

Application No: 21/4191C

Location: Phase 4a Midpoint 18, HOLMES CHAPEL ROAD, MIDDLEWICH

Proposal: Full planning application proposing the erection of a single sided employment building (Use Class B8, B2 and Ancillary E(g)) with associated landscaping, drainage and infrastructure

Applicant: Magnitude Land LLP

Expiry Date: 03-Nov-2021

SUMMARY

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

This is one of two applications on this agenda for alternative commercial proposals, but essentially similar schemes.

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 the Great Crested Newt License will be provided prior to the meeting.

Whilst no comments have been received from the Flood Risk Team, the Environment Agency, the main authority in this case, have raised no objections subject to conditions.

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

Recommendation

Approve subject to a Section 106 Agreement and conditions.

DESCRIPTION OF SITE AND CONTEXT

This application relates to an irregularly shaped piece of land, 6.71 hectares in area with boundaries to the approved Middlewich Eastern Bypass (MEB) to the east; to an area of low-lying land and watercourse to the north; to an existing commercial development to the west,

and finally to a recently approved commercial development to the south, which would share the same access point. The site falls entirely within Cheshire East but is close to the Cheshire West boundary.

The site consists of much of an existing field, and a small part of another field to the south, separated by a hedgerow and pond. There are trees, and/or hedgerows to all boundaries, but the most notable trees are to the north. As noted above, a watercourse, the River Croco, runs to the north of the site boundary, and the site is separated from the adjacent warehouse by a smaller unnamed watercourse on the western side.

Whilst there are no public footpaths within the site, one runs parallel to the eastern boundary roughly north-south following the Cheshire East/West boundary, and a further footpath crosses the site access on the ERF Way frontage.

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

The western and northern parts of the site fall within flood-zones of the adjacent water courses.

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 seeks full permission for the erection of a single sided employment building (Use Class B8, B2 and Ancillary E(g)) with associated landscaping, drainage and infrastructure.

The development consists of a warehousing unit measuring some 22,785 sqm Gross External Area (GEA) – which includes a security gatehouse (24 sqm), and first and second floor office accommodation (650 sqm for each floor). The main building would have a maximum ridge height of 23m and measure 200m x 105m.

The building is typical of other buildings in the vicinity and those recently approved, using different coloured cladding panels in both horizontal and vertical forms to break up the outline of the building. The office area faces the site frontage and uses areas of glazing to mark this point and highlight the building entrance. The roof would be a series of curved features.

The site would consist of the main building running parallel to the MEB and the main car-parking/loading areas being to the north and west, with a smaller area to the south. A band of planting would be provided along the boundaries to the west, north and east, with an attenuation basin to the north. A gatehouse would be sited to the south-west corner of the site, adjacent to the site access, which as described above would be shared with the approved development to the south.

The application site has been amended from that originally submitted, with an area of the site on the south-eastern boundary removed from the site edged red. This area contains a pond, which is now to be retained as part of the adjacent site and not removed as originally proposed. The original plan included a proposal for a “potential energy centre” on the layout plan, but this

is no longer included. The remaining layout including parking etc remains unchanged, and the area of landscaping would be increased in the area left over.

RELEVANT HISTORY

18/5833C Proposed two-way single carriageway road scheme to bypass Middlewich and referred to as the 'Middlewich Eastern Bypass', together with associated highway and landscaping works. Land at Pochin Way, Middlewich – Approved 19-Jul-2019

Immediately to the south of the site is a recent planning approval;

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 Ma6nitide, Off ERF Way, Middlewich – Approved 6 April 2021

In addition, close to the site on the far side of ERF Way is another approval for a similar development:

17/5116C Erection of 2 no. employment buildings (Use Classes B2 and B8) including a security gatehouse, vehicle access off Pochin Way and ERF Way and associated car parking, trailer parking and landscaping. Plot 1A, Ma6nitide 160, Midpoint 18, Pochin Way, Middlewich. Approved 18-Sep-2018

Finally, also on this agenda is an application on the same site for a similar but different form of employment development:

21/4194C Full planning application proposing the erection of a cross docked employment building (Use Class B8, B2 and Ancillary E(g)) with associated landscaping, drainage and infrastructure. - Phase 4a Midpoint 18, Holmes Chapel Road, 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. 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 within 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.

VIEWS OF THE PARISH / TOWN COUNCIL

Middlewich Town Council: No comments received

CONSULTATION RESPONSES – External to Planning

Environment Agency: No objections, but recommend a condition which requires:

- Built development to be restricted to Flood Zones 1 & 2 only
- Finished floor levels to be set to 31.27metres AOD (above Ordinance Datum)
- Flood resilience construction & materials shall exist up to 31.4m AOD
- Discharge of surface water into watercourses limited to greenfield rates

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

The proposed development is within the vicinity of Sandbach Flashes SSSI. Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified. Advisories are included within their comments.

United Utilities: No objections are raised, but 3 conditions are recommended, relating to surface water drainage, requiring foul and surface water to be drained on separate systems and requiring a sustainable drainage management and drainage plan.

Cheshire Brine Subsidence Compensation Board – They write:

“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. In addition, a past claim for damage due to subsidence from brine pumping have been filed and accepted for 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. The Cheshire Salt Search (ref: GS-7405626, dated 6th January 2021) is absent from the report and should be submitted. With the report, SGi suggest that the underlying 45m 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 between 1960 to 2005. Furthermore, the report does not offer a foundation solution to site, only states that a raft foundation is not required. CBSCB does not agree with this conclusion and a raft would be required for the Site.”

The applicant has responded to these questions and submitted a further report which concludes there are no geological constraints on the site, however it recommends the Brine Board are consulted on the foundation design. No reply has been received from the Brine Board, but it is considered that this can be conditioned.

Cadent & National Grid: No comments received to this application, but on the adjacent site they raised no objections, but wanted to draw attention to the High-Pressure Gas Pipeline –

Feeder, running to the east of the site, and if there was to be any works in the vicinity of that asset then works would need to be agreed in advance.

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

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

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

Flood Risk: No comments received. Members will be updated if comments are received in advance of the committee meeting.

Public Rights of Way: No comments received

OTHER REPRESENTATIONS

None received.

OFFICER APPRAISAL

Principle of Development

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

Highway Safety / Access / Parking

Under policy LPS 44 it states that development shall make:

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

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

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

Access

The site is accessed from an extension to the access road that serves the 4B site and this access connects directly with ERF Way.

Development Traffic impact

The scope of assessment was agreed with the applicant that focused on two main junctions where capacity problems would likely occur on the road network. The junctions assessed are Pochin Way/A54/Centurion Way roundabout and also the A54/Leadsmithy Street signal junction.

The traffic impact has been based using B2 trip rates as these are higher than B8 rates and represents the worse-case in terms of impact on the road network. The capacity assessments have been undertaken in both the AM and PM peaks on the network and will likely generate 75 trips am and 63 trips pm. Clearly, the site will generate substantially more movements during the 24hr period but it is the peak hour impact that requires assessment.

There have been a number of approved developments on Midpoint 18 and the traffic from these developments have been included in the assessments, although the sites that rely on the MEB for access have been excluded.

The roundabout junction of Pochin Way/A54/Centurion Way has been modelled by the applicant and indicates that it will operate within capacity in 2026 with development included. This junction has been modelled as part of other applications and the results of this capacity assessment does compare well with other independent assessments and indicates that the junction will operate within capacity.

The signal junction of A54/Leadsmithy Street in Middlewich has for some time had high levels of congestion and long queues, an improvement scheme is planned for this junction but has not currently been implemented. A capacity assessment has been undertaken by the applicant at this junction assuming that an improvement scheme is in place and would therefore work satisfactory.

The construction of the MEB has been shown to significantly improve congestion levels by redistributing through traffic away from the A54/Leadsmithy Street junction and as such requires contributions from Midpoint 18 for its delivery. A policy requirement of LPS 44 (which includes this site) requires a financial contribution to the MEB.

Accessibility

The site is linked to the footpath network, there are footways on both side of ERF Way and also Pochin Way has two footways. There are pedestrian facilities to the town centre from Pochin Way and the site can be accessed by pedestrians from Middlewich. Pedestrian and cycle facilities will also be provided as part of the MEB scheme.

The nearest available public transport is in Middlewich which is some 2.6km distance from the site and there is no rail station in Middlewich. It is expected that the majority of trips to this employment site will be vehicle based although trips can be made by walking and cycling and there are cycling parking facilities provided within the site.

Car Parking

The car parking provision is 241 car parking spaces that includes 7 accessible spaces, there are 58 HGV trailer spaces provided within the site. No specific details on staff numbers have been submitted but it is suggested that there would be 1 employee per 77 sqm resulting in 288 employees. It is likely that staff will work shift patterns and that not all employees will be on site at any one time. The car parking provision is below current CEC standards for B2/B8 development although the applicant has parking accumulation assessments based upon Trics data that indicates that the amount of parking provision 205 car parking spaces is well in excess of the likely parking demand resulting from a B2/B8 use.

Summary

The site access is an extension to approved access to phase 4B and 1B which is suitable design to accommodate HGV and light vehicles. The access links to ERF Way/Pochin Way which are existing established highways to access the Midpoint 18 development.

The site is accessible by pedestrians and cyclists from the existing road network.

The level of parking is considered acceptable for a B2/B8 use as proposed.

The results of the capacity assessments undertaken shows that the Pochin Way/A54/Centurion Way roundabout junction will operate within capacity in 2026 with some spare capacity. The operation of this roundabout as standalone junction is not the major concern of the Highway Authority, it is existing congestion in Middlewich especially at the Leadsmithy Street/Kinderton St signal junction that has long traffic queues that needs to be addressed.

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

The construction of the MEB would link Pochin Way with the A533 and will provide much improved access to Midpoint 18 and also will reduce traffic congestion levels in Middlewich. Policy LPS 44 of the CEC Local Plan has indicated that contributions to the MEB will be required as part of development on the Midpoint 18 site. The level of contributions have been calculated from the likely amount of developable floorspace within the Midpoint 18 site allocations and in regard to this particular application a contribution is currently being discussed with the applicant.

In summary, this is an allocated employment site within Midpoint 18 and subject to a S106 contribution there are no objections to the application.

Ecology:

Designated sites

The application site falls within Natural England's SSSI impact risk zones. It is noted that Natural England have been consulted and raised no objections to the application.

Great Crested Newts

The most recent surveys of the ponds on site specifically for Great Crested Newts did not record any evidence of this species. Presence of this species was however confirmed during the Lesser Silver Diving Beetle surveys of the ponds on and adjacent to the site.

It is advised that the proposed development is likely to result in a significant adverse impact upon this species as a result of the loss of suitable habitat and the risk of animals being killed 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.

In order to address the impacts of the proposed development on this species the applicant has expressed an intention to enter the development into Natural England's District Level licencing scheme for the species.

It is advised that entry of the development into the licencing scheme would be sufficient to maintain the favourable conservation status of the species. The applicant must however submit a copy of the countersigned agreement with Natural England as evidence that the development is eligible to join the licencing scheme prior to the determination of the application.

This process is in hand and it is hoped that the signed agreement will be submitted shortly.

Kingfisher, Otter and Water Vole

No evidence of these species was recorded during the submitted surveys. Otters are however known to be present in this broader location and so are likely to occur on the water course adjacent to the application site on occasion. Based on the current status of these species the proposed development is however unlikely to result in a significant adverse impact on these species.

The proposed development involves the construction of an outfall to the adjacent watercourse, this could potentially result in an adverse impact on these species if they colonised the site after the grant of planning permission. It is therefore advised that if planning consent is granted a condition should be attached requiring updated surveys to be completed prior to the commencement of development.

The submitted Ecological Assessment recommends a CEMP is produced to manage pollution and contamination of the watercourse during the construction phase. It is recommended that the CEMP also includes the retention and fencing-off of an 8m undeveloped buffer adjacent to the watercourse. This matter may be dealt with by means of a condition if planning consent is granted.

Common Toad

This priority species, which is a material consideration for planning, has previously been recorded at 'Pond 2' on site. The proposed development would result in the loss of this pond and the loss of an area of low value terrestrial habitats for this species. It is advised that this loss would result in an adverse impact upon this species.

The submitted ecological assessment includes recommendations for reasonable avoidance measures to reduce the risk of toads being killed or injured during the construction phase.

The creation of an off-site pond is also proposed as compensation for the loss of the existing pond on site. This pond would be delivered at the same location as the off-site habitat creation works required to deliver Biodiversity net Gain (as discussed below). A legal agreement will be required to secure the delivery of the off-site pond in the event that planning permission was granted.

Bats

No evidence of roosting bats was recorded during the surveys submitted with the application. Bats are however active on site. Most activity was recorded along the stream corridor on the site boundary and around the ponds. The proposed development would therefore result in a localised adverse impact on foraging bats as a result of the loss of habitat. The proposed offsite pond creation would potentially provide some compensation for this loss.

The lighting of the application has the potential to have an adverse impact upon foraging and commuting bats. The application is supported by a lighting scheme. The currently proposed scheme would result in light spill of greater than 1 lux on the retained watercourse corridor and new planting adjacent to the consented Middlewich bypass.

In order to avoid an adverse impact upon foraging and commuting bats it is advised that the proposed lighting scheme must be revised to ensure that no light spill of greater than 1 lux falls upon retained or newly created woodlands, hedgerows, boundary trees or the adjacent watercourse.

If a revised lighting scheme has not been received at the time of determination it is recommended that a condition be attached as a means of reducing the potential adverse impact of the lighting of this site:

Lesser Silver Diving Beetle and Ponds

This priority/protected species is present at Pond 1 on site that is located just outside the revised red line of the application. It is advised that whilst this pond would be retained, the change of land use in the vicinity of the pond and potential changes to the ponds hydrology resulting from the development, would result in a significant adverse impact upon this species which is a material consideration for planning. The pond supporting this species would also be regarded as a priority habitat and hence a material consideration in its own right.

The applicant's ecologist has suggested that a management plan be submitted to maintain the retained ponds suitability for this species as a means of reducing the potential impacts of the proposed development upon this species.

It is recommended that if planning consent is granted a condition be attached to safeguard the pond.

Badger

No evidence of badger was recorded during the submitted survey. However, as badgers can excavate new setts within a short time scale, It is recommended that if consent is granted a condition be attached which requires the submission of an updated badger survey prior to the commencement of development.

Grass snake

This priority species is known to occur in this broad location. The majority of habitat on site is of low value for this species; however, the species may utilise the stream corridor on the site boundary. The submitted Ecological report recommends the implementation of reasonable avoidance measures (in appendix 7) to minimise the risk to grass snakes.

As with Common Toad a condition would be required to secure the implementation of these measures in the event that planning consent was granted.

Hedgerows

Native hedgerows are a priority habitat and hence a material consideration. The proposed development would result in the loss of a length of existing hedgerow.

Compensatory planting is proposed as part of the submitted landscaping scheme. It is advised that in the event that the loss of the existing hedgerow is considered unavoidable the proposed planting is sufficient to compensate for that lost and to deliver a minor gain for hedgerow biodiversity.

Nesting birds

The habitats on site are likely to provide opportunities for a number of species of breeding birds potentially including priority species which are a material consideration for planning. The loss of habitats from the site would potentially result in an adverse impact upon nesting birds, only partially mitigated through the provision of replacement hedgerow planting on site.

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

Biodiversity Net gain

Local Plan Policy SE 3(5) requires all developments to aim to positively contribute to the conservation of biodiversity. In order to assess the impacts of the proposed development the applicant has submitted an assessment undertaken using the Defra biodiversity offsetting 'metric' version 2 methodology.

For the most part, the Council's Ecologist agrees with the submitted metric. The ponds on site have however been entered as non-priority habitat. This is incorrect as the ponds support protected/priority species as so must be considered as priority habitat. This does not however alter the result of the metric.

The metric calculation as submitted shows that the proposed development would result in a net loss of biodiversity amounting to -7.89 units.

In order to address the loss of biodiversity the applicant is proposing habitat creation at a nearby off-site location sufficient to provide a 3.61% net gain. Outline proposals have been submitted for the habitat creation and management required and a suitable illustrative location identified.

If planning consent is granted a legal agreement will be required to secure the following in relation to the offsite habitat creation area:

- Confirmation of the location of the required off-site habitat creation
- Submission and implementation of Habitat Creation Method Statement for the delivery of 8.45 biodiversity units. Including the provision of an additional wildlife pond.
- Submission and implementation of 30 year habitat management and ecological reporting strategy.

Habitat creation is also proposed on site that contributes to reducing the net loss of biodiversity. If planning consent is granted a condition would be required to secure the submission of a Habitat Creation Method Statement and 30 year Habitat Management and

ecological monitoring plan for the on-site habitat creation. The management plan should include proposals for the control of Himalayan Balsam on site.

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.

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

This condition can be avoided if proposals are submitted prior to the determination of the application.

Water course and hydrology/flooding

Members may recall this was a significant issue with the development to the south, as the area is low lying and there were concerns about potential flooding and proposed modifications to the water courses in that case.

Whilst no comments have been received from the Council's flood Risk Team, the Environment Agency – who are the lead authority as the River Croco is designated as a "Main River", have raised no objections – subject to a condition as detailed above. As such there are no objections in this regard.

Impact on Trees

The application has been supported by an Arboricultural Impact Assessment (AIA) and Method Statement by Tyler Grange (13319_R04b_JJ_HM). The report considers all trees on the site and provides recommendations for two development options on the area within allocated site LPS44 of the Cheshire East Local Plan.

The AIA has identified a total of 13 individual and 8 groups of trees and 6 hedgerows which comprise of 6 individual and 1 group of moderate quality B Category trees, with all other trees and hedgerows classified as low-quality C Category.

Both Scheme layouts propose the same tree removals to accommodate each proposal comprising of 2 individual and 1 group of moderate quality B Category trees (T1, T3 and G1) and 1 low quality C Cat tree (T2) and 2 sections of hedgerow equating to a total of 182 linear metres. While regrettable and if unavoidable, the extent of replacement tree planting and new hedgerows proposed within the landscape scheme is considered to adequately mitigate for the losses.

The scheme as indicated within Phase 4A does not therefore present any significant arboricultural impacts and it has been demonstrated that all other trees and hedgerows can be successfully retained subject to compliance with the tree protection and construction methodologies proposed. Conditions are recommended.

Landscaping

The application site covers an area of approximately 6.71 hectares within the area LPS44 - Midpoint 18 strategic employment allocation, now identified as Ma6nitude. The site is currently two fields divided by a hedgerow with a pond in the northern part of the site and the River Croco to the north.

A Landscape and Visual Impact assessment has been submitted as part of the submission. The LVIA indicates that it has been undertaken following the methodology set out in the third edition of Guidelines for Landscape and Visual Impact assessment (GLVIA3). The LVIA indicates that the site has low sensitivity and that there will be some adverse and some minor landscape impacts. It also identifies that a number of sensitive residential properties will experience adverse effects, and that users of some footpaths will also experience some moderate effects.

The Council's Landscape architect broadly agrees with the conclusions of the submitted LVIA and that the proposals are consistent with the existing pattern, scale and grain of land use nearby. As such no objections are raised to the proposals.

Amenity

The proposed site is on the edge of a commercial area, with the nearest residential property – Kinderton Lodge Farmhouse, being more than 450m away, and significantly on the far side of the MEB. Environmental Protection recommend a series of Informatives to cover the construction phase of the development.

Noise

In support of the application, the applicant has submitted an acoustic report ref 50-015-R2-4 dated July 2021.

The Noise Impact Assessment (NIA) relates to the proposed site layout is detailed at appendix III of the NIA and corresponds to the applicants Planning Layout. Any amendments to the planning layout must comply with the NIA or the NIA maybe required to be reviewed accordingly.

The impact of the noise from HGV movements, loading and unloading of vehicles on the proposed development has been assessed in accordance with:

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

An agreed methodology for the assessment of the noise source.

The report recommends that no noise mitigation measures are required to achieve BS8233: 2014 and WHO guidelines; to ensure that occupants of nearby properties are not adversely affected by noise from HGV activity, loading and unloading

The reports methodology, conclusion and recommendations are accepted.

Lighting

Impacts in relation to ecology are set out above, and it is considered that will address any general amenity issues at the same time.

Air Quality

This is a proposal for a new employment building and is part of a simultaneous application by the developer for a similar scheme covered by application no. 21/4194C. It should be noted that only one of these schemes will be completed. Air quality impacts of both schemes 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;
- Future year Do-Minimum (DM) (predicted traffic flows in 2035 should the proposals not proceed);
- Scheme 1 Opening year Do-Something (DS) (predicted traffic flows in 2035 should the Scheme 1 development be completed);
- Scheme 2 Opening year DS (predicted traffic flows in 2035 should the Scheme 2 development be completed).

The assessment concludes that the impact of the future development on the chosen receptors will be not significant with regards to NO₂ and PM₁₀ concentrations. None of the receptors are predicted to experience greater than a 1% increase.

That being said there is a need for the Local Planning Authority to consider the cumulative impact of a large number of developments in a particular area.

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. The report also states that the developer should implement an adequate construction dust control plan to protect sensitive receptors from impacts during this stage of the proposal.

Therefore, Environmental Protection would recommend a condition relating to ultra-low emission boilers be attached to any decision notice.

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 agricultural use and therefore the land may be contaminated.

- A Phase I Geoenvironmental Site Assessment has been submitted in support of the planning application.
 - o No significant potential sources of contamination have been identified within the report. A ground investigation has been recommended however, should any adverse ground conditions be encountered during these works or during development works, all work in that area should cease and we should be contacted for advice.
 - o A brief report outlining the findings during these works, if any, should be provided prior to first occupation/use of the development.

- Should any soil be imported to site for use in areas of landscaping, this should be demonstrated to be chemically suitable for its proposed use in line with our Developer's Guide, in the absence of any other agreement for the site.

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

Whilst no comments have been received from the Rights of Way Team, as noted above there are no PROW's directly affected by the proposed development. As noted on the application to the south, Middlewich Field Footpath 19 runs along the western and southern boundaries of that site – which shares the access, utilizing ERF Way for a short stretch before crossing fields to the south. Whilst the footpath would not be directly impacted by the development, the proposed site access would cut across the footpath (where it runs along the highway) and as such a condition was considered necessary to ensure the works are managed to ensure minimum impact on the PROW. This however is dealt with on the other application, and a condition is not considered appropriate here.

Conclusions

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

This is one of two applications on this agenda for alternative commercial proposals, but essentially similar schemes.

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 the Great Crested Newt License will be provided prior to the meeting.

Whilst no comments have been received from the Flood Risk Team, the Environment Agency, the main authority in this case, have raised no objections subject to conditions.

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

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 not indicated a figure in their comments and discussions remain ongoing over the final figure due to further assessment of the floorspace likely to come forward. Members may recall that on the most recent application for similar development on land south of Cledford Lane (21/1065C) a contribution of £53/sqm floorspace was requested and it is anticipated the figure will be at least this amount. This should be provided prior to the signing of the contract for the MEB.

In addition, there is a requirement for ecological mitigation prior to commencement requiring the following:

- Secure the delivery of the off-site pond
- Confirmation of the location of the required off-site habitat creation
- Submission and implementation of Habitat Creation Method Statement for the delivery of 8.45 biodiversity units. Including the provision of an additional wildlife pond.
- Submission and implementation of 30 year habitat management and ecological reporting strategy.

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 to secure:

Heads of Terms	Amount	Trigger
Contribution to the MEB	TBC (At least £53/sqm)	On signing of contract for the MEB
Ecological Mitigation		Prior to occupation

and subject to the following conditions;

1. 3 Year start date
2. Approved plans/documents
3. Materials
4. Landscape maintenance
5. Tree Retention
6. Tree protection and construction measures
7. Noise mitigation
8. Ultra-Low Emission Boiler(s)
9. Importation of soils
10. Measures to deal with unexpected contamination
11. Foul and surface water on separate systems
12. Environment Agency condition
13. Development to be entered into Natural England's District level licencing scheme (once signed agreement has been received).
14. Updated badger, water vole, kingfisher and Otter survey prior to commencement.
15. Submission and implementation of CEMP for safeguarding of adjacent brook during construction process including safeguarding of undeveloped 8m buffer.
16. Implementation of avoidance measures to minimise impacts on toads and reptiles.
17. Lighting condition.
18. Lesser silver diving beetle mitigation and management strategy.
19. Safeguarding of nesting birds
20. Habitat creation and management plan for on-site biodiversity delivery.
21. Incorporation of biodiversity features (bird boxes etc.)
22. Brine Board foundation design

Informatives

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

In the event of any changes being needed to the wording of the Board'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 Chair or Vice Chair of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Board's decision.

1. Newt license
2. Update surveys
3. CEMP for brook
4. Avoidance measures
5. Lighting
6. Diving beetles
7. Nesting
8. Habitat creation
9. Biodiversity features

