

Strategic Planning Board

Date of Meeting: 9 December 2020

Report Title: Update following the resolution to approve application 20/0901C: Part full/part outline application proposing: 1: Full planning application for an employment Development (Use Class B2 & B8 with ancillary Use Class B1 floorspace), and security gatehouse and Weighbridge, the provision of associated Infrastructure, including a substation, plant, pumping Station, service yards, car and hgv parking, cycle and Waste storage, landscaping, ecological enhancement Area, drainage attenuation, access from ERF way and Re-alignment of the River Croco tributary. 2: Outline Planning application for an employment development (Use Class B2 & B8 with ancillary Use Class B1 Floorspace) with all detailed matters except for Access reserved for future determination, phase 4b and 1b Magnitude - off ERF Way, Middlewich for Magnitude Land LLP & Swizzels Matlow Ltd

Senior Officer: David Malcolm: Head of Planning

1. Report Summary

- 1.1. This report seeks approval to amend the SPB resolution for this application with paraticualr reference to the terms of the s106 legal agreement. This follows discussions with the applicant to include a review mechanism for later phases of the development to take account of other applications and contributions across the Mid-Point 18 allocation and to provide the necessary corrected update to the Minutes.
- 1.2. The report recommends that the wording be amended to include reference to a review mechanism as set out in the report.

2. Recommendation

- 2.1. That the Strategic Planning Board amend the Committee resolution for this application as follows;

That the application be approved subject to the completion of a S106 Agreement securing the following:-

Highways - Contribute to the Middlewich Eastern Bypass or A54 Corridor/Leadsmithy Street corridor improvements based on a payment of £30 per sq m GIA to be paid in four instalments prior to occupation of:-

- Plot 4B phase 1;
- Plot 4B phase 2
- Plot 4B phase 3; and
- Plot 1B

Subject to a review mechanism to be agreed with Cheshire East Council for Plot 4B phase 2, Plot 4B phase 3 and Plot 1B

And Ecology – Biodiversity offset payment as follows:-

Prior to the commencement of development a scheme for offsetting biodiversity impacts on the site shall be submitted to and approved by the local planning authority. The proposed offsetting scheme shall include:

- Details of the offset requirements of the development in accordance with the current Defra biodiversity metric, which has been calculated to comprise 8.5 units conservation credits of grassland;
- The identification of a receptor site or sites which generate a minimum 8.5 units available conservation credits;
- The provision of evidence of arrangements that secures the delivery of the offsetting scheme;
- A management and monitoring plan (which shall include for the provision and maintenance of such offsetting measures for a period of not less than 25 years from commencement of development)

And subject to the following conditions:-

FULL APPLICATION:

1. 3 Year start date
2. Approved plans/documents
3. Materials
4. Landscaping
5. Landscape maintenance
6. Arboricultural Impact Assessment
7. Tree Retention/Protection
8. Levels
9. Electric vehicle infrastructure
10. Ultra Low Emission Boiler(s)
11. Importation of soils
12. Contaminated land assessment (Phase II)
13. Contaminated land verification report
14. Measures to deal with unexpected contamination

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15. Foul and surface water on separate systems
16. Surface water drainage
17. Tree felling under supervision (Bats)
18. Lighting (Amenity & Bats)
19. Updated Otter survey
20. Bird nesting season
21. Ecological mitigation measures
22. 25 Year habitat management plan and buffer zone to water course
23. PROW Management scheme
24. Renewable energy in accordance with Policy SE9

OUTLINE APPLICATION:

1. Outline timescales
2. Approved plans/documents
3. Materials
4. Landscaping
5. Landscape maintenance
6. Arboricultural Impact Assessment
7. Tree Retention/Protection
8. Levels
9. Electric vehicle infrastructure
10. Ultra-Low Emission Boiler(s)
11. Importation of soils
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3. Reasons for Recommendations

- 3.1. To provide clarity in the resolution and Minutes to reflect the reference to a review mechanism in the officers report.

4. Other Options Considered

4.1. The resolution could remain as published, but the applicant has indicated an unwillingness to sign the Section 106 Agreement without the review mechanism.

5. Background

5.1. Planning application 20/0901C was referred to Strategic Planning Board on 24th June, 2020. The minutes from the meeting are as follows:

RESOLVED

That the application be delegated to the Head of Planning in consultation with the Chairman and Vice Chairman of the Strategic Planning Board to approve subject to resolving the objections from the Environment Agency; receipt of comments from the Lead Local Flood Authority (LLFA); clarification of the electrical charging provision requirements and meeting policy SE9 on renewable energy provision and subject to the completion of a S106 Agreement securing the following:-

Highways - Contribute to the Middlewich Eastern Bypass or A54 Corridor/Leadsmyth Street corridor improvements based on a payment of £30 per sq m GIA to be paid in four instalments prior to occupation of:-

- Plot 4B phase 1;*
- Plot 4B phase 2*
- Plot 4B phase 3; and*
- Plot 1B*

And Ecology – Biodiversity offset payment as follows:-

Prior to the commencement of development a scheme for offsetting biodiversity impacts on the site shall be submitted to and approved by the local planning authority. The proposed offsetting scheme shall include:

- Details of the offset requirements of the development in accordance with the current Defra biodiversity metric, which has been calculated to comprise 8.5 units conservation credits of grassland;*
- The identification of a receptor site or sites which generate a minimum 8.5 units available conservation credits;*
- The provision of evidence of arrangements that secures the delivery of the offsetting scheme;*
- A management and monitoring plan (which shall include for the provision and maintenance of such offsetting measures for a period of not less than 25 years from commencement of development)*

And subject to the following conditions:- Since the SPB resolution, the applicant has raised viability issues associated with the S106 Heads of Terms. There have also been further discussions between the applicant and the Highways Department regarding the upgrading of the footway along Booth Lane to Mill Lane (as requested by SPB in 2018).

And subject to the following conditions:-

FULL APPLICATION:

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7. Tree Retention/Protection
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5.2 The matters regarding the Environment Agency and Lead Local Flood Authority, together with the requirements of SE9 were subsequently addressed in an Officer Delegated Report signed by the Chair and Vice Chair of the Committee.

5.3 In securing the necessary contributions to the Middlewich Eastern Bypass (MEB) the previous report noted under the s106 section that:

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

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

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

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

However, the reference to the review mechanism was not included in the adopted Minutes of the meeting which needs to be formally updated. It should be noted that this review mechanism will enable consideration of any additional floorspace / additional costs to be factored in to contributions when the future phases come forward. This is considered a fair and reasonable approach and therefore in compliance with the CIL Regulations and supported by Officers.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. The minuted resolution needs to include reference to the review mechanism.

6.2. Finance Implications

6.2.1. If the amended wording is not approved the applicant has indicated they are not prepared to sign the Section 106 Agreement, and the Council would not receive a significant contribution to the Middlewich Eastern Bypass.

6.3. Policy Implications

6.3.1. The policy implications are considered within the original SPB Report but it does accord with Cheshire East Local Plan Strategic Policy LPS 44.

6.4. Equality Implications

6.4.1. Under the Council's public sector equality duty, the authority needs to consider the effect of its policies on members of society with protected characteristics.

6.4.2. This has not identified any actual or potential negative impact on people with protected characteristics.

6.5. Human Resources Implications

6.5.1. The change to Minutes will not require additional staff resources to implement.

6.6. Risk Management Implications

6.6.1. As 6.2.1 above.

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities.

6.8. Implications for Children & Young People/Cared for Children

6.8.1. There are no direct implications for children and young people.

6.9. Public Health Implications

6.9.1. There are no direct public health implications.

6.10. Climate Change Implications

6.10.1. There are no additional issues other than those set out in the original report to Committee.

7. Ward Members Affected

7.1 Middlewich and surrounding wards.

8. Consultation & Engagement

8.1. There is no requirement to formally consult on the change to the SPB resolution.

9. Access to Information

9.1. The Council's website includes the original report to SPB which can be found using the link below;

<http://moderngov.cheshireeast.gov.uk/ecminutes/ieListDocuments.aspx?CId=279&MId=8017&Ver=4>

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

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