

Application No: 21/1065C

Location: LAND SOUTH OF, CLEDFORD LANE, MIDDLEWICH

Proposal: Outline planning application with all matters reserved for future determination except for means of access for an employment development (Use Classes B8, B2 and ancillary E(g)) with associated landscaping, drainage and infrastructure including an energy centre.

Applicant: Magnitude Land LLP

Expiry Date: 15-Jun-2021

SUMMARY

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

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

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

The Environment Agency have raised no objections, subject to conditions, and comments from the Council's flood risk team will need to be reported in any update report.

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

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

Recommendation

Approve subject to a Section 106 Agreement and conditions.

DESCRIPTION OF SITE AND CONTEXT

This application relates to a sizable (30.55 hectare) area of open land to the south of Cledford Lane on the eastern edge of Middlewich. The land has boundaries with the Northwich to Sandbach railway line to the west, and the approved line of the Middlewich Eastern Bypass to the east. An area of open land lines to the south (land locked by the bypass when built).

Whilst land uses adjoining the site are either largely commercial (to the north and west forming part of Midpoint 18) or agricultural (to the east and south). There are two residential properties on the northern boundary of the site fronting Cledford Lane. The properties sit on high ground above the site.

The site has a number of waterbodies that cross the land, in particular a watercourse, Sanderson Brook, running from the eastern boundary across the centre of the site, meeting another water course running from the south, and combining to flow out of the site in the north-west corner under Cledford Lane. The site undulates, rising in particular to Cledford Lane to the north, but with embankments along the water courses.

The land is largely used for rough grazing, although there is some arable land in the north western part of the site. There are a few scattered trees across the site, and hedgerow lines running north south along the southern water course, and near the eastern boundary.

A public footpath (Middlewich FP20) runs from the north western corner of the site, following the western boundary before turning east to run south of the water course, eventually coming out on Bradwell Road.

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

DETAILS OF PROPOSAL

The application description reads as follows:

“Outline planning application with all matters reserved for future determination except for means of access for an employment development (Use Classes B8, B2 and ancillary E(g)) with associated landscaping, drainage and infrastructure including an energy centre”.

This outline application proposes a total gross new internal floorspace of 80,547 sq m and the application is accompanied by an illustrative masterplan indicating that the development would consist of a number of units arranged on either side of Sanderson Brook with a more sizable unit towards the southern area of the site. Site access would be from Cledford Lane from two new access points. The illustrative layout indicates the north western end of the site, characterised by the watercourse and more challenging level changes, would remain largely undeveloped. A Land Use and Building Height Parameters Plan has also been submitted, which could form an approved plan, breaking the site down into 4 zones. These are:

1. Max building height to ridge 49.75 AOD, up to 12 metre ridge height.(North eastern corner of site).
2. Max building height to ridge 51.75 AOD, up to 14.5 metre ridge height.(North western corner of the site).
3. Max building height to ridge 56.85 AOD, up to 19.5 metre ridge height.(Central northern part of the site).
4. Max building height to ridge 64.25 AOD, up to 26 metre ridge height.(southern part of the site).

(AOD – Above Ordnance Datum)

In addition to these four development areas, no-build zones along the water courses, and areas for landscaping, ecological and drainage works are indicated. A zone is also proposed where the Public Right of Way could be re-located.

RELEVANT HISTORY

There are numerous developments in the vicinity of the site, but of particular relevance are:

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

20/2162C 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 Land At, POCHIN WAY, MIDDLEWICH – APPROVED 22-Oct-2020

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 – APPROVED 08-Oct-2020

POLICIES

Cheshire East Local Plan Strategy – 2010-2030

PG6 – Open Countryside

SD1 - Sustainable Development in Cheshire East

SD2 - Sustainable Development Principles

SE 1 - Design

SE 2 - Efficient Use of Land

SE3 – Biodiversity and Geodiversity

SE 4 - The Landscape

SE 5 - Trees, Hedgerows and Woodland

SE 13 - Flood Risk and Water Management

SE 6 – Green Infrastructure

IN1 – Infrastructure

CO1 – Sustainable Travel and Transport

CO2 – Enabling Business Growth Through Transport Infrastructure

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

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

1. Phased delivery of up to 70 hectares of employment land, including the development of the existing undeveloped sites: Midpoint 18 (Phases 1 to 3), with provision expected to continue for the remaining site beyond the plan period; and

2. *Provision of and where appropriate, contributions to the completion of the Middlewich Eastern Bypass.*
3. *Provision of land set aside to enable the future construction of a new station – in terms of lineside infrastructure, parking and access.*

Site Specific Principles of Development

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

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

Congleton Local Plan (Saved policies)

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

PS8 - Open Countryside

PS12 - Strategic transport corridors

GR6 – Amenity and health

GR7 & GR8 – Amenity and Health

GR13, GR14, GR 15 & GR 16 – Public transport/cycling/footpaths

GR18 – Traffic Generation

NR2, NR3, NR4 & NR5 - Nature Conservation

BH4 – Heritage Assets

Neighbourhood Plan

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

The National Planning Policy Framework

VIEWS OF THE PARISH / TOWN COUNCIL

Middlewich Town Council: Comments awaited

CONSULTATION RESPONSES – External to Planning

Environment Agency: They have no objection to the application, but the outline planning permission will only be acceptable if a condition is attached to ensure the development is flood

resilient, together with a condition requiring submission of Construction Environmental Management Plan (CEMP) for the scheme.

Natural England: Comments awaited

United Utilities: No objections are raised, but 2 conditions are recommended, relating details of a sustainable surface water drainage scheme and a foul water drainage scheme and requiring a Management and Maintenance of Sustainable Drainage Systems.

Cheshire Brine Subsidence Compensation Board:

“The Board is of the opinion that the site is within an area that has previously been affected by brine subsidence and future residual movements cannot be discounted. BGS geological mapping also indicates the presence of subsidence features in the immediate vicinity of the site.

We have fully studied the SGI Phase 3 report and there are a number of contradictions and misconceptions within the report which would need to be addressed or fully justified prior to the Board accepting the report. With the report, SGI suggest that the underlying 55m of competent marl would act to mitigate the surface subsidence events, however, in the very next paragraph identify that a PNOD was filed and accepted by the Board on the site in 1977. Furthermore, the report does not offer a foundation solution to site, only states that a raft foundation is not required.

Notwithstanding this position, it is confirmed that the Board remains willing to consider alternative foundation designs on receipt of a more authoritative risk assessment.”

Cadent Gas / National Grid – They identify that there is apparatus in the vicinity of the site, and remind the applicant of their need to contact them before any works are carried out to ensure the apparatus is not affected.

Health & Safety Executive: Based on the criteria entered into their on-line consultation system, they ‘do not advise against’ but highlight the location of pipeline referred to above.

Cheshire Wildlife Trust – Object on the following grounds:

1. Lesser Silver Water Beetle (LSWB) have previously been recorded (in 2016) within two ponds potentially due to be lost as a result of the proposed scheme (P05a, P05b and P06). However, these ponds appear to have been scoped out of the detailed LSBW survey undertaken to support this application. LSBW is a red-listed species protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended); any population utilising these ponds may potentially be significantly affected by the proposed scheme.

2. The proposed scheme results in a significant overall biodiversity net-loss unless a sufficiently sized off-site area can be secured for habitat creation or enhancement. This must be secured at the outline planning stage. However, we believe there are potentially significant inaccuracies within the Biodiversity Net Gain (BNG) metric that may result in a greater net-loss than has been reported. These are discussed in detail below, but in summary:

- a. We believe the overall BNG change is currently highly inaccurate due to the omission of Sanderson Brook, potentially Annex 1 habitat or a habitat of high distinctiveness. Both watercourses within the site and their riparian habitat must be included in the “Habitats” and “Rivers” tabs of the metric.
- b. Habitats show a BNG loss of at least -30.43% (-23.32 units), however due to a number of potential inaccuracies in the metric CWT believe this could be as low as -34.80% (-26.68 units).
- c. Hedgerows show a BNG gain of +8.37% (+1.35 units), however due to a number of potential inaccuracies in the metric CWT believe this could be as low as -8.90% (-1.22 units).

3. Sanderson Brook and a number of ponds within the application site have been identified as Potential Local Wildlife Sites (pLWS) by CWT; the features for which they could be designated will potentially be significantly affected by the proposed scheme.

The applicant has provided a response to these comments, and the CWT comments will need to be reported in any update report.

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

Environmental Protection: No objections subject to conditions.

Flood Risk: Comments to be reported in any Update Report.

Public Rights of Way: They highlight that the proposals will have a direct impact on a PROW and set out the process for its diversion and associated costs/timescales. They however raise no objections subject to a condition. This is set out in more detail below.

Cheshire Archaeology Planning Advisory Service: No objections are raised subject to a condition requiring a written scheme of investigation to be submitted and approved.

OTHER REPRESENTATIONS

A resident of Kinderton Park has objected on the grounds of increased traffic, noise and pollution, impact on the PROW, and significantly damage the wildlife of the area.

OFFICER APPRAISAL

Principle of Development

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

Highways impacts

Under policy LPS 44 it states that development shall make:

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

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

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

Access and Accessibility

There are two access points proposed to the site, these are priority junctions with Cledford Lane that are 7.3m wide with 15m radius kerbs. The visibility splays provided at each of the junctions is 2.4m x 70m in both directions. The design of the accesses also includes for a 2m footpath and a 3m shared ped/cycle path.

The vehicular access to the development will be from Cledford Lane which is currently a rural lane of varying widths, as the road will be serving industrial and commercial traffic Cledford Lane will need to be upgraded to 7.3m between the site access point and the new roundabout at the junction of Cledford Lane and the Middlewich Eastern Bypass.

It has been indicated that the pedestrian and cycle access to the site will be via a 3m shared ped/cycle path on the south side of Cledford Lane that links into the similar facility being provided by the MEB.

Development Impact

The scope of impact of the proposed development on the highway network has been agreed with the applicant, with the principal impact being at the following junctions:

A54 Holmes Chapel Road
MEB/ Cledford Lane roundabout
A533/ MEB roundabout.

As part of the submission for the MEB the above junctions had capacity tests undertaken to ensure that they would operate without causing undue delay and queuing. The assessments included the trip generations from Midpoint 18 development allocations and this assumed a much higher floorspace allocation for LPS44 than proposed in this application. Therefore, it can be accepted that the development proposals can be accommodated on the highway network in 2035, although this does assume that the MEB is in place.

The assessment undertaken assumes that all traffic from the access points will turn right and use the MEB, with the majority of trips being distributed to the north via the A54 Holmes Chapel Road. The applicant has submitted capacity assessments of the proposed new access points, the results show that these access point would operate well within capacity limits.

Summary and Conclusion

The access to site via Cledford Lane will be acceptable assuming that improvements to Cledford Lane are made to bring it up to adoptable standards including providing new

pedestrian and cycle access to the site. These improvements would be secured by condition and delivered via a S278 Agreement with the Council.

The traffic impact of the development has assumed that the infrastructure being provided as part of the MEB can provide the necessary capacity to allow these scheme to come forward.

It is clear that this planning application relies upon the MEB being in place to provide access to the site, as access to the west using Cledford Lane is not possible for HGV's due to the railway bridge. The policy relation to LPS44 indicates that a contribution to the MEB would be required, the level of contribution to deliver the necessary funding for the MEB has been derived using the existing contributions secured and also the potential future contributions from other development sites. The financial contribution for this application is £53/sqm floorspace.

Following a successful business case submission and with government support, the council has now further developed the Middlewich Eastern Bypass scheme to the next level of detail, and it is necessary to increase the overall scheme budget to allow for potential additional costs. These relate to an increased allowance for the procedure to support the acquisition of land, an increase in cost estimates from statutory undertakers for the diversion of their services and an increase in the overall scheme risk allowance. Also, in view of the present uncertain economic climate, the scheme estimate now includes an increased allowance for inflation.

Subject to the conditions being attached to secure the access improvements and also a S106 contribution as indicated above there are no highway objections raised to the application.

Ecology:

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

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

Statutory Non-designated sites

The application falls within Natural England's SSSI impact risk zones associated with Sandbach Flashes SSSI. Natural England have therefore been consulted.

The Environmental Statement submitted in support of this applicant identifies a temporary adverse effect on Sandbach Flashes SSSI resulting from dust pollution occurring during the construction phase in the absence of mitigation. The production of a Construction Environmental Management Plan (CEMP) is proposed by the ES as a means of mitigating this risk.

If outline planning consent is granted it is recommended that the submission of a CEMP submitted with any future reserved matters application be secured by condition.

Cledford Lane Lime Beds Local Wildlife Site (LWS)

This non-statutory site is located 0.4km from the application site. The Environmental Statement submitted in support of this applicant identifies a permanent adverse effect on the LWS resulting from dust pollution/surface water run off occurring during the construction phase in the absence of mitigation.

Again the production of a Construction Environmental Management Plan (CEMP) is proposed by the ES as a means of mitigating this risk. If consent is granted this matter may be dealt with by means of a condition.

Great Crested Newts

Great Crested newts were recorded at a number of ponds on site. In the absence of mitigation the proposed development will result in a High magnitude adverse impact on the population present on site as a result of the loss of ponds and terrestrial habitat used by this species, and the risk of animals being killed or injured during the construction phase.

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

EC Habitats Directive

Conservation of Habitats and Species Regulations 2017

ODPM Circular 06/2005

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

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

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

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

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

Overriding Public Interest

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

Alternatives

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

- No Development on the Site

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

The applicant has indicated an intention to enter the development into Natural England's Great Crested Newt District Licencing (DLL) Scheme. It is advised that in the event that planning permission was granted this would be sufficient to ensure that the favourable conservation status of the species would be maintained.

If outline consent was granted a condition would be required to ensure that each reserved matters application be supported by evidence that the development has been accepted onto the Natural England licencing scheme in principal.

Common Toad

This priority species was recoded at a number of ponds located off-site. It is advised that the proposed development would have a low magnitude adverse impact upon this species as a result of the loss of sub-optimal terrestrial habitat. Four new ponds on-site ponds are proposed as part of the development. It is advised that these would be beneficial for this species by providing additional breeding habitat. However it is likely that the consented Middlewich Eastern by-pass would isolate any new ponds on site from ponds in the broader countryside.

The submitted ES also includes proposals for the implementation of measures to minimise impacts on amphibians during the construction phase. If planning consent is granted the implementation of these can be secured by condition.

Lesser Silver Diving Beetle

Preliminary surveys have been undertaken for this protected species. A pond on site has been identified as offering potential suitable habitat for this species and the submitted report recommends that further survey of this pond are undertaken in Spring 2021. It is understood that these further surveys are in hand.

It is advised that for the Council to make an informed assessment of the potential impacts of the proposed development upon this protected species a report of the further survey must be submitted prior to the determination of the application. It is likely that compensation in the form of a number of replacement ponds will be required for this species in any event.

Bats

No bat roosts were identified on site during the survey completed to inform this application.

The submitted ES identifies a Minor adverse impact upon bats resulting from lighting associated with the proposed development. It is advised that the effects of lighting would be unlikely to be sufficient to amount to an offence under the habitat Regs, but would still adversely affect the usage of the site by this species group.

It is therefore recommended that if planning permission is granted a condition should be attached requiring any lighting to be agreed with the LPA.

Water courses

The ES advises that the development of this site would require two crossings over Sanderson Brook and the diversion of a tributary of the brook. In the absence of mitigation, the development of the site may also result in an adverse impact on the brook downstream as a result of pollution during the construction phase.

Direct impacts resulting from the loss of habitat associated with the diversion of the tributary are discussed below in relation to biodiversity net gain.

If planning outline consent is it must be ensured that the brook crossings are designed appropriately to ensure that ecological connectivity along the brook is maintained and that the diverted watercourse is also designed to maximise its ecological value. These matters may be dealt with by means of planning conditions.

Hedgerows

Native hedgerows are a priority habitat. The ES anticipates that 1.24km of hedgerow would be lost as a result of the proposed development with a corresponding loss of biodiversity. The submitted ES recommends that at least 1.74km of hedgerow is planted to compensate for this loss and deliver an overall gain in respect of this habitat.

It is advised that if outline consent is granted the loss of hedgerow must be minimised at the detailed design stage and any unavoidable losses of hedgerow adequately compensated for. This may be dealt with by means of a suitable worded planning condition in the event that consent is granted.

Woodland

Small areas of woodland located near the existing ponds would be lost as a result of the proposed development. 1.05ha of tree planting is proposed to compensate for this loss. The loss of this habitat and the replacement planting provided is considered as part of the biodiversity net gain calculation discussed below.

Ponds

The proposed development is anticipated to result in the loss of 11 ponds, (6 of which are considered to be priority habitat) with a corresponding loss of biodiversity. It is advised that this is a significant adverse impact.

Four ponds are proposed to be created offsite as compensation for the loss of potential lesser silver diving beetle (subject to further survey), ponds would also be created at an offsite location as part of the District Licencing process for great crested newts. Finally, an additional further four ponds are proposed on-site.

It is advised that this is adequate compensation to address the loss of ponds resulting from the proposed development. A condition would be required to secure the details of the proposed on-site ponds. It must be ensured that these do not form part of the SUDS scheme. Confirmation is however required in respect of the location of the proposed off-site ponds.

Birds

The application site supports a number of breeding bird species, a number of which are considered to be a priority for nature conservation. The proposed development is likely to result

in an adverse impact on breeding birds significant at the local level as a result of the loss of ponds, scrub, hedgerows and trees. A similar level of impact is anticipated in respect of wintering birds.

It is advised that it must be ensured that adequate habitat creation is delivered as part of the development to address this loss. This can be assessed by the biodiversity metric discussed below.

Otter and Water Vole

No confirmed evidence of water vole presence was recorded. It is advised that water voles are not reasonable likely to be present or affected by the proposed development.

A potential otter spraint was recorded during the surveys, whilst not conclusive evidence of the presence of this species, otters are known to occur in this locality as their presence was recorded during surveys undertaken to inform the Middlewich Eastern Bypass project. No features suitable for use by otters as holts were recorded on site and so the proposed development is not likely to result in an offence in respect of otters. As discussed in respect of the water courses on site it must be ensured that the brook crossings on site do not present a barrier to the movement of wildlife including otters.

If planning consent is granted a condition must be attached requiring an updated otter survey to be submitted with any future reserved matters application.

Badgers

Badgers were recorded as being active on site. No setts were however present. It is advised that the proposed development would be likely to result in a localised adverse impact on badgers as a result of the loss of suitable foraging habitat and an increased risk of road traffic collisions.

The retention of corridors of green space and habitat around the site would partly mitigate the effect of habitat lost. The precise impacts of the development on badgers would however depend upon the level of badger activity taking place on site and the layout proposed at the reserved matters stage. The construction of the adjacent bypass is however likely to isolate this site from the surrounding countryside. A condition requiring an updated badger survey with any future reserved matters application is required.

Grass snake

Reptiles were scoped out of the EIA as most of the habitats on site are not suitable for this species and the majority of suitable habitat along the river corridor would be retained.

Grass snakes are however known to be present in this broad locality, but likely to be thinly distributed. The diversion of the tributary may result in the loss of habitat for this species and the development of the site may pose the risk of killing any animals present on site when the works are undertaken.

To reduce the risk of grass snake being killed or injured during the construction phase I recommend that if outline consent is granted a condition be attached which requires the submission and implementation of a reptile mitigation method statement.

Hedgehog

The ES states that this priority species is known to occur in the broad locality of the application site, but was not recorded on site during the submitted surveys. It is advised that it is likely that this species may occur on site on a transitory basis. The proposed amphibian mitigation measures would reduce the risk of hedgehog being killed or injured during the development. The loss of habitat for this species should be offset through habitat creation delivered as part of the development as assessed in the Biodiversity net gain section.

Biodiversity Net Gain

In order to quantify the overall losses and gains of biodiversity resulting from the proposed development the applicant has submitted a Biodiversity Metric calculation. The metric, as submitted, shows the proposed development resulting in 23.28 biodiversity units (a loss of 30.40%). I have provided informal comments to the applicant's ecological consultant on the metric and the metric has been revised slightly to show a loss of 23.32 units (30.43%).

Cheshire Wildlife Trust are likely to provide consultation comments on the metric which may lead to further revisions being made. It is however clear at this stage that significant additional habitat creation at an off-site location would be required to ensure that the proposed development results in a net gain for biodiversity. It is therefore advised that the applicant must submit a strategy detailing how Biodiversity Net Gain would be achieved prior to the determination of this application. A section 106 agreement will be required to ensure the implementation of any strategy agreed.

A habitat creation method statement, 30 habitat management plan and ecological monitoring strategy will be required for both on and off-site habitat creation proposals. This can be secured by condition/section 106 agreement.

The proposed development will result in the loss habitat associated with the diversion of the existing tributary on site. The metric assesses the loss of habitat associated with running water separately to habitats in general. So losses of this habitat type are not included in the losses described above. The submitted metric anticipates the proposed development would result in the loss biodiversity associated with running water even if the diverted stream is designed to deliver habitats of a high standard. It is unlikely to be feasible to deliver any further habitats on-site associated with running water and securing a suitable off-site location for the enhancement of running water habitats may be difficult. It is therefore advised that the proposed development is likely to result in a residual loss of biodiversity in respect of this habitat type.

If outline planning consent is granted a condition should however be attached which requires the detailed design of the diverted tributary to be submitted with the relevant reserved matters application. The design must seek to deliver the maximum biodiversity benefits.

This planning application provides an opportunity to incorporate features to increase the biodiversity value of the final development in accordance with Local Plan Policy SE 3.

If planning permission is granted a condition should be attached which requires the submission of an ecological enhancement strategy.

With regards to the Strategy detailing how Biodiversity Net Gain would be achieved, the applicant has submitted this, and comments are awaited from the Council's Ecologist, and will be reported in any Update Report.

Water course and hydrology/flooding

Members may recall that the Environment Agency raised a number of issues with a similar application on a site to the north off Pochin Way also adjacent to a water course. Here however this is an outline application and no specific details for modifications to the main water course are made, and the Environment Agency have not raised any objections in principle to the proposals. However, they have recommended that conditions be applied to any approval granted to ensure this is looked at in more detail at any reserved matters stage.

Impact on Trees/Hedgerows

At the time of writing the report, no comments had been received from the Council's Tree Officer, and they will need to be reported in any Update Report. That said, there are only a limited number of trees on the site, and few of any significant size/prominence so it is not anticipated there will be any significant issues. The loss of hedgerows is largely addressed in the ecology section above.

Landscaping

As part of the submission a Landscape and Visual Impact Assessment has been submitted, this indicates that it has been undertaken using the methodology and guidance offered in the Guidelines for Landscape and Visual Impact assessment, Third Edition 2013 (GLVIA3), under the auspices of the Landscape Institute (LI) and Institute of Environmental Management and assessment (IEMA).

The assessment identifies the baseline conditions, that the application site is located within Natural England's National Character Area NCA61 – Shropshire, Cheshire and Staffordshire Plain. The assessment also identifies that more locally the landscape is defined in the Cheshire East Landscape Character Assessment -2018, as being within the urban area of Middlewich, but in close proximity to the Cheshire East Plain LCT7 and specifically ELP5: Wimboldsley. The assessment identifies that the site is generally flat which fields of pasture, groups of trees, waterbodies and Sanderson's Brook, as well as FP20 Middlewich which runs east to west through the central part of the site.

To the north and west of the site are commercial and industrial land uses. The eastern boundary is characterised by pastoral land some settlement, this boundary will change with the Middlewich Eastern Bypass, which will be located approximately 3m above the existing ground levels.

The assessment identifies that the residual permanent landscape impacts will remain after mitigation since there will be a change from the current pastoral landscape to one with an employment use and buildings with ridge heights between 12m and 26m. It should be noted that the site is allocated under Strategic Sites -LPS44 – Midpoint 18 Middlewich. The assessment identifies that this is a landscape of low sensitivity and that the magnitude of change will be high and that there will be a long term and permanent moderate adverse effect.

The visual assessment identifies a number of different options, for 1a and 1b it identifies that the magnitude of change on FP20 which runs across the site will be high and major adverse and that for FP19 – Sproston and FP4 Dane Valley Way that the magnitude of change will be medium and visual impacts will be moderate adverse. The assessment also identifies a number of residential receptors, identifying a medium magnitude of change and moderate adverse effects.

For option 2 the assessment identifies a high magnitude of change for FP20 and a moderate to major adverse effect. For FPs 19 and 4 a medium magnitude of change and minor adverse effect and for residential receptors a medium to high magnitude of change and moderate adverse effect.

While mitigation is addressed it must be noted that this is an outline application and this will be dealt with as a reserved matters application. The submission includes Landscape Strategy proposals (Fig 7.8), but generally the landscape strategy appears to be areas of green space within the development parameters, a stand of native woodland and associated mounding towards the south eastern part of the site, trees and scrub; pollinator friendly neutral grassland along the western boundary along with tracts of scrub and ponds and along the northern boundary blocks of shrub and scattered tree planting and woodland planting, this doesn't appear to be reflected adequately on the Landscape Strategy Plan – Fig 7.8.

The Council's Landscape Officer broadly agrees with the submitted LVIA, the proposals are outline and future development of the proposals will need to follow a masterplan led approach. Policy LPS44: Midpoint 18, Middlewich states that future development should safeguard the River Croco and other watercourses and deliver significant ecological mitigation areas for protected species and habitats on site. The submitted Landscape Strategy proposals (Fig 7.8) are limited in extent and offer very limited scope for addressing mitigation proposals outlined in the LVIA, with minimal opportunities for any significant mitigation along the northern Cledford Lane boundary, along the eastern MEB boundary and along the Sanderson's Brook corridor through the central part of the site. The extent of the site outside the Proposed Built Areas Parameters would almost certainly result in very insignificant and limited mitigation. Very careful consideration will need to be given to ongoing plan development for the site if the proposals are to comply with policies SE1 – Design and Policy SE4 – The Landscape and Policy LPS44 of the Cheshire East local Plan Strategy.

Building design

As an outline application no details of building design have been submitted but would need to be submitted as part of any reserved matters submission. The illustrative masterplan gives an indication of building sizes that could come forward, and whilst these vary from relatively modest sizes to very sizable structures, each would have to be considered on its merits at any reserved matters stage.

Amenity

The proposed site is in a relatively isolated location, however as noted in the description above, there are 2 residential properties on Cledford Lane adjacent to the site. The other occupiers in the vicinity of the site are all commercial in nature being manufacturing or warehousing uses.

Environmental Protection recommend a series of Informatives to cover the construction phase of the development.

Noise

Environmental Protection raise no objections on noise grounds, and it needs to be noted that the applicant is proposing a landscaped buffer between the adjacent houses and any commercial uses. The details would of course need to be dealt with as part of any reserved matters application.

Lighting

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

Air Quality

This proposal is an outline application for a new employment development. Air quality impacts have been considered within the air quality assessment submitted in support of the application.

The report considers whether the development will result in increased exposure to airborne pollutants, particularly as a result of additional traffic and changes to traffic flows. The assessment uses ADMS Roads to model NO₂ and PM₁₀ impacts from additional traffic associated with this development and the cumulative impact of committed development within the area.

A number of modelled scenarios have been considered within the assessment. These were:

- 2019 - Verification;
- Opening year Do-Minimum (DM) (predicted traffic flows in 2035 should the proposed development not proceed); and,
- Opening year Do-Something (DS) (predicted traffic flows in 2035 should the proposed development be completed).

The assessment concludes that the impact of the future development on the chosen receptors will be not significant with regards to all the modelled pollutants. However, the proposed development is considered significant in that it is highly likely to change traffic patterns and congestion in the area, albeit some of this traffic will use the planned Middlewich bypass which should offset some of this impact.

Middlewich has two Air Quality Management Areas, and as such the cumulative impact of developments in the area is likely to make the situation worse, unless managed.

Poor air quality is detrimental to the health and wellbeing of the public and also has a negative impact on the quality of life for sensitive individuals. It is therefore considered appropriate that mitigation should be sought in the form of direct measures to reduce the adverse air quality impact.

A development of this scale and duration would be expected to have an adequate demolition, construction and track out dust control plan implemented to protect sensitive receptors from impacts during this stage of the proposal and this is mentioned within the assessment as a form of mitigation.

Should, on balance, the application be recommended for approval, it is considered that conditions relating to Electric Vehicle Infrastructure and low emission boilers are necessary to ensure that local air quality is not adversely impacted for existing and future residents:

Contaminated Land

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

- This site is within 250m of a known landfill site or area of ground that has the potential to create gas.
- A Phase I Preliminary Risk Assessment has been submitted in support of the planning application (Report Ref: C1466/EAJ/DOR/jt/20210005, Shepherd Gilmour Infrastructure Ltd., January 2021).
 - o The report has identified some potential contaminant linkages which require further assessment. A Phase II ground investigation has been recommended, to include investigation of the area of the former Edgefield Farm, potentially infilled ponds and the off site landfill.

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

Public Right of Way

The proposed development would have a direct and significant effect on the Public Right of Way, which constitutes “a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered” (Defra Rights of Way Circular (1/09), Guidance for Local Authorities, Version 2, October 2009, para 7.2).

It should be noted that “any alternative alignment [of a Public Right of Way] should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic” (Defra Rights of Way Circular (1/09), Guidance for Local Authorities, Version 2, October 2009, para 7.8).

The proposals outline a diversion for part of Middlewich FP 20 to run within a 20 metre zone to the south of Sanderson Brook avoiding any potential flooding issues and maintaining a green corridor for the footpath. It is noted that at some points the path appears to run close to the built areas to the south and we would advise that for the purposes of a formal diversion order a green buffer to both sides of the path of at least 2 metres will be required. Appropriate crossing points would be required where the diverted path is dissected by access roads. As stated, the

diversion proposal would be required to dovetail with the diversion of the same path for the Middlewich Eastern Bypass scheme.

It is indicated that a temporary closure of the path will be required during a period of construction. There is a cost associated with this and the PROW team would require at least 6 weeks' notice of a closure being required. An alternative route through the site must be provided for the extent of the closure. Please note that we can only provide closures for a period of six months in the first instance and any extensions to that require approval for the Secretary of State with a separate application and cost procedure.

There is reference to other tracks and informal paths permeating the site. The applicant should be aware that if any of these routes has acquired public use without let or hindrance over a period of twenty years or more then they may be subject to being claimed as public rights of way. This would represent an additional constraint to the development.

A condition requiring a Public Rights of Way scheme of management is recommended.

Other Matters

Whilst not objecting, The Brine Compensation Board have raised some questions of the applicant's submission, to which the applicant has now replied. Any further comments from the Brine Board will need to be reported in any Update Report.

Conclusions

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

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

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

The Environment Agency have raised no objections, subject to conditions, and comments from the Council's flood risk team will need to be reported in any update report.

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

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

SECTION 106

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

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

Highways have calculated a figure of £53 Sq.m is now applicable.

In addition a Section 106 agreement will be required to ensure the implementation of a strategy detailing how Biodiversity Net Gain would be achieved. The terms of this will be confirmed in any Update Report but it is likely to comprise of an option to provide mitigation on/off site, or a financial contribution to off-set the impact.

CIL REGULATIONS

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

RECOMMENDATION

Approve subject to a Section 106 Agreement comprising:

| Section 106 | Amount | Triggers |
|--------------------|---|-----------------|
| Highways | £53 per sq m subject to a Review mechanism | TBC |
| Ecology | TBC | TBC |

and subject to the following conditions;

- 1. Outline timescales**
- 2. Outline matters reserved**
- 3. Approved plans/documents**
- 4. Materials**
- 5. Landscaping**
- 6. Landscape maintenance**
- 7. Arboricultural Impact Assessment**
- 8. Tree Retention/Protection**
- 9. Levels**
- 10. Electric vehicle infrastructure**
- 11. Ultra Low Emission Boiler(s)**
- 12. Importation of soils**
- 13. Contaminated land assessment (Phase II)**
- 14. Contaminated land verification report**
- 15. Measures to deal with unexpected contamination**
- 16. Foul and surface water on separate systems**

17. **Scheme to demonstrate flood resilience**
18. **Details of a sustainable surface water drainage scheme and a foul water drainage scheme**
19. **Any future reserved matters application to be supported by updated protected species surveys for badger and otter. If any evidence of these species is recorded detailed mitigation and compensation measures to be submitted.**
20. **Reserved matters application to be supported by amphibian Reasonable Avoidance Measures informed by paragraphs 9.113 – 9.117 of the ES submitted with the outline application and a reptile mitigation method statement.**
21. **Habitat creation method statement, 30 year habitat management plan and ecological monitoring strategy to ensure delivery of Biodiversity net gain proposals(once agreed) are implemented. Including method statement for the control of non-native invasive plant species. A legal agreement will be required in respect of off-site habitat creation works Ecological mitigation measures**
22. **Detailed design of Sanderson's Brook crossings, which ensure that ecological connectivity is maintained along the brook are to be submitted with the relevant reserved matters application(s).**
23. **Submission of detailed design of any diverted watercourse with the relevant reserved matters application. Detailed design to maximise the biodiversity value of the water course.**
24. **Any unavoidable loss of hedgerow to be compensated for through the provision of an appropriate level of compensatory native hedgerow planting. The level of compensation planting provided to be assessed by means of the Defra biodiversity metric calculation with each reserved matters application.**
25. **Submission of bat friendly lighting scheme with each reserved matters application.**
26. **Submission of CEMP (including proposals to minimise dust, surface water pollution, accidental spillage/debris, construction phase light spill on features used by bats and the provision of wheel washing facilities) with each reserved matters application.**
27. **Detailed designs for 4 replacement ponds are to be submitted with the relevant reserved matters application. The ponds to be delivered in accordance with the agreed designs and must not form part of the SUDS for the development.**
28. **Each reserved matters application to be supported by evidence that the development proposed has been accepted onto the Natural England district licencing scheme for great crested newts**
29. **PROW Management scheme**
30. **No commencement of development prior to the completion of the MEB.**
31. **The access works to Cledford Lane as indicated in DWG 3147-F01 Rev A to be constructed to prior to occupation of the development.**
32. **10% Renewable energy**
33. **Archaeology**

Informatives

- **NPPF**
- **Hours of working**
- **Pile foundations**
- **Dust management**
- **Floor floating**
- **EPA**

- **Land drainage Act**
- **PROW**
- **Cadent gas advisory**

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

