as transfer to an appropriate body such as the Land Trust.
14. Prior to the commencement of development a Construction Environment Management Plan is to be submitted and approved – to include dust suppression measures & measures to avoid contamination of the canal.
15. Great crested newts – entry into Natural England’s District Licensing Scheme.
16. Submission of a reptile mitigation method statement.
17. Contaminated land remediation strategy to be submitted.
18. No infiltration of surface water drainage into the ground/ measures to avoid contamination of the canal
19. Verification report for contaminated land.
20. Works to be carried out in accordance with the FRA
21. Detailed strategy/design of surface water runoff to be agreed
22. Method statement to be submitted to protect UU assets was required.
23. Archaeology
24. Works to be carried out alongside approved works under application 20/2064C except ecological mitigation works which need to be carried out in advance.

Informatives;

- Contaminated Land







