

Strategic Planning Board

Agenda

Date: Wednesday, 30th August, 2017
Time: 10.30 am
Venue: The Capesthorne Room - Town Hall, Macclesfield SK10 1EA

Please note that members of the public are requested to check the Council's website the week the Strategic Planning Board meeting is due to take place as Officers produce updates for some or all of the applications prior to the commencement of the meeting and after the agenda has been published.

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and in the report.

It should be noted that Part 1 items of Cheshire East Council decision making and Overview and Scrutiny meetings are audio recorded and the recordings will be uploaded to the Council's website.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

To receive any apologies for absence.

2. **Declarations of Interest/Pre Determination**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests and for Members to declare if they have a pre-determination in respect of any item on the agenda.

3. **Minutes of the Previous Two Meetings** (Pages 5 - 14)

To approve the minutes of the meetings held on 24 July 2017 and 2 August 2017 as a correct record.

Please Contact: Sarah Baxter on 01270 686462
E-Mail: sarah.baxter@cheshireeast.gov.uk with any apologies or request for further information
Speakingatplanning@cheshireeast.gov.uk to arrange to speak at the meeting

4. **Public Speaking**

A total period of 5 minutes is allocated for each of the planning applications for the following:

- Ward Councillors who are not members of the Strategic Planning Board
- The relevant Town/Parish Council

A period of 3 minutes is allocated for each of the planning applications for the following individuals/groups:

- Members who are not members of the Strategic Planning Board and are not the Ward Member
- Objectors
- Supporters
- Applicants

5. **17/1874M Land east of Congleton Road, Macclesfield: Demolition of existing structures and redevelopment of site including up to 950 homes; a one form entry primary school (use class D1), retail development (use class A1) of up to 4000sqm; employment floorspace comprising offices (use class B1a) of up to 500sqm and warehousing (use class B8) up to 10,000 sqm or relocation of existing demolition / reclamation yard operational facilities (sui generis); associated landscaping, roads and related works - outline application, all matters reserved except site accesses from Congleton Road, Moss Lane and Moss Lane/Star Lane for Engine of the North Ltd and TG Ltd (Pages 15 - 52)**

To consider the above application.

6. **16/3298W Eaton Hall Quarry, Manchester Road, Eaton, Congleton, Cheshire CW12 2LU: Application to extend Eaton Hall Quarry to the North and East of the existing permitted extraction area to the North of School Lane for Mr G Fyles, Tarmac Trading Ltd (Pages 53 - 80)**

To consider the above application.

7. **16/3282W Eaton Hall Quarry, Manchester Road, Eaton, Congleton, Cheshire CW12 2LU: Application to vary planning permission 5/APP/2004/0012 under section 73 of the Town and Country Planning Act 1990 (as amended) to develop land without compliance to conditions for Mr G Fyles, Tarmac Trading Ltd (Pages 81 - 102)**

To consider the above application.

8. **Land Off Warmingham Lane, Middlewich, Cheshire: Update following the resolution to approve application 15/5840C - Outline planning permission for up to 235 residential dwellings (including up to 30% affordable housing), introduction of structural planting and landscaping, informal public open space, and children's play area, 0.22ha for a community facility (use class D1 or D2), surface water flood mitigation and attenuation, vehicular access point from Warmingham Lane and associated ancillary works. All matters to be reserved with the exception of the main site access. (Pages 103 - 108)**

To consider a report providing further information and clarification about phasing of contributions to the Middlewich Eastern Bypass and provision of education and affordable housing contributions.

THERE ARE NO PART 2 ITEMS

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Strategic Planning Board**
held on Monday, 24th July, 2017 at The Assembly Room - Town Hall,
Macclesfield SK10 1EA

PRESENT

Councillor G Merry (Chairman)
Councillor J Hammond (Vice-Chairman)

Councillors S Edgar (Substitute), T Fox, D Hough, J Macrae, S Pochin,
J Rhodes (Substitute), B Roberts (Substitute), M Sewart, G M Walton
(Substitute) and M Warren (Substitute)

OFFICERS IN ATTENDANCE

Ms S Dillon (Planning Lawyer), Mr A Fisher (Head of Planning (Strategy)), Mr
S Hannaby (Director of Planning & Sustainable Development) and Mr J
Owens (Development Planning Manager)

23 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors B Burkhill, S
Hogben, J Jackson, L Smetham and L Wardlaw.

24 DECLARATIONS OF INTEREST/PRE DETERMINATION

Prior to Members declaring their interests, the Chairman read out a
statement which stated that:

It was noted, for the record, that Members have those interests in property
within Cheshire East as are recorded on the register of interests.

It was noted for the record that Members may:-

- a) be a Member of a Town or Parish Council
- b) be a School Governor
- c) be a member of an external organisation or amenity group such as the
National Trust or The Ramblers Association.
- d) have previously been involved in or expressed a view on the
preparation of the Local Plan
- e) be a Director of a Council owned company or have been appointed by
the Council to a role in an external organisation

f) be involved in decisions about land in their role as a Member of the Council or in any of the “wider public life” roles that Members routinely undertake.

Notwithstanding that this may be the case in respect of any Members that were present, and save for any specific declarations which were invited, a standing declaration was given on behalf of those Members present that:-

1. They do not have a Disclosable Pecuniary or Non-Pecuniary Interest in the local plan strategy; and,
2. they approach the debate and vote on the local plan strategy with an open mind.

Members were invited if they did in fact consider themselves to have a disclosable pecuniary or non-pecuniary interest and/or if they feel they are unable to approach the debate and vote on the local plan with an open mind, to declare that to the meeting: no declarations were made.

25 MINUTES OF THE PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 28 June 2017 be approved as a correct record and signed by the Chairman.

26 PUBLIC SPEAKING

RESOLVED

That the public speaking procedure be noted.

27 CHESHIRE EAST LOCAL PLAN

Consideration was given to the Cheshire East Local Plan.

Members made a number of comments and sought clarification in relation to issues around green gap policies, affordable housing numbers, saved former Borough policies, boundary classification, changes to the scheme of delegation, flexibility on changing site allocation uses, uses on employment sites, the distribution of development in Local Service Centres and Other Settlements and Rural Areas, the role of Supplementary Planning Guidance and where it fits in with the Local Plan, fall back plan if allocated sites remain undeveloped, parking standards and safer routes to schools.

RESOLVED

That Council be recommended to adopt the Local Plan Strategy, as submitted to the Secretary of State on 20th May 2014, subject to the inclusion of:

- (i) the Main Modifications recommended by the Inspector necessary to make the Plan sound (Appendix 1c);
- (ii) the schedule of Additional Modifications (Appendix 2).

Councillor T Fox requested a named vote for this application.

The voting was as follows:-

In Favour	Against	Abstentions
Councillor G Merry	Councillor T Fox	Councillor J Rhodes
Councillor J Hammond	Councillor M Sewart	Councillor B Roberts
Councillor S Edgar		
Councillor D Hough		
Councillor J Macrae		
Councillor S Pochin		
Councillor G Walton		
Councillor M Warren		

The meeting commenced at 10.30 am and concluded at 12.22 pm

Councillor G Merry (Chairman)

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Strategic Planning Board**
held on Wednesday, 2nd August, 2017 at Council Chamber, Municipal
Buildings, Earle Street, Crewe CW1 2BJ

PRESENT

Councillor G Merry (Chairman)
Councillor J Hammond (Vice-Chairman)

Councillors B Burkhill, T Fox, S Hogben, D Hough, J Jackson, J Macrae,
S Pochin, M Sewart, L Smetham and L Wardlaw

OFFICERS IN ATTENDANCE

Ms S Dillon (Senior Lawyer), Mr D Evans (Principal Planning Officer), Mr P
Hurdus (Highways Development Manager), Mr D Malcolm (Head of Planning
(Regulation)) and Ms S Orrell (Principal Planning Officer)

28 APOLOGIES FOR ABSENCE

None.

29 DECLARATIONS OF INTEREST/PRE DETERMINATION

None.

30 PUBLIC SPEAKING

RESOLVED

That the public speaking procedure be noted.

31 15/5840C-OUTLINE PLANNING PERMISSION FOR UP TO 235 RESIDENTIAL DWELLINGS (INCLUDING UP TO 30% AFFORDABLE HOUSING), INTRODUCTION OF STRUCTURAL PLANTING AND LANDSCAPING, INFORMAL PUBLIC OPEN SPACE, AND CHILDREN'S PLAY AREA, 0.22HA FOR A COMMUNITY FACILITY (USE CLASS D1 OR D2), SURFACE WATER FLOOD MITIGATION AND ATTENUATION, VEHICULAR ACCESS POINT FROM WARMINGHAM LANE AND ASSOCIATED ANCILLARY WORKS. ALL MATTERS TO BE RESERVED WITH THE EXCEPTION OF THE MAIN SITE ACCESS, LAND OFF WARMINGHAM LANE, MIDDLEWICH, CHESHIRE FOR GLADMAN DEVELOPMENTS

Consideration was given to the above application.

(Parish Councillor Alan Holder, representing Moston Parish Council and Kate
Fitzgerald, representing the applicant attended the meeting and spoke in respect

of the application. In addition a statement was read out on behalf of Councillor B Walmsley, the Ward Councillor).

RESOLVED

That for the reasons set out in the report and in the written and verbal update to Board, the application be approved, subject to the completion of a Section 106 Agreement securing the following :-

- Management Company to maintain all open space in perpetuity (including, inter alia, the NEAP, woodland, general amenity open space, village green, nature conservation area, drainage areas, ponds and any other areas of incidental open space not within private gardens or the adopted highway).
- 10% Affordable Housing
- Funding for the TROs necessary on Warmingham Lane/Travel Plan Co-ordinator (£5000)
- Contribution of £1,223,645 towards the provision of the Middlewich Eastern Relief Road with a phased contribution.
- Should the Middlewich Eastern Bypass not come forward within a reasonable time frame the money be spent on either affordable housing and/or education provision.

A report providing further information and clarification on this would be brought back to the next meeting.

And the following conditions:-

1. Standard Outline
2. Submission of Reserved Matters
3. Time limit for submission of reserved matters
4. Prior to the submission of any reserved matter application a detailed masterplan and design code shall be submitted to the LPA for approval in writing
5. The framework plan is not approved as the spatial parameters of the scheme other than establishing the overall coverage of the site with green infrastructure
6. No development shall commence until a mitigation scheme for protecting the proposed dwellings from traffic noise has been submitted to and approved by the Local Planning Authority; all works which form part of the scheme shall be completed before any of the dwellings are occupied.
7. The developer shall agree with the LPA an Environmental and Construction Management Plan (EMP) with respect to the construction phase of the development. The EMP shall identify all potential dust sources and outline suitable mitigation/ pile driving methods and hours of pile driving . The plan shall be implemented and enforced throughout the construction phase.
8. Prior to the commencement of development a Phase I Contaminated Land Risk Assessment shall be submitted to the LPA for approval in writing.
9. The development hereby permitted shall not be commenced until such time as; a scheme to limit the surface water run-off generated by the proposed development, has been submitted to and approved in writing by the local planning authority.

10. detailed design and associated management and maintenance plan of surface water drainage to accommodate (1 in 30 & 1 in 100 (+30% allowance for Climate Change)) & any temporary storage facilities included
11. existing and proposed levels, inc FFL to be approved by Flood Risk
12. Electric vehicle charging
13. NEAP (Min 8 pieces of equipment in min 1000 m sq area) with 30m interface to adj property - details to be provided as part of 1st reserved matters
14. Reserved matters to have updated protected species assessment and detailed mitigation strategy.
15. Raft Foundations
16. Reserved matters application to be supported by an up to date tree survey, Arboricultural Impact Assessment and Arboricultural Method Statement prepared in accordance with BS 5837:2012 Guidelines.
17. Travel planning that includes provision of suitable bus shelters, provision of public transport vouchers to each household to the value of a 3 x 4-weekly Arriva travel cards on first occupation of each dwelling, and provision of one £200 cycle voucher per dwelling to be used as discount against cycle purchase.
18. Residential travel packs
19. The access to the site and associated traffic calming measures along Warmingham Lane shall be constructed in accordance with drawing no. 1279/25. implemented prior to first occupation and maintained for the life of the development.
20. Reserved matters application to provide for the retention and protection of hedgerows.
21. Reserved matters to include scheme to link site with adjoining developments
22. Phasing of development to form part of 1st reserved matters
23. Superfast broadband provision
24. Hedgehog Gaps
25. 10 Year habitat Management Plan
26. Fabric first approach to energy efficiency
27. Development /and or Each phase to incorporate a mix of units of -
1 bed and/or 2 bed dwellings – between 10% and 30% of the number of dwellings
3 bed dwellings – between 20% and 40% of the number of dwellings
4 bed and/or 5 bed dwellings –between 20% and 40% of the number of dwellings
Or in accordance with mix agreed in writing by the LPA
28. Requirement to inform LPA if unexpected contamination found
29. Reserved matters to provide details of bin and bike stores

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 (Regulation) 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 Board's decision.

32 17/2751N-OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT TO INCLUDE DETAILS OF ACCESS (REVISED APPLICATION INCORPORATING REVISED HIGHWAY

IMPROVEMENTS), LAND SOUTH OF, NANTWICH ROAD, WRENBURY FOR SITEPLAN UK LLP

Consideration was given to the above application.

(Parish Councillor David Craig, representing Wrenbury-cum-Frith Parish Council and David Edwards, an objector attended the meeting and spoke in respect of the application).

RESOLVED

That the application be refused for the following reasons:-

1. The proposed development would be unable to provide a safe and suitable access to and from Nantwich Road and into the village of Wrenbury. This would result in a severe and unacceptable impact in terms of road safety. The development is therefore contrary to Policies SD1 (Sustainable Development in Cheshire East) and SD2 (Sustainable Development Principles) of the Cheshire East Local Plan Strategy and Policy BE.3 (Access and Parking) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and paragraph 32 of the National Planning Policy Framework and the technical guidance within Manual for Streets, which states that decisions should take account of whether safe and suitable access to the site can be achieved for all people, respectively.

2. The proposed residential development is unsustainable because it is located within the Open Countryside contrary to Policies PG6 (Open Countryside), SD1 (Sustainable Development in Cheshire East) and SD2 (Sustainable Development Principles) of the Cheshire East Local Plan Strategy and Policy RES.5 (Housing in the Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan, and the principles of the National Planning Policy Framework, which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use.

3. The proposed development including the hedgerow loss as part of the proposed highways works would have some adverse impact upon the visual character and openness of the landscape/countryside. As such the proposed development is contrary to Policies PG6 (Open Countryside), SD1 (Sustainable Development in Cheshire East), SD2 (Sustainable Development Principles), SE3 (Biodiversity and Geodiversity), SE4 (The Landscape) and SE5 (Trees, Hedgerows and Woodland) of the Cheshire East Local Plan Strategy and Policy NE.5 (Nature Conservation and Habitats) of the Borough of Crewe and Nantwich Replacement Local Plan, and the principles of the National Planning Policy Framework.

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

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

1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:

- The numbers, type, tenure and location on the site of the affordable housing provision
- The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
- The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved
- The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

2. Provision of Public Open Space and a NEAP (8 pieces of equipment) to be maintained by a private management company

3. Secondary School Education Contribution of £212,455 and a SEN Contribution of £45,500

In Accordance with Section 100B (4)(b) of the Local Government Act 1972, the Chairman of the Board agreed to allow consideration of the following item as a matter of urgency due to an impending Planning Appeal Inquiry the following week and the need for a speedy decision.

33 ITEM OF URGENT BUSINESS-15/4888N - WHITE MOSS QUARRY, BUTTERTON LANE, BARTHOMLEY, CW1 5UJ

Consideration was given to the above report.

RESOLVED

That mitigation of the traffic and transportation impacts of the Development

- at the A5077 Crewe Road/Sandbach Road/Lawton Road (Bank Corner) junction including carriageway widening,

- the introduction to additional lanes on Lawton Road and Sandbach Road south arms of the junction,

- linking the traffic signal junction on Crewe Road with the B5077 Crewe Road/Sandbach Road/Lawton Road (Bank Corner) junction to assist traffic flow and

- removal of the existing pedestrian crossing between the B5077 Crewe Road/Sandbach Road/Lawton Road (Bank Corner) and ASDA junctions

be secured by a financial contribution of £372,000, rather than by a s278 Highways Agreement for Works, and that, in the event of the appeal being allowed, the Head of Planning (Regulation) be instructed to agree a s106 Agreement in the following terms

1. A scheme for the provision of 30% affordable housing 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include: -

The numbers, type, tenure and location on the site of the affordable housing provision –

The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing –

The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved –

The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and –

The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

2. Secondary school education contribution of £964,218.71

3. SEN education contribution of £227,500

4. Primary school education contribution £802,625.46

5. Travel Plan Monitoring sum of £5,000.

6. PROW Contribution of £15,000 towards 12, 37 and 49 in the parish of Haslington.

7. POS, NEAP and LAPS provision and a scheme of management to be maintained in perpetuity

8. A scheme for the restoration and a scheme of management to be maintained 50 years for the area of lowland raised bog.

9. £372,000 to be spent on works for mitigating the traffic and transportation

The meeting commenced at 10.30 am and concluded at 1.05 pm

Councillor G Merry (Chairman)

Application No: 17/1874M

Location: Land east of Congleton Road, MACCLESFIELD

Proposal: Demolition of existing structures and redevelopment of site including up to 950 homes; a one form entry primary school (use class D1), retail development (use class A1) of up to 4000sqm; employment floorspace comprising offices (use class B1a) of up to 500sqm and warehousing (use class B8) up to 10,000 sqm or relocation of existing demolition / reclamation yard operational facilities (sui generis); associated landscaping, roads and related works - outline application, all matters reserved except site accesses from Congleton Road, Moss Lane and Moss Lane/Star Lane.

Applicant: Engine of the North Ltd and TG Ltd

Expiry Date: 30-Aug-2017

SUMMARY:

The development is in accordance with the site specific newly adopted CE Local Plan Strategy and would deliver 950 houses, a primary school, retail and employment development together with areas of open space and significant infrastructure improvements/contributions.

The proposal would satisfy the economic and social sustainability roles by providing for much needed housing adjoining an existing settlement where there is existing infrastructure and amenities. A viability assessment has been carried which states that the proposal can deliver 10% affordable housing, contributions to education and highways improvements. In addition, the scheme would also provide appropriate levels of public open space both for existing and future residents.

The development would provide for a one form entry primary school, and addresses issues of drainage, highways, trees, residential amenity, noise, air quality and contaminated land. Landscaping could be secured at the reserved matters stage.

A balance needs to be struck to ensure existing habitats are safeguarded with creation, retention and restoration where possible to offset certain losses.

Subject to conditions and receipt of a revised plan, the proposal is considered to be acceptable in terms of its impact upon highway safety, amenity, flood risk, drainage, landscape and ecology.

The scheme represents a sustainable form of development and the planning balance weighs in favour of supporting the development in accordance with the development plan subject to a Section 111/106 legal agreement and conditions.

RECOMMENDATION:

Approve subject to the completion of a Section 111/106 Agreement

PROPOSAL

The application proposes the demolition of existing structures and redevelopment of site including:

- up to 950 homes;
- a one form entry primary school (use class D1),
- retail development (use class A1) of up to 4000sqm;
- employment floorspace comprising offices (use class B1a) of up to 500sqm and warehousing (use class B8) up to 10,000 sqm or relocation of existing demolition / reclamation yard operational facilities (sui generis);
- associated landscaping, roads and related works.

The application is in outline form with all matters reserved except the site accesses from Congleton Road, Moss Lane and Moss Lane/Star Lane.

The application is supported by an Environmental Assessment, and supported by a number of documents including an illustrative masterplan and various parameter plans.

The application covers the whole of the Local Plan Allocation LPS13. Some Members may recall an application (14/0282M) made in 2014 for the western half of the site which included the erection of up to 220 dwellings, retail development, replacement sports pitches / facilities with the main vehicular access to be provided directly off Congleton Road,

This larger application comprises two separate redline areas. Firstly the main body of the site stretching from Congleton Road to Moss Lane at the junction of Star Lane, amounting to 54.65 ha, and secondly a much smaller area (0.40 ha) for highway improvements at the junction of Moss Lane and London Road.

The application includes the full link road between Congleton Road and London Road using part of the existing Moss Lane at the eastern end of the link road. A new roundabout will be provided on Congleton Road and a new traffic signal junction is proposed with London Road. A new road link to Moss Lane is also proposed as a mini roundabout at the existing bend near to Stamford Close. There are a number of other new roundabouts along the route of the link road to provide access to both the residential and employment areas.

SITE DESCRIPTION

The site is located approximately 2 miles to the south of Macclesfield Town Centre, and forms a sizable area amounting to 55.05 hectares between Congleton Road and the main railway line running south from the town. The majority of the site consists of extensive areas of grassland, scrub and woodland of varying ages, with the trees being concentrated in linear blocks following footpaths and boundaries of former "peat rooms", and running along the southern boundary of the site. To the eastern boundary, off Turf Lane is an unattractive area

consisting of various scrap yards and extensive areas of fly-tipping. In the south western corner of the site is an area of playing fields with a small car park and changing room block accessed off Congleton Road.

As stated above the site boundary is formed by Congleton Road to the west and the railway line to the east, in addition the site is bounded by a mix of uses off Moss Lane to the north and Danes Moss, with its waste recycling centre/landfill site off Congleton Road to the south.

Adjacent neighbouring uses include one and two storey residential properties on Congleton Road (A536) and a range of residential properties, including recent (and current) new residential development off Moss Lane. In addition there are some commercial uses south of Moss Lane including Cheshire Demolition and Henshaws. Lyme Green Business and Retail Park lies to the east of the railway line.

RELEVANT HISTORY

There are numerous applications on and immediately adjacent to the site, but the following are considered to be most relevant (of some scale) to this application:

01/0076P - Mixed use development comprising: employment (B1/B2/B8), retail (A1), restaurant (A3), hotel (C1), nursery school (D1), trade counters, distributor road, railway bridge, car parking, children's play area, landscaping and associated works (outline application) – Refused 05-Nov-2001

01/0077P - Erection of non-food retail warehousing, garden centre, builders yard, mixed employment, (B1/B2/B8), trade counters, restaurants, nursery school, children's play area, car parking, landscaping, demolition of existing pavilion, erection of temporary replacement pavilion, retention of land for sports pitches and associated works (full application for phase 1) – Refused 05-Nov-2001

14/0282M - Demolition of existing structures and redevelopment of site including up to 220 residential units, Class A1 retail store max 7,432.sq.m (80,000 sq.ft) GIA, A class A3-A5 unit, replacement sports pitches/facilities including a new clubhouse, with main vehicular access to be provided directly off Congleton Road. Associated landscaping and other works - outline application, all matters reserved. (Voluntary Environmental Statement submitted) Resolved to be approved subject to s106 agreement.

NATIONAL & LOCAL POLICY

Local Plan:

Cheshire East Local Plan Strategy 2010-2030 July 2017

The following are considered relevant material considerations

- SD 1 Sustainable Development in Cheshire East
- SD 2 Sustainable Development Principles
- SE 1 Design
- SE 2 Efficient Use of Land

SE 3 Biodiversity and Geodiversity
SE 4 The Landscape
SE 5 Trees, Hedgerows and Woodland
SE 9 Energy Efficient Development
SE 12 Pollution, Land Contamination and Land Instability
SE 13 Flood Risk and Water Management
CO 1 Sustainable Travel and Transport
CO 2 Enabling Business Growth Through Transport Infrastructure
CO 4 Travel Plans and Transport Assessments
CS 8 South Macclesfield Development Area
SC 1 Leisure and Recreation
SC 2 Outdoor Sports Facilities
SC 5 Affordable Homes
IN 1 Infrastructure
IN 2 Developer Contributions
PG 1 Overall Development Strategy
PG 2 Settlement Hierarchy
PG 5 Open Countryside
EG 1 Economic Prosperity
EG 5 Town Centres First

Directly relevant to this site is the following allocation for the entire site:

Site LPS 13 South Macclesfield Development Area

The development of the South Macclesfield Development Area over the Local Plan Strategy period will be achieved through:

1. The delivery of around 1,050 dwellings;
2. Provision of:
 - i. Replacement playing fields, Green Infrastructure and open space to offer multi sports and recreational opportunities including a new pavilion / changing rooms;
 - ii. Class A3 / A4 Public house and restaurant;
 - iii. Class A3 / A5 drive-through restaurant or hot food takeaway; and
 - iv. Class D2 Health club / gym facility;
3. Provision of a new Class A1 superstore with a net sales area of up to 5,000 square metres. The majority of the net sales floor-space should be dedicated for convenience goods;
4. Provision of up to 5 hectares employment land and employment related uses;
5. Provision of a new primary school or contributions towards educational facilities;
6. Potential relocation of Macclesfield Town Football Club;
7. Incorporation of Green Infrastructure;
8. Pedestrian and cycle links to new and existing residential areas, shops, schools and health facilities; and
9. On site provision, or where appropriate, relevant contributions towards highways and transport, education, health, open space, community and sports facilities.

Site Specific Principles of Development

- a. Delivery of Link Road between Congleton Road and London Road.

b. Existing trees, water courses and natural habitats are to be retained and enhanced as appropriate.

Local Plan Strategy Sites and Strategic Locations

c. Necessary infrastructure, open space and structural planting to include additional tree planting must be provided.

d. The north / north-east portion of the site is most suitable for residential development. Proposals should take account of the scale, massing and density of the existing adjacent properties and access should be taken from the new link road. Site layouts should preserve the amenity of existing properties.

e. The site is expected to provide affordable housing in line with the policy requirements set out in Policy SC5 (Affordable Homes);

f. Commercial, convenience retail and leisure development will be appropriate on the western end of the site.

g. The south-east part of the site provides an excellent opportunity for the provision of a new stadium facility for Macclesfield Town Football Club. There would also be an opportunity, to the west of the Stadium, to provide training facilities along with car parking which could serve the whole site.

h. The form of development should endeavour to retain, where appropriate, much of the existing tree cover which is present on site – in particular on the southern boundary. Pedestrian and cycle links to existing routes and the proposed parcels of development should be provided, set within greenways which are safe, attractive and comfortable for users.

i. A desk based archaeological assessment is required for the site, with appropriate mitigation being carried out, if required.

j. A detailed site-specific flood risk assessment should be prepared.

k. The retention and/or replacement of the indoor and outdoor sports facilities should be in accordance with the findings of an adopted, up to date and robust needs assessment.

l. The site will be developed only where it can be demonstrated that there is no significant harm on the Danes Moss SSSI, particularly in relation to changes in water levels and quality and recreational pressures. This should include a full assessment of the direct and indirect impacts of the development on the features of special interest. Where impacts cannot be avoided, appropriate mitigation measures will be required to ensure protection of the SSSI.

m. A minimum of a Phase 1 Preliminary Risk Assessment for contaminated land should be carried out to demonstrate that the site is, or could be made, suitable for use should it be found to be contaminated. Further work, including a site investigation, may be required at a pre-planning stage, depending on the nature of the site.

Macclesfield Borough Local Plan

In addition to the now adopted LPS, saved policies of the Macclesfield Borough Local Plan also form part of the development plan. This allocates the land to the south of Moss Lane between Congleton Road and Lyme Green Business Park, for a mix of employment, retail/leisure, housing and open space uses and a new distributor road. The principle of development is fixed in the Borough Local Plan. Issues dealing with the release of the land were debated at the Local Plan Public Inquiry held in 1995. What remains to be fixed are the details of the development.

The relevant Saved Policies are: -

Employment

E4 – General Industrial Development

Environment

NE3 – Protection of Local Landscapes

NE11 – Protection and enhancement of nature conservation interests

NE17 – Nature Conservation in Major Developments

Housing

H9 – Occupation of Affordable Housing

Recreation and Tourism

RT5 – Open Space

RT6 – Allocated for additional Informal Recreational Facilities

RT7 – Recreation / Open Spaces Provision

Development Control

DC3 – Amenity

DC6 – Circulation and Access

DC8 – Landscaping

DC9 – Tree Protection

DC15 – Provision of Facilities

DC17 – Water Resources

DC35 – Materials and Finishes

DC36 – Road Layouts and Circulation

DC37 – Landscaping

DC38 – Space Light and Privacy

DC40 – Children's Play Provision and Amenity Space

DC41 – Infill Housing Development

DC63 – Contaminated Land

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

National Policy:

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

Of particular relevance are paragraphs 14, 23-27 and 47.

In addition, the Development Brief titled, South Macclesfield Development Area: A Brief to Guide the Development of Land between Congleton Road and Lyme Green Business Park, was adopted as Supplementary Planning Guidance in November 1998.

Other Material Considerations

Interim Planning Policy: Release of Housing Land (Feb 2011)

Interim Planning Statement: Affordable Housing (Feb 2011)

Strategic Market Housing Assessment (SHMA)

Conservation of Habitats & Species Regulations 2010

Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System

North West Sustainability Checklist

SPG on Section 106 Agreements (Macclesfield Borough Council)

Ministerial Statement – Planning for Growth (March 2011)

Macclesfield Draft Town Strategy (public consultation undertaken in autumn 2012)

South Macclesfield Development Area – Economic Masterplan and Delivery Plan – November 2011

CONSULTATIONS:

Environment Agency

Whilst they have no objections to the proposals, as they state: “the area has had some previous land uses which may have led to elevated concentrations of contamination that could pose a risk to controlled waters.”

The information submitted in connection with the application is largely generic and based on zones, and as such there is not sufficient information to accurately assess the risks. Because of this they recommend a series of conditions and informatives including:

- submission of a remediation strategy for each zone
- no infiltration into the ground where there are known contamination issues
- piling should not be permitted without the express consent of the LPA
- submission of a verification report for each zone

Network Rail

A number of detailed comments have been received aimed at protecting the integrity and operational requirements of the West Coast Main Line, including in particular requiring the applicant to demonstrate that “de-watering” the site shall not lead to settlement issues. A number of stipulations would need to be reflected in conditions/informatives.

United Utilities

No objections providing conditions relating to foul and surface water being drained on separate systems, and requiring a surface water drainage system to be approved are attached to any approval.

Canal and Rivers Trust

The Trust feel that a legal agreement is necessary to secure a financial contribution towards footpath improvements and access directly related to the development. They feel that there is sufficient policy support for such a contribution to this important piece of blue infrastructure in Macclesfield, which is in need of improvement, and where the use will only increase as a

result of the development. They feel a contribution of £350,000 (£370 per dwelling) is appropriate and would meet the CIL Regulations.

Sport England

They feel there is insufficient information on which to comment and as such have issued a Holding Objection. Sport England have sought clarification on the impact on the existing playing fields and how the development will contribute to their improvement.

Natural England

No objections are raised. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites providing no surface water/foul water discharge into Danes Moss SSSI. However, the application may provide opportunities to enhance/restore priority habitats.

Cheshire Wildlife Trust

They object to the application.

A minimum of 28 hectares of the site would meet the criteria for selection as a Local Wildlife Site and consequently they consider at least 51% of the development site to be a potential LWS. They feel there is some inaccurate information in the Environmental Statement, and:

The proposed mitigation measures as set out in the ES, would fail to reduce the significance of any of the county level impacts. In addition they have concerns about the impact on Danes Moss SSSI, and again do not feel the ES addresses all these matters. For the development to be considered sustainable (in accordance with NPPF definition of sustainable development - paragraph 9) there should be at least a no net loss in biodiversity and ideally a net gain.

They feel that in order to compensate for the loss of habitat, a minimum of 281 units of compensatory habitat restoration or recreation will be required. No compensatory habitat is proposed, and as such they recommend the application be refused.

Highways

No objections are raised to the proposals, subject to agreeing an appropriate phasing plan that results in the link between London Road and Congleton Road being in place early in the development. There are some concerns about the Flower Pot Junction, which has current highways capacity issues, however identified improvements will assist in addressing some of these issues.

Flood Risk

The overall Flood Risk Assessment completed is ok in principle. However, the concern is in relation to existing drainage systems in place. A number of watercourses are listed as 'abandoned', this will need to be clarified. As the site is very challenging in relation to land drainage wise a meeting is recommended before more detailed proposals are worked up. Conditions related to a drainage strategy and Finished floor Levels are recommended.

Environmental Health

Detailed comments have been received in relation to noise, lighting, odours and air quality, and no objections have been received subject to a number of recommended conditions. Issues of contaminated land are still being discussed with the applicant at the time of writing the report and as such will need to be reported to Members in the update report prior to the committee Meeting

Housing

They originally objected to the application. Neither the application form or the Design and Access Statement advise on their being any Affordable Housing to be provided. They did however state that if a validated Viability Report was provided to evidence that a reduction in Affordable Housing can be provided on the development then they would be happy to reconsider the objection.

Following a review of the submitted viability assessment, and its independent assessment which supported the findings they have removed their objection:

A Viability Assessment has been received and verified by an independent party. This assessment states that the site can provide 10% Affordable Housing. This 10% equates to 95 Dwellings. The objection is withdrawn on the understanding that the applicant is to provide the 10% Affordable Housing and that the 95 units will be split to 62 Affordable/Social Rent and 33 Intermediate Tenure. The exact mix of units and location can be detailed at Reserved Matters.

Any requirement would have to be secured via a Section 106 Agreement.

Public Rights of Way

The development will impact on footpath No.1 which links Turf Lane with the bridge over the railway line to the canal beyond, but offers opportunities to improve these linkages providing an all weather surface and better access over the railway to link to sustainable routes beyond.

It is recommended that a condition be applied to require the details of how the PROW is treated and managed at the Reserved Matters Stage, contributions are sought for improvements to access and informatives are suggested to protect the PROW.

Education

950 dwellings is expected to generate:
181 primary children (Less 4 children)
142 secondary children (Less 3 children)
11 SEN children

A primary school site has been identified in which a site for a school is required (at nil cost) as well as the build cost in proportion to the number of children being accommodated. The cost multiplier for new school build is higher than an expansion cost, at £3.2 million. (This is

consistent with our standard approach, for example the new school identified in the Gorsty Hill appeal)

Forecasts show that all the children expected from this development cannot be accommodated within existing infrastructure and a contribution is required to mitigate the impact.

Therefore contributions sought are as follows:

$177 \times £15,238 (£3,200,000 / 210) = £2,697,126$

$139 \times £17,959 \times 0.91 = £2,271,634$

$11 \times £50,000 \times 0.91 = £500,500$

Total Education contribution = £5,469,260

Gawsworth Parish Council

It was RESOLVED to comment that the council would welcome cycle paths linking to Gawsworth and that it had concerns over the height of the three storey buildings and impact of increased traffic on the Gawsworth crossroads.

Sutton Parish Council

Sutton Parish Council have noted this application.

REPRESENTATIONS:

A number of representations have been received from local residents, an agent representing the Grosvenor shopping Centre, and an agent representing Gladman Developments Ltd. Whilst the full comments are available on the website, the main points raised are as follows:

- The application fails to provide for any affordable housing and should as a result be considered contrary to relevant development plan policies. The failure to provide policy compliant affordable housing on this site significantly curtails the capacity of Macclesfield to accommodate its affordable housing needs over the Plan period. The adverse effects caused are considered to
to significantly outweigh the benefits of the application in the planning balance.
- The application fails to provide for a link road between Congleton Road and London Road. The alternative route provided through this application will fail to address traffic issues, is of an insufficient standard to support a wider strategic route, and will result in adverse impacts for residents on and close to Moss Lane.
- Moss Lane should not form part of the strategic highways link.
- The vehicular link to existing housing areas to the north of the Site is contrary to policy and will provide for a rat run to Congleton Road, London Road and the town centre, making use of routes which are unsuitable in supporting large amounts of traffic.
- The proposed development makes use of land for residential development which is considered inappropriate for development, or is sensitive to development.
- The proposed development will over develop the Site, adversely impacting on residential amenity and local biodiversity. Three storey properties are too high.
- With regards to the retail proposals, it is recommended conditions should, for example, (i) restrict occupation to a single food retailer (i.e. a supermarket); (ii) provide clear restrictions

on the amount of comparison goods floor-space allowed; and (iii) restrict the subdivision of the retail unit and the introduction of mezzanine floors to prevent harm to the retail provision in Macclesfield town Centre in line with Local and National policies and guidance.

- Concern about ground stability and contamination.
- Concerns about increase noise and air pollution.
- Loss of privacy/outlook from adjoining properties.
- Loss of amenity land for dog walking etc.

Macclesfield Civic Society whilst broadly welcoming the proposals, are concerned about the nature of the highway proposals for the link onto London Road and the impact on the Moss Lane residents; want to see affordable housing form part of any proposals and want to know what plans are being made to incorporate the FC and other community facilities into the scheme.

APPLICANTS SUBMISSION:

The application is supported by an Environmental Statement (ES) and in addition the following documents have been submitted:

- Supporting Planning Statement
- Design and Access Statement
- Illustrative Masterplan
- Land Use framework
- Density Plan
- Storey Heights Plan
- Outdoor Sport and Play Provision
- Transport Assessment and Travel Plan
- Retail Impact Assessment

These reports can be viewed on the application file.

APPRAISAL

There are three dimensions to sustainable development:- economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

These roles should not be undertaken in isolation, because they are mutually dependent.

Given that the application is submitted in outline, the main issues in the consideration of this application are: -

- The suitability of the site for the proposed mix of uses having regard to matters of principle of development
- Sustainability
- Impact upon nature conservation interests
- Design and impact upon the character of the area
- Landscape impact
- Geo-Environmental and Contaminated Land Assessment
- Impact upon local infrastructure
- Highway safety and Transport Assessment
- Affordable housing
- Deliverability of the SMDA
- EIA

Local Plan Update

On 27th July the Council adopted the Cheshire East Local Plan Strategy. Accordingly the new Local Plan now forms part of the statutory development plan.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “*where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.*” This is the test that legislation prescribes should be employed on planning decision making.

The National Planning Policy Framework, which is the Secretary of State's guidance, also advises Councils as to how planning decisions should be made. The ‘presumption in favour of sustainable development’ at paragraph 14 of the NPPF means:

“approving development proposals that accord with the development plan without delay”

As a consequence where development accords with the adopted Local Plan Strategy the starting point should normally be that it should be approved – and approved promptly.

Councillors will be familiar with the second section of Paragraph 14, namely that:

“where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

– any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or

– specific policies in this Framework indicate development should be Restricted”

With the adoption of the Local Plan, the development plan is clearly not absent. It is also unlikely to be the case that the development plan will be silent or that relevant policies are out-of-date. As a consequence the second limb of the favourable presumption will not apply to overwhelming majority of planning decisions from this point forward (but see further on housing supply below).

That being the case, the appeal Court case of *Barwood Strategic Land II LLP v East Staffordshire Borough Council* has determined that there is no further test to employ in respect of the favourable presumption. The correct test for planning decision taking is that set out in Section 38(6) of the Act.

The Inspector’s Report published on 20 June 2017 signalled the Inspector’s agreement to the plans and policies of the Local Plan Strategy, subject to the modifications consulted on during the spring of 2016 and 2017. On adoption, all of these sites and policies will form part of the Statutory Development plan. In particular sites that were previously within the green belt are removed from that protective designation and will be available for development. Other sites also benefit from the certainty that allocation in the development plan affords. In the light of these new sources of housing supply, The Inspector has now confirmed that on adoption, the Council will be able to demonstrate a 5 year supply of housing land. In his Report he concludes:

“I am satisfied that CEC has undertaken a robust, comprehensive and proportionate assessment of the delivery of its housing land supply, which confirms a future 5-year supply of around 5.3 years”

Given this conclusion from the examining Inspector, the Council now takes the position that it can demonstrate a 5 year supply of housing land. The NPPF requires that the housing land supply position be updated annually. If at some future point a five year supply cannot be demonstrated, then in accordance with paragraph 49 of the NPPF, relevant policies for the supply of housing will not be considered up to date. In those circumstances the second limb of the favourable presumption would then apply for decision takers

Principle of Development

As stated above the site is allocated for the uses proposed by the development under LPS 13 in the newly adopted Local Plan. This is a significant material consideration with this application and in principle, fully supports the development proposed.

Policy E6 of the Macclesfield Borough Local Plan did allocate part of the land for employment uses, but this has been superseded by the newly adopted plan.

In addition, Macclesfield Borough Council also approved a Development Brief for the site, in November 1999, but again this, whilst only a material consideration in any event, has now been superseded by the adopted plan.

SOCIAL SUSTAINABILITY

The first dimension to sustainable development is its social role. In this regard, the proposal will provide up to 950 dwellings, including 10% affordable homes.

Affordable Housing

Viability

The developer has submitted a viability appraisal, which indicates that the development would be deliverable with a 10% provision of affordable housing. On the basis that the viability case put forward has been accepted, then the Housing Strategy Manager raises no objection.

The developer has submitted a viability appraisal, which indicates that the development of with a 30% provision of affordable housing would not be economically viable. Under the provisions of the NPPF economic viability is an important material consideration. Paragraph 173 states:

Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.

The applicant's Financial Viability Assessment has been scrutinised and it is concluded that the proposed development would be deliverable with a reduction in affordable housing to 10%.

As part of a joint application, it is understood that even though the Council is part applicant the required affordable housing still needs to be secured via a Section 106 Agreement.

Public Open Space

The applicant has submitted a plan titled "Public Open Space", showing areas of:

- *Outdoor Playing Space (9.11ha)*
- *Amenity Open Space (3.59ha)*
- *Dedicated Ecology Area (4.85ha)*

The submission addresses the Macclesfield Local Plan Policy RT5, which sets out the POS Standards, and indicates that the policy requirements are met. This can of course be conditioned as part of any approval based on a development of 950 houses.

The dedicated Ecology areas are addressed in the Ecology section of this report.

Comments from ANSA on the level of provision and its indicative provision across the site are awaited, and will be reported in the update report to Members. Albeit as this is an outline application and the details will be dealt with at reserved matters.

Education

The emerging Local Plan Policy LS 13 requires:

"Provision of a new primary school or contributions towards educational facilities".

A Primary school is clearly proposed as part of the development, in the centre of the site. In addition to the site, Education colleagues have requested a contribution towards of £2,697,126 towards the new school. In addition forecasts show that all the children expected from this development cannot be accommodated within existing infrastructure and a contribution is required to mitigate the impact. This includes £2,271,634 towards secondary and £500,500 for special education need. A total education contribution £5,469,260 has therefore been requested.

As indicated below, given the viability of the site this request will need to be balanced against other contributions.

Retail Impact

This was a significant issue with the previous application as the quantum of development was significantly larger, that application proposed a 7,432sq.m. superstore and a 465sq.m. A3-5 unit. This application proposes 4000 sqm of A1 retail, which is described as:

“It is anticipated that the proposed floorspace will be used as a neighbourhood supermarket and associated local retail facilities.”

The Local Plan policy allocates part of the site for retail stating:

“Provision of a new Class A1 superstore with a net sales area of up to 5,000 square metres. The majority of the net sales floor-space should be dedicated for convenience goods;”

The proposal clearly is below that threshold and conditioned appropriately would meet the policy requirements.

Even though the application is in accordance with the development plan, it was not adopted at the time the application was made, and in accordance with NPPF requirements a retail impact assessment was been submitted as the application proposes over 2,500 sqm of out of centre retail development and (in accordance of para 24 of the NPPF) the assessment includes:

- Impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and,
- The impact of the proposal on Town Centre vitality and viability, including local consumer choice and trade in the Town Centre and wider area, up to five years from the time the application is made.

The applicants sequential test concludes that:

“there are no sites in sequentially preferable locations that would be capable of suitably accommodating the proposed development within a reasonable period of time even taking into account a significant degree of flexibility applied.”

Looking at the impact of investment, and in particular the ASK Churchill Street proposals and the expansion and refurbishment plans for the Grosvenor Centre, the applicant concludes the proposed development will have no impact on planned or committed investment in Macclesfield Town Centre.

Looking at the impact on trade and turnover they again conclude that:

“the proposed development will not have a significantly adverse impact upon Macclesfield Town Centre or any other nearby centre.”

The NPPF at para. 24 & 26 reference the need for a sequential test and impact test where applications are:

“not in accordance with an up-to-date Local Plan”.

When the application was made clearly the allocation was a proposal. It is now adopted and therefore the proposal is in accordance with an up-to-date Local Plan. Add to that planning permission was minded to approve for a larger retail proposal in 2014, and there has been little change in the Macclesfield area since, it is considered that the assessment meets the NPPF requirements and is sufficiently robust to conclude that the proposals meet the policy requirements and there will be no significant adverse impact on retail in Macclesfield or the surrounding area.

ENVIRONMENTAL SUSTAINABILITY

Residential Amenity

As an outline application with all matters reserved (save access), residential separation distances cannot be properly assessed, although the testing layouts submitted with the application indicate that for the number of units proposed, they are capable of being achieved. Issues of noise, both in relation to existing properties and in relation to proposed properties adjacent to re-located commercial uses is examined below.

Environmental Impact

This section looks at issues of noise, air quality and other environmental impacts. This is particularly significant on this site as there are a number of possible impacts associated with road traffic, the West Coast Mainline, and a number of uses both adjacent to the site and proposed to be re-located on the site.

Noise

As an outline application, where the site layout is not sought for approval, it is not possible to comment in detail, however suitability is assessed on the basis of whether a condition can be applied either to the outline stage, or a future reserved matters stage to ensure adequate mitigation. Environmental Protection have set out the anticipated noise sources and the levels that mitigation will need to achieve to meet the required standards. This will need to be conditioned. Hours restrictions may also be necessary for some of the uses. They highlight that the Environmental Statement anticipates a moderate to substantial adverse noise impact on some properties associated with road traffic noise, where current noise levels are very low, but will increase significantly in relative terms due to the development. These impacts will need to be carefully considered.

Lighting

Any issues can be addressed by conditions.

Odour

There have been past issues with the Danes Moss waste and re-cycling facility, however it is considered that future issues can be addressed by condition.

Air Quality

This issue was fully explored in the Environmental Statement which modelled a number of scenarios. A full audit of the “diffusion tube data” for 2013-2015 was undertaken and the correct data used in the assessment. Whilst impacts of the development in scenario 1 were negligible, under the “worst case” scenario 3 there were slight impacts in 7 receptor locations. As 2 of these receptors are in AQMA’s this is of course a concern, unless these impacts are managed. Conditions requiring a damage cost assessment to be undertaken and mitigation agreed, together with requiring Electrical Vehicle Infrastructure are recommended.

Contaminated Land

The site is known to have contaminated land issues, associated with historical uses of parts of the site, and as it lies within 250m of a known landfill site. Discussions with the applicant are on going at the time of report writing, but the results will be reported to Members as part of any update report.

Land Stabilisation

As Members may be aware large parts of the site, especially to the southern boundary, lie on peat, which is several metres deep in places. This creates land stability problems which impacts on construction costs. The application includes detailed proposals to deal with this issue, a matter that was discussed at the Local Plan Inquiry last year, where the Inspector was clearly convinced it was a viable proposition. The issue is largely one of viability and its impact therefore is on the Section 106 contributions the development can support.

Public Rights of Way/Green Infrastructure

One public right of way will be affected by the development, although the intention is to retain the route within the proposed layout, and it is considered that this route can be safeguarded both through the approved plans and/or conditions. The current route PROW Footpath No.1 whilst attractive by virtue of its remoteness, is very poorly surfaced, highly susceptible to flooding, and a combination of stiles and very steep steps on the railway bridge make it virtually unusable to many users. The proposals clearly give opportunities to make improvements to this route.

Of more significance here are the opportunities to retain and enhance existing linkages from the site into the adjoining areas to the north in particular. A series of linkages, making use of and enhancing the green infrastructure are proposed. Whilst the detail will be dealt with at the

reserved matters stage, again the proposed plans can be approved in combination with conditions where necessary.

Highways

As set out above, the application is in outline, with all matters reserved except site accesses from Congleton Road, Moss Lane and Moss Lane/Star Lane for which full consent is sought. The application is very significant in highway terms as it will deliver the strategically important link between London Road and Congleton Road. Highways have no objections to the application but have detailed comments on the proposals:

Moss Lane

It is important to highlight that part of the link road will use some of the existing part of Moss Lane, the section between Moorhill Lane to Mayfield Avenue. The section of road has a number of junctions with Moss Lane and there are a number of improvements proposed by the applicant on this section of road. The proposals include:

- Star Lane to be one way westbound towards Moss Lane
- Rutland Road/Moss Lane to be converted to a mini roundabout
- Mayfield Avenue to closed at the junction with Moss Lane
- Left in/Left out at the junctions of Belgrave Road and Moorhill Road.

The use of this existing section of Moss Lane as part of link road was not the preferred option due to the presence of the residential area to north of Moss Lane and the increase in traffic flow that would result from the new link road. However, there are no technical reasons to object to the proposal as the link capacity is not exceeded and the mitigation measures will help improve traffic flow along this section of Moss Lane.

Traffic Impact

The assessment of the traffic impacts of the development has been undertaken using CEC's S-Paramics traffic model and has assessed the worse case impact in the peak hours weekday from 08.00 – 09.00 and 17.00 – 18.00. The traffic model output flows has informed the extent of the local junctions that are likely to be affected by the development proposals and these are as follows:

Site Access – Congleton Road/Link Road
Site Access – Moss Lane/Link Road
Site Access – Moss Lane/Site Access
Moss Lane/London Road
Thornton Avenue/Congleton Road
Moss Lane/Congleton Road
London Road/Byrons Lane
Congleton Road/Park Lane/Oxford Road (Flowerpot Junction)

The capacity tests undertaken on the above junctions have been undertaken using either Picady, Arcady or Linsig models depending on the type of junction proposed. The results of the capacity tests indicate that all of the site access junctions operate within capacity and do

not result in undue congestion. The Thornton Av/Congleton Rd junction, Moss Lane/Congleton Road junction would exceed capacity with the development added, and the London Rd/Byrons Lane signal junction would operate within capacity.

In order to mitigate the capacity problems there are improvements proposed at each of the junctions. These are the introduction of traffic signals at the Moss Lane/Congleton Road and also at Moss Lane/London Road junction and the Phase 1 scheme at the Flowerpot junction.

The flowerpot junction has been modelled with the improvement scheme agreed for the existing Phase 1 consent, this scheme involved the widening and lengthening of the left run lanes on three arms of the junction. The capacity results show that the junction operates at capacity in 2022 assuming the existing layout arrangement is in place and over capacity with the development and improvement in place. Clearly, the junction modelling results indicate that the junction has capacity problems even with a junction improvement scheme included.

In summary, all of the junctions can operate within capacity with the mitigation applied with the exception of the Flowerpot junction.

It is important to note that the modelling results presented in the applicants Transport Assessment does account for the full link road being in place between Congleton Road and London Road. There has been no assessment presented for any phased development assuming that the full link road is not constructed.

In the event that the full link road was not constructed CEC have commissioned further modelling work to assess the effects of a possible phased development coming forward. Two tests have been undertaken, test 1: 4000 sq.m of food retail and 550 residential units accessed only from Congleton Road; and test 2: 4000 sq.m of food retail and 550 residential units accessed only from Congleton Road and 400 residential units and 2.75ha of employment accessed from Moss Lane. Both these tests have been undertaken with improvements at the Flowerpot junction in place. The S-Paramics model has been run for the two tests in 2022 comparing the Do Minimum and Do Something scenarios, the performance of the road network has been assessed by calculating the Network wide average journey times and journey times on key routes.

The results of the modelling has indicated that journey times would increase significantly in the peak hours, the PM peak seeing the most increase Test 1 - 25% and Test 2 – 34%. If these results are compared with the test SMDA with full link road having just a 4% increase it is clear that a phased development with no link road would result in significant delay on the road network.

In summary, it is clear that a phased development would have a significant impact on the road network and that the full link road is required to be provided in the early stages of the development.

Summary and Conclusions

The development proposal submitted does include for a full link road connecting London Road and Congleton Road and this is to facilitate development and also reduce traffic flows on other roads including Moss Lane.

The impact of the new road has been assessed with both a network Paramics model and also using individual junction capacity assessments, the result of the tests indicate that link road does not have an undue traffic impact on the road network in 2022 with mitigation installed. The Flowerpot junction is a concern and although improvement measures have been included it would continue to have delays and congestion, although the queues are not considered to severe to warrant refusal of the application.

Therefore in relation to the application there are no objections to the proposal for the full link road to be provided. However, it is important that this infrastructure is delivered early in the development and as no phased development plan has been submitted. CEC have assessed the quantum of development that can come forward in advance of the full link road being provided. This assessment work has shown that only the level of development already consented on the Phase 1 development can be accommodated in advance of the full link road connection.

For information the extant consent consists of 220 residential units, 7,432 sq.m of food retail, a A3/A5 unit and replacement sport pitches. An equivalent level of trips to this agreed scheme would be acceptable in any alternative development proposal.

The eastern end of Moss Lane does form part of the link road and it is important that the mitigation measures proposed by the applicant are implemented, should any development come forward that is accessed from London Road then these measures would be needed as part of the development proposal.

In summary, there are no highway objections to proposal to this application for a link road and any phased development will be subject to restrictions as detailed in suggested conditions below alongside a financial contribution to the Flowerpot junction.

1. Prior to the occupation of either:
 - A 220 houses and 4000 Sqm of food retail or
 - B 4000 Sqm food retail and 16,500 Sq.m employmentThe full link road shall be implemented
2. Prior to the occupation of 75 houses a contribution of £1.2m shall be provided for road improvements indicated on DWG 5108479/ATK/DR/D/008 at the Flowerpot junction.
3. Prior to the occupation of 200 units, the Moss Lane/Signal junction improvements as indicated on DWG 2176-13 shall be implemented through a S278 agreement
4. Prior to the occupation of 200 units the Moss Lane/Star Lane road improvements as indicated on DWG 2176-10 shall be implemented through a S278
5. Prior to the occupation 500 units a scheme for the installation of traffic signals at the Moss Lane/Congleton road improvements as indicated on DWG 5108479-014-TP-GA-DR-D-001 Rev P01 shall be submitted for approval of the Strategic Highways Manager
6. Prior to the occupation of 700 units the scheme approved at (5) is implemented
7. Prior to occupation a Construction Management Statement shall be submitted and approved.

Design/Layout/Connectivity

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”

The application has been assessed against the Council's newly adopted Design Guide which builds on the Building For Life 12 assessment. This assessment, of the 12 criteria scores this development as 7 green and 5 'grey' with no reds. In conclusion this assessment reads:

“This is a large and complex proposal which is being reviewed at Outline stage with all matters reserved aside from access so it is not possible to undertake a definitive Building for Life assessment with the level of design detail available. As a result of this reasonable assumptions have been made where possible but for some questions there was simply not enough available

information to do that in any meaningful way, hence these are indicated as 'grey'. It is fully expected that in the fullness of time with suitably high quality design development these too will become Green.

Overall, this is a very well considered proposal with the potential to become an exemplar development and a valuable addition to Macclesfield and more widely Cheshire East. Specifically it achieves the tricky task of successfully connecting to the existing town edge, using a well considered green infrastructure network but also positively addressing the open countryside to

the south creating a far better interface than exists currently. This is clearly a very good start however, the next stage is crucial.”

The report recommends that:

- A detailed masterplan and design code is paramount
- The site should be separated into suitably-sized parcels
- The development should respond to the local context

These matters can be picked up at the reserved matters stage, but as the assessment concludes there is a good base on which to build.

There is some concern that the proposals will result in a scheme with little character or sense of place, and there is also a concern expressed that all the proposed uses (up to 950 dwellings, a primary school, retail development, employment land and warehousing, along with a highways network and infrastructure) will be difficult to achieve on site, and that the areas of green space could be squeezed. Finally a concern has been expressed that the proposed density overall on site is too high and unrealistic. This is understood, and is often a concern with outline applications with all matters reserved. The application does set out the areas of POS proposed – which can be fixed as part of the approval, and whilst there is no overall layout showing housing numbers, there are the following documents:

- Density plan (low 25-30 dph, medium 30-40 dph & high 40-55 dph).

- Proving plans for each density area
- Storey heights plan

A combination of these documents (including the overall land use framework) can again form part of any approval.

Whilst it is acknowledged that the overall development density in the housing areas is high – relative to typical edge-of-settlement proposals, this is considered acceptable on this site, creating a site with different character areas which will allow more variety of development form and therefore visual interest.

Landscape/Green Infrastructure

As part of the application a Landscape and Visual Impact Assessment (LVIA) has been submitted. The LVIA identifies that there are a number of trees with Tree Preservation Orders (TPOs) on the site, that there are no landscape designations on the site. Footpath, FP 1 Sutton runs along the southern part of the site. The LVIA also identifies the sources of potential effects on landscape and views, including the removal of 5 houses and removal of vegetation across the site, while also noting that the intention is to retain mature existing vegetation where possible, the introduction of the built environment, including residential development between 2 and 3 storeys in height, road junctions, landform works, structural planting and lighting.

The LVIA identifies the baseline landscape character at the national, regional and county and district level, in this case Landscape Type 12: Mossland, and specifically the Danes Moss Character area (M1), and assesses the sensitivity of the landscape character and features and landscape character. Existing vegetation is identified as being of High sensitivity, as is the Danes Moss Character Area along with an area of open space that runs through the centre of the site. The visual assessment offers a range of visual effects from major adverse through to negligible, with major effects located near to the site boundaries.

As the LVIA indicates, the site does have distinct character areas, with the western area being more open with vegetation marking former field boundaries and the eastern part of the site being more enclosed due to the amount of vegetation present; this is largely due to historic land uses over the area. The Cheshire Historic Landscape Characterisation Project identifies that the western part of the site falls within the Post Medieval Fieldsapes group, specifically 19th Century Field Systems Type and that the eastern part of the site is located within the much older Ancient Fieldsapes Group, specifically the Ancient Fieldsapes Type.

The LVIA is largely accepted, but it is apparent that there will be some major adverse landscape and visual effects associated with the proposals. This is an outline application for up to 950 homes and additional developments, and while there is a submitted Landscape Strategy Plan and Green Infrastructure Plan, it remains an outline application. The Design and Access Statement identifies the importance of the Green Infrastructure Network and identifies the importance of the southern boundary, the linking of the southern boundary to the existing urban fabric with two green corridors, and that green infrastructure will ensure wildlife connectivity across the site, using the link road to form a central green landscape and biodiversity spine, along with nodal points and maximising the retention of existing mature vegetation. The retention of existing vegetation, retention and enhancement of existing green

corridors will be of prime importance in this proposed development and it will be the creation of the nodal points, green corridors and retention of existing vegetation that will help create distinctive character and sense of place, as well as creating well defined streets and spaces.

Canal improvements

Whilst it is acknowledged that the canal, is an important piece of “blue infrastructure” in the area, allowing occupiers of the site to access areas to the east, including sustainable links to Macclesfield, there are concerns regarding the request from the Canal and Rivers Trust for a significant financial contribution to improvement works. This is based on the following:

- The application site has no frontage to the canal, and in fact is separated from it by the West Coast Mainline with its “challenging” footbridge which limits access to many users. Whilst improvements on either end could help, if implementable (one side is outside the application boundary), the bridge itself is still inaccessible to many users.
- The canal, in the vicinity of the site is in relatively good condition, with an all weather footpath surface and metal fronted canal banks.

In view of the above, and conflicting demands on the limited financial “pot” available, following the viability assessment findings, it is regrettably concluded that the financial request cannot be supported in this case.

Open space

Policy RT.3 requires that on sites of 20 dwellings or more, a minimum of 15sqm of shared recreational open space per dwelling is provided and where family dwellings are proposed 20sqm of shared children’s play space per dwelling is provided. Comments from ANSA are awaited to confirm if the proposals as set out address these policy requirements, although the applicant clearly feels they have addressed the policy requirement.

ANSA’s comments on the suitability of the distribution of these areas is also awaited.

Congleton Road Playing Pitches

Whilst these sports pitches and their associated changing facilities are within the application site boundary, there are no proposals to carry out any works in this area of the site, although the new access would provide a spur to provide a new vehicular access in the future. The existing site access off Congleton Road would be retained.

That said, at the request of Sport England, the applicant has carried out some feasibility work to establish what works could be done to improve the playing fields to help meet the needs of the sports Needs Assessment carried out. These works include an assessment of ground conditions and possible pitch layout changes. The application indicates that a financial contribution of £225,000 to their improvement will be made as discussed on the Heads of Terms below. Sport England’s comments on the proposals are awaited and will be reported in any update report.

Ecology

Local Plan Policy

Under the adopted policy (Site Specific Principles of Development) the wording reads:

b. Existing trees, water courses and natural habitats are to be retained and enhanced as appropriate.

In addition in regards to the adjacent Danes Moss SSSI:

1. The site will be developed only where it can be demonstrated that there is no significant harm on the Danes Moss SSSI, particularly in relation to changes in water levels and quality and recreational pressures. This should include a full assessment of the direct and indirect impacts of the development on the features of special interest. Where impacts cannot be avoided, appropriate mitigation measures will be required to ensure protection of the SSSI.

“Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.”

As such there are no concerns that the development will cause harm to the SSSI if the drainage is conditioned accordingly.

Looking at each aspect of the nature conservation interest of these complex proposals:

Habitats

Lowland raised bog

With the exception of the existing football pitches and an area of adjacent grassland and woodland almost the entire application site appears on the UK Biodiversity Action Plan Inventory of Lowland Raised Bog Habitats. The submitted Phase One habitat report states that relic raised bog vegetation previously recorded on the site was not present during the latest survey. No information has been submitted with this application however to detail the types of relic bog previously recorded on site.

Molinia caerulea a grass species associated with degraded bog was present at number of locations. A second grass species which also occurs on degraded raised bogs was also present. It is understood that extensive deposits of peat remain on site. It is therefore advised that raised bog habitat remains on site although it is acknowledged that this habitat is in a highly modified and degraded state. The Environmental Statement submitted with the adjacent application 14/0282M assessed the raised bog habitats on site as being of County Value. This value is a combination of the value of the habitats ‘on the ground’ and also in the sites potential for restoration. Based on the information available this appears to be an accurate assessment of the sites value in terms of lowland raised bog.

Under the current proposals the majority of the existing degraded raised bog habitat would be lost as a result of the proposed development.

Confirmation should be sought from the applicant as to what relic bog vegetation was recorded on site during the earlier survey (2013).

Coastal and Floodplain Grazing Marsh

A number of the areas of the application site appear on the national inventory for this priority habitat type. Diverse ditches are characteristic of this habitat type. Whilst many of the ditches present on site are dry and shaded some notable vegetation was present during a recent site visit. Ditches and marshy grassland are discussed below in the context of this habitat.

Grassland

Much of the application site supports grasslands of nature conservation value. For the purposes of undertaking an assessment of these habitats the grasslands present have been divided into a number of compartments with each compartment assessed individually in 2014. A later habitat survey (2015) advises that some indicator species recorded previously were not encountered at that time. The 2014 survey remains the only comprehensive survey of the grassland habitats. Numerous grassland indicator species were however present on site during a recent site visit.

It is advised that some site compartments qualify as Local Wildlife Sites under the current selection. Of these compartments four are of the greatest value and should be considered to be of County Value. The submitted botanical survey report recommends the retention of the most important grassland compartments and at least partly retention of the other identified compartments.

In addition to the compartments identified of being of value in the Environmental Statement two additional areas of the site were identified during a recent site visit which are of sufficient value to meet the LWS selection criteria and so be of County value. The submitted ES identifies the areas of marshy grassland on site as being of County value. This value reflects them being more species rich examples of the degraded lowland raised bog and coastal and flood plain grazing habitats which cover much of the site.

It is recommended that the submitted land use plan be amended to show the retention of more of the grassland compartments considered to be of value.

Hedgerows

Hedgerows are a priority habitat and hence material consideration. A hedgerow is present on the western boundary of the site. The submitted ES states that this hedgerow would be retained. However based on the submitted land use framework plan it appears likely that this hedgerow would be lost as a result of the realignment of Congleton Road. In addition, there are also a number of defunct hedgerows across the site that would also be lost as a result of the proposed development. The loss of hedgerows associated with the development would result in the loss of habitat significant in the local context.

Woodlands

The proposed development will result in the loss of an area of native species woodland. The submitted Environmental Statement identifies this woodland as being of County value.

The submitted ES advises that there would be an increase of 1.53ha of what it calls 'woodland and structured landscape' based on the submitted land use framework plan. It is advised that much of the 'structural Landscape' area includes grassland habitats of nature conservation value where woodland planting would be to the detriment of nature conservation interests. It is therefore recommended that the losses and gains of woodland are calculated independently of the structural landscape. It is likely that this calculation

would demonstrate an overall loss of woodland habitat and a corresponding loss of biodiversity.

It is advised that in order to mitigate operational stage impacts associated with excessive public use and fly tipping etc. there should be no public access into the retained wet woodland habitats. It is recommended the submitted illustrative plans should be amended to reflect this.

Ponds

Ponds are a local priority habitat. The proposed development will result in the loss of two existing ponds. The submitted ES may undervalue these ponds, for example one of these ponds was found to have botanical interest when surveyed a number of years ago.

In any event it is advised that the submitted illustrative master plan should be amended to show either the retention of these habitats or the provision of suitably designed wildlife ponds to compensate for their loss.

Ditches and watercourses

Numerous ditches are present on site. The ES advises that seven ditches would be retained, one retained in part, three realigned and one ditch lost in full.

Invertebrates

A detailed invertebrate survey has not been undertaken of the application site. The ES however identifies the site as being of Local/County value for invertebrates due to the suitability of the habitats present.

A butterfly species, small heath, was present on site in good numbers at two locations during a recent site visit. This species is a material consideration and its presence alone would be sufficient for 2 compartments to be selected as a local wildlife site and so be considered to be of County importance. Both of these areas would be lost under the current framework plan. The loss of the habitat for this species would result in an adverse impact significant at the County level. The loss of other invertebrate habitats on the site is likely to have an adverse impact of at least local significance.

Reptiles

Common lizard a priority and protected species is present on site. A small population of this species is likely to be present on the application site. The submitted ES advises that this population is of district importance.

The proposed development will result in a substantial loss of suitable reptile habitat on site and also pose the risk of killing or injuring any animals present when site clearance works were undertaken.

To mitigate the risk posed to reptiles during clearance works the application is supported by outline proposals to remove and exclude reptiles from the footprint of the proposed development using standard best practice methodologies. The proposed development will result in an increase in the predation of common lizard by domestic pets.

A receptor area is proposed which will include the creation of features for reptiles. A buffer of additional habitat is also proposed to the south east, this is very narrow however. The current mitigation strategy includes surrounding the reptile receptor area with exclusion fencing until the proposed development is complete. As the development of this site is likely to take a considerable time it is recommended that animals within the receptor area be allowed access to the adjacent railway line and adjacent off site habitats for the duration of the construction period. Reptiles should then be deterred from entering the construction areas by maintaining these areas in a form that is unattractive to this species. It is advised that the reptile mitigation strategy be amended to reflect this change.

It is advised that the proposed development will have a residual adverse impact on this species due to the loss of terrestrial habitat which is significant in the local context.

Common Toad

This priority species is present on site. The proposed development will result in the loss of a significant area of terrestrial habitat and potential wetland features used for breeding. Any toads encountered during the reptile exclusion works will be transferred to the reptile receptor area and a new pond is proposed in the receptor area as compensation for the loss of breeding habitat associated with the development.

It is advised that the proposed development will have an adverse impact on this species due to the loss of terrestrial habitat. This impact is identified as being of significance in the local context by the submitted ES.

As with reptiles it is advised that the mitigation strategy should be amended to ensure that animals transferred to the receptor area have access to surrounding habitats for the duration of the construction period.

Pole Cat and hedgehog

Suitable habitat for these two priority species is present on site, a specific survey for these species was not undertaken. The proposed development will result in the loss of habitat suitable for these species that would be of significance in the local context if the species was present.

Badgers

A considerable level of badger activity was recorded during the latest survey of the site. Numerous setts are present together with a considerable area of foraging activity. Based on the illustrative layout of the site it is likely that seven existing setts would be directly affected by the proposed development. A number of setts are also likely to be indirectly affected by nearby works during the construction process. In the absence of mitigation the proposed development is also likely to result in the loss and fragmentation of badger foraging habitat.

To minimise the potential disturbance of badgers the applicant is proposing to permanently close any setts directly affected by the proposed development using standard best practice methodologies under the terms of a Natural England licence. It may also be necessary to close any setts indirectly affected by the works on a temporary basis during the construction phase. A replacement artificial sett is proposed together with recommendations for the provision of badger tunnels and underpasses to facilitate the movement of badgers around the site.

As the status of badgers on site is likely to change over time and the precise impacts of the development will depend upon the final layout developed at the detailed design stage it must be ensured that if planning consent is granted an updated badger survey and mitigation strategy must be submitted in support of any future planning application.

The submitted ES identifies a residual significant negative impact on badgers occurring as a result of the proposed development.

Bats

Roosting bats – buildings and trees

No. 46 Moss Lane which would be affected by the proposed roundabout has been identified as having potential to support roosting bats. The initial bat survey undertaken to inform the ES has recommended that a further bat activity survey be undertaken to determine the presence/absence of roosting bats.

A number of trees have been identified as having bat roost potential on site. One of these (T4) is anticipated to be lost as a result of the proposed development. A further survey of this tree is therefore required to establish the presence absence of roosting bats

It is advised that a report of the results of the required further bat survey must be submitted prior to the determination of the application. This is awaited.

A bat roost was identified in a tree near to the sports pitches. Based upon the submitted layout plan it appears that this tree would be retained as part of the proposed development. It is however essential that any lighting in this part of the site is designed so as to avoid any adverse impacts on this roost and the surrounding commuting and foraging habitat.

Barn owls

Barn owls were recorded as foraging upon the application site during the bat surveys completed in 2015. The proposed development will result in the loss of a significant area of suitable barn owl foraging habitat. A barn owl box is proposed.

It is advised that the loss of this habitat would have an adverse impact on barn owls which is significant in the local context. An area of grassland will be retained but as this would be set within a large housing scheme and its management to enhance its botanical value would limit its suitability for barn owls it is unlikely that it would continue to be suitable for barn owls.

Black Poplar

Specimens of this uncommon priority species are present on site. It is feasible for this species to be retained as part of the proposed development.

Birds

A detailed bird survey has not been undertaken of the site. It is advised that the site is highly likely to support a number of breeding bird species including those considered to be a priority for nature conservation.

Willow tit a bird of national importance is known to breed on Danes Moss SSSI and may potentially occur within the woodland habitats on site. The submitted ES states that the

construction phase of the proposed development will result in a temporary significant effect at the national scale. Disturbance of retained habitats for this species are likely to result in a further significant impact. This impact would be mitigated to some extent if public access from the wet woodlands is excluded. If wet woodland habitats are lost as a result of the proposed development then there may potentially also be a permanent adverse impact on this species.

Habitat management

If planning permission is granted a condition/planning obligation should be attached which requires the submission of a detailed habitat management plan to be submitted with any future reserved matters application.

Japanese Knotweed

The applicant should be aware that Japanese Knotweed (*Fallopia japonica*) is present on the proposed development site. Under the terms of the Wildlife and Countryside act 1981 it is an offence to cause Japanese Knotweed to grow in the wild. Japanese knotweed may be spread simply by means of disturbance of its rhizome system, which extends for several meters around the visible parts of the plant and new growth can arise from even the smallest fragment of rhizome left in the soil as well as from cuttings taken from the plant.

Disturbance of soil on the site may result in increased growth of Japanese Knotweed on the site. If the applicant intends to move any soil or waste off site, under the terms of the Environmental Protection Act 1990 any part of the plant or any material contaminated with Japanese Knotweed must be disposed of at a landfill site licensed to accept it and the operator should be made aware of the nature of the waste.

Ecology Conclusion

Under the current proposals there would be a loss of habitat associated with the proposed development which results in a number of adverse effects that are significant in the context of the Local to the County scale.

The highest value habitats on site are those identified as being of County value. As referred to earlier, as the application site is an area of degraded raised bog a large portion of the application site is of 'County value'. This value is a combination of the value of the habitats 'on the ground' and also in the sites potential for restoration

The submitted Environmental Statement ES identifies the loss of semi-improved grassland and marshy grassland habitats as being significant negative impacts associated with the proposed development. The submitted ES advises that retained habitats are likely to be further degraded as a result of excessive use for dog walking, litter, fly tipping etc.

The submitted ES also identifies a significant adverse impact on badgers occurring as a result of the proposed development.

It is advised that the following adverse impacts are also associated with the proposed development:

- Hedgerows (Local level adverse impact)
- Woodland (County level adverse impact)
- Ponds (local – County level adverse impact)

- Invertebrate habitat (Local – County level adverse impact).
- Loss of reptile habitat (Local level adverse impact)
- Loss of barn owl foraging habitat (Local level adverse impact)
- Loss of terrestrial habitat for toads (Local level adverse impact)

In order to avoid these impacts as far as possible it is recommended that the framework plan be amended to retain those habitats identified as being of significant nature conservation value. Any unavoidable impacts should then be compensated for. Compensation could take the form of offsite habitat creation/enhancement.

Once the framework plan has been amended to include the retention of the identified habitats it is recommended that the level of compensation required to address the residual impacts of the development proposals be assessed using the Defra biodiversity offsetting 'metric' methodology.

An assessment of this type would both quantify the residual impacts of the development (after identified potential impacts have been avoided, mitigated and compensated for in accordance with the mitigation hierarchy) and calculate in 'units' the level of additional compensation which would be required to 'offset' the impacts of the development to ensure that the development proposals achieve a no net loss of biodiversity.

The response from the applicant includes an offsetting contribution of £219,703. This amount needs to be considered as to whether it is sufficient to provide appropriate mitigation. An update will be provided to members accordingly.

Archaeology

Any comments received will be reported in the update report.

Flood Risk and Drainage

Whilst the site clearly has a complex drainage system, and any subsequent reserved matters application will need to be carefully considered, United Utilities, the Environment Agency and the Council's Flood Risk Team have considered the report and raised no objections, subject to the position of appropriate planning conditions. It is therefore, concluded that the proposed development will not adversely affect onsite, neighbouring or neighbouring developments or the adjacent SSI to the south.

ECONOMIC SUSTAINABILITY

With regard to the economic role of sustainable development, the proposed development will help to maintain a flexible and responsive supply of land for housing as well as a new retail unit, class B1(a) and B8 Uses, relocation of a demolition/reclamation yard and a new primary school, as well as bringing direct and indirect economic benefits to Macclesfield, including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

Infrastructure provision generated from the development would also assist in creating significant economic benefits of the development, and most significantly the strategic link road between Congleton Road and London Road.

Other matters

The representations of the members of the public have been given careful consideration in the assessment of this application and the issues raised are addressed within the individual sections of the report. However, the disbenefits of the development identified by the objectors are not considered to significantly and demonstrably outweigh the benefits provided by the development. In addition, many of the other issues raised can be more appropriately addressed at the reserved matters stage when further details are put forward. No provision has been made for a facility for Macclesfield Town Football Club within the scheme. At this time the Football Club have no plans to move from Moss Rose.

Some of the comments made in representations on behalf of the house-builders, raise concern that the approval of this application will not bring about the guarantee that the SMDA will be built out and delivered. A viability report has been submitted, which indicates how the scheme can be delivered. Due to some of the site constraints, such as safeguarding habitat, dealing with contaminants and peat related issues and delivering the road, a balance has to be formed between providing the requirements of the policy and achieving the overriding policy objectives.

ENVIRONMENTAL IMPACT ASSESSMENT

Members will note that this application is accompanied by a Environmental Statement (ES). The ES is a legal requirement for large development proposals such as this. It is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. This helps to ensure that the importance of the predicted effects, and the scope for reducing them, are properly understood by the public and the Council. Environmental Statements tend to be highly technical and lengthy documents. To make these more accessible to the non-professional reader there is a requirement for a Non-Technical Summary to also be submitted. A revision of the Non-Technical Summary has been prepared taking into account the reduction in the number of properties.

The Environmental Statement describes the likely environmental effects of the redevelopment both during demolition and construction works and also when the development is complete. It has looked at issues such as Alternative Options, Traffic and Transport, Air Quality, Noise and Vibration, Ecology and Nature Conservation, Landscape and Visual, Cultural Heritage and Archaeology, Water Environment, Ground Conditions and cumulative impacts. Measures which have been taken to avoid or reduce negative effects to the environment (i.e. mitigation measures are identified where necessary).

The likely environmental effects embodied within the Environmental Statement have been considered in the relevant sections of this report.

ENVIRONMENTAL STATEMENT - PROCEDURAL ISSUES

It is considered that the Environmental Statement has been undertaken in accordance with the relevant regulations and guidance. On that basis, the LPA is satisfied that the submitted Environmental Statement contains the information specified in Part II of Schedule 4 to the Regulations and the relevant information set out in Part I of that Schedule that the developer can reasonably be required to compile.

It should be noted that the Environmental Statement does indicate that there would be some adverse impacts upon the environment. The National Planning Practice Guidance indicates that where the EIA procedure reveals that a project will have an impact on the environment, as set out in the report above, it does not follow that planning permission must be refused. It remains the task of the Local Planning Authority to judge each planning application on its merits within the context of the Development Plan, taking account of all material considerations, including the environmental impacts. These impacts have been discussed throughout the report and have been given due consideration as part of the planning balance to be undertaken in decision making.

Section 106 Heads of Terms and Viability Issues

Planning permission for this development has been sought by Engine of the North on behalf of Cheshire East Council, but in this case in a joint venture with TG Limited. As such whilst the Council itself cannot enter into a Section 106 Agreement with itself, and would normally commit to any contributions under Section 111 of the Local Government Act 1972, in this case it is advised that a Section 106 Agreement is required to tie the relevant parties together to ensure that the contributions are secured.

The developer has submitted a viability appraisal (undertaken by consultants), which indicates that because of the abnormal costs of developing the site, together with the costs of providing the strategic highway link it is not possible to provide policy compliant levels of affordable housing and public open space/playing field improvement contributions along with the necessary highway contributions, ecological and education contributions. It should be noted that the costs for the link road and abnormal costs due to ground conditions are approximately £19.5m and £11m respectively.

As a result of various scenarios the development can deliver 10% affordable housing with a maximum contribution of £3.8m towards other contributions.

The proposed Heads of Terms therefore offered at present include the following areas for that amount to be split.

- 10% affordable housing
 - £219,703 towards Ecology Mitigation / offsetting contribution
 - £225,000 towards Sport pitch improvements
- and the remaining to be split between
- Highway Improvement works to the Flowerpot junction
 - Education

As set out above, within the context of the NPPF, viability is an important material consideration in the determination of planning applications. Furthermore, this scheme is a key element in delivering key parts of the Local Plan of Macclesfield in terms of facilitating the

delivery of the Congleton Road to London Road link road. It is also a strategic housing site allocated within the adopted Local Plan.

It is considered that the applicant has demonstrated that the viability issues would delay delivery of the scheme and that this would have a negative impact on housing land supply within Cheshire East and the delivery of the link road.

LEVY (CIL) REGULATIONS

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010 it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S111 satisfy the following:

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

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

The development would result in a number of highways impacts on Congleton Road and contributions clearly are required towards the Congleton Road to London Road link road. This is considered to be necessary and fair and reasonable in relation to the development.

As explained within the main report, affordable housing and open space financial contributions would help to make the development sustainable and is a requirement of the Interim Planning Policy, local plan policies and the NPPF. It is directly related to the development and is fair and reasonable.

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

CONCLUSIONS

The site is allocated within the adopted Local Plan for the range of uses proposed and the site is identified as deliverable and forms part of the Councils identified 5 year supply of housing land. The contributions that this scheme will make towards infrastructure improvements, in particular, the Congleton Road to London Road strategic link are significant factors that weighs in favour of this application. It is therefore, critical that a viable scheme is put forward. The development of the site for the proposed mix of uses is therefore, considered to be acceptable in principle.

Comments are awaited from Archaeology, Sport England and the Councils Open Space / Greenspaces Officer in relation to the provision of playing pitches and Public Open Space, but these matters are considered to be capable of being addressed. Further comments and clarification will be provided to Members on the s106 contributions and their appropriateness.

The Planning Balance

The application is in accordance with the principle of the now adopted Cheshire East Local Plan Strategy so it should be approved unless material considerations indicate otherwise. Those material matters are considered below:

The benefits in this case are: -

- A package of highways contributions, which will help deliver a number of highways improvements including the strategic highway link.
- The development would provide benefits in terms of much needed affordable housing provision
- A new retail outlet to the south of Macclesfield, to help provide for local needs:
- POS provision and the provision of play space within the site;
- Improvements to the PROW infrastructure in the area;
- The proposal would also have some economic benefits in terms of jobs in construction, spending within the construction industry supply chain and spending by future residents in local shops.

The development would have a neutral impact upon the following subject to mitigation:

- The impact upon education infrastructure would be neutral as the impact would be mitigated through the provision of a contribution (albeit the amount of contribution could be considered negatively)
- There is not considered to be any drainage implications raised by this development
- The proposed highways contribution would mitigate the highways impact on the existing local road network and the overall impact would be neutral
- The impact upon trees and hedges is considered to be neutral at this stage and further details would be provided at the reserved matters stage.
- The impact upon residential amenity/noise/air quality and contaminated land could be mitigated through the imposition of planning conditions.

Balanced against the above must be the following:

- The acceptance that there will be some landscape harm.
- There will be negative impacts of ecology, especially in terms of habitat loss although albeit this is considered to be appropriately mitigated.

The infrastructure contributions and improvement to local sustainability of this scheme do achieve the overall local plan objectives and in accordance with the NPPF it should be approved without delay.

RECOMMENDATION

Approve subject to the completion of a Section 106/111 Agreement

Heads of Terms (subject to further update)

1. 10% Affordable housing: up to 95 dwellings

2. Education
3. Public open space in accordance with policy with maintenance
4. Sports pitches
5. Off-site highways

And the following conditions

1. Commencement of development (3 years) or 2 from date of approval of reserved matters
2. Reserved matters to be approved
3. Phasing plan, including highways works to be agreed
3. Approved Plans
4. Materials
5. Landscaping
6. Implementation of landscaping
7. Tree/Hedgerow Protection Measures
8. Arboricultural Impact Assessment in accordance with Section 5 of BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations which shall include a Tree Protection Scheme
9. Construction and Environmental Management Plan to be submitted prior to commencement, to include dust control measures.
10. Submission of a detailed acoustic assessment with mitigation required with reserved matters.
11. Hours of deliveries to be agreed
12. Odour Management Plan
13. Air pollution damage cost calculation and associated mitigation works.
14. Electric Vehicle Infrastructure
15. Approval of lighting associated with the leisure and commercial uses.
16. Submission of a post demolition Phase II ground contamination and risk assessment together with a remediation report.
17. Control of soils brought onto site.
18. Measures to address contamination should it be expectantly be found during works.
19. Submission of a Ecological mitigation and Management Plan for the Woodland (including the Ancient Woodland) and Local Wildlife Site.
20. Submission of an updated Badger Survey as part of and reserved matters application.
21. Updated reptile survey as part of any Reserved Matters
22. Updated GCN mitigation strategy as part of and reserved matters application.
23. Management of and improvements to the PROW
24. Travel Plan to be submitted prior to occupation of the first dwelling.
25. Programme of archaeological work
26. Approval of levels.
27. Submission of a Flood Risk Assessment.
28. Drainage strategy/design in accordance with the appropriate method of surface water drainage chosen.
29. Foul and surface water drained on separate systems.
30. Cycle storage
31. Bin stores
32. Prior to the occupation of either
A: 220 houses and 4000 Sqm of food retail or

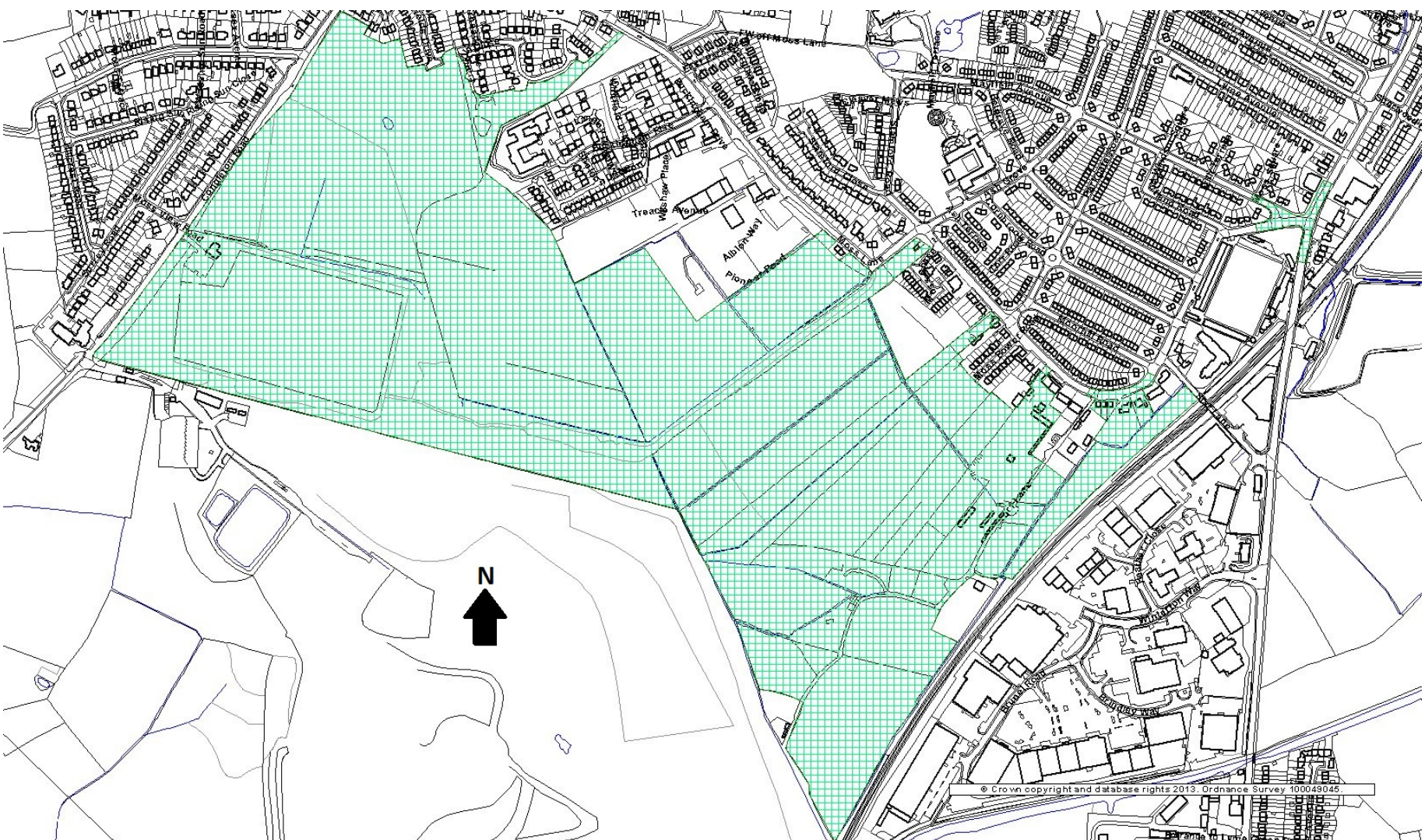
B: 4000 Sqm food retail and 16,500 Sq.m employment

The full link road shall be implemented

33. Prior to the occupation of 200 units, the Moss Lane/Signal junction improvements as indicated on DWG 2176-13 shall be implemented through a S278 agreement
34. Prior to the occupation of 200 units the Moss Lane/Star Lane road improvements as indicated on DWG 2176-10 shall be implemented through a S278
35. Prior to the occupation 500 units a scheme for the installation of traffic signals at the Moss Lane/Congleton road improvements as indicated on DWG 5108479-014-TP-GA-DR-D-001 Rev P01 shall be submitted for approval of the Strategic Highways Manager
36. Prior to the occupation of 700 units the scheme approved at (35) above is implemented
37. Prior to occupation a Construction Management Statement shall be submitted and approved.

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 (Regulation) 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.

Should this application be the subject of an appeal, authority be delegated to the Head of Planning (Regulation) in consultation with the Chairman of the Strategic Planning Board to enter into a planning agreement in accordance with the S111 of the Local Government Act 1972.



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Application No: 16/3298W

Location: EATON HALL QUARRY, MANCHESTER ROAD, EATON, CONGLETON, CHESHIRE, CW12 2LU

Proposal: Application to extend Eaton Hall Quarry to the North and East of the existing permitted extraction area to the North of School Lane

Applicant: Mr G Fyles, Tarmac Trading Ltd

Expiry Date: 31-May-2017

SUMMARY:

There is a presumption in the NPPF in favour of the sustainable development unless there are any adverse impacts that significantly and demonstrably outweigh the benefits.

In terms of sustainability the proposal would satisfy the economic sustainability role by ensuring that the remaining mineral reserves are fully utilised, contributing to the requirement for a seven year landbank for sand and gravel and ten year stock of permitted silica sand reserves at the site as required by national planning policy. It also provides direct and indirect benefits to the local economy by providing mineral required for a variety of industries and businesses and enables the site to be restored to a high standard.

This should be balanced against any potential harm to residential amenity, BMV land and the environment resulting from the mineral working. The benefits arising from the proposal are considered sufficient to outweigh any harm caused by the scheme, and the potential harm can be adequately mitigated by a range of planning conditions and through the controls in other environmental legislation. Subject to securing appropriate planning conditions, the proposal would not give rise to any unacceptable impacts on the highway network, residential amenity or the local environment, nor would it have any adverse impacts on the landscape or any significant adverse visual impacts. As such the scheme is considered to accord with policies of CELP, CRMLP, MBLP and the approach of the NPPF.

SUMMARY RECOMMENDATION:

Subject to the Secretary of State deciding not to 'call-in' the application under the Departure from the Development Plan procedures

Approve subject to conditions

SITE DESCRIPTION

Eaton Hall quarry is located to the north and south of School Lane near the village of Eaton and lies off the A34 approximately 1km north of the northern settlement edge of Congleton. The quarry is bounded by agricultural fields to the east, the restricted byway Eaton RB1 to the north, Macclesfield Road to the south and the A34 to the west.

The quarry has been operational since the early 1970's and extracts silica sand (Congleton sand) and construction grade sand (Gawsworth sand). At present the quarry is working on land to the north of School Lane and mineral is extracted beneath the water table, creating an open body of water used as a dredging lake. To the south of School Lane lies another open water body formed by previous mineral extraction, along with the current plant processing area, sand storage areas, access road and other quarry infrastructure.

The proposed application site covers an area of 41.5ha over two parcels of agricultural land which adjoin the northern and eastern boundary of the current working area north of School Lane. The northern area comprises 21ha and is bounded by agricultural land to the north, Gorse Moor Farm and Jack's Farm to the east with Sandy Lane beyond, Restricted Byway Eaton RB1 and the existing working area of the quarry to the south, and A34 to the west. The eastern area covers 20.5ha and is bounded to the north by Restricted Byway Eaton RB1, agricultural fields as well as Gorseymoor Farm and Fords Lane. To the east are Fields Farm and Bebbington Road, whilst School Lane forms the southern boundary beyond which is agricultural land and the village of Eaton.

A small number of properties located off Bebbington Road, Sandy Lane and the A34. Beyond this the village of Eaton is located approximately 0.2km to the south-east of the site.

PROPOSAL

This application proposes an extension of Eaton Hall quarry in a northern and eastern direction. This would release approximately 6,837,457 tonnes of silica and construction sands which would be extracted at a rate of around 400,000 tonnes per annum over a 25 year period (including restoration of the site).

Mineral extraction would mirror current arrangements with soils stripped and stored in bunds around the site to create a visual screen, as well as used for lake formation and restoration. Advanced woodland and hedgerow planting is proposed, along with retention and gapping up of existing hedgerows to provide screening for the mineral working.

The mineral would be extracted in four phases with both extension areas being extracted simultaneously. It is estimated that each phase will take approximately 5-6 years depending on market demand. During each phase sand would be extracted both wet and dry depending on water table levels, with dry working taking place at approximately 3m below the surrounding ground level and wet working taking place below the level of dry working. Dry sand above the water table would be dug out by excavator and loading shovel which would be deposited into a screener, and then transported by conveyor to the current processing area via an existing tunnel under School Lane. The wet sand below the water table would be extracted by an electronically powered suction dredger. As a waterbody is created by the

process, sand would be pushed from the edges of the pool to be dredged, thus gradually enlarging the water body. The sand and water would be pumped via a pipeline to the processing area south of School Lane. At the processing area the sand would be washed and graded, following which the silt laden waters would be discharged to the northern dredging lake created under the existing planning permission via a settlement lagoon.

During phase 1 sand would be extracted dry from the eastern extent of the northern extension and a small section of the eastern extension. The soils overlying the sand would be used to form bunds to help screen the area of extraction. Phase 2 would involve the extraction of the western extent of the northern extension with sand being worked dry, and a small section of the eastern extension worked wet. Overburden material from the extraction areas would be used to restore land worked during phase 1. Landscape bunding will also continue to be constructed on the southern, eastern and north western boundary as extraction progresses and a soil storage area would be created to house the subsoils to be used for restoration of phase 3.

During phase 3 the final section of the northern extension would be extracted dry above the water table and a large section of the eastern extension would be extracted with a mixture of dry working down to 106mAOD and wet working below this level. Progressive restoration to parts of the northern extension would be completed by spreading the subsoils and top soils previously stored in bunds around this area.

Phase 4 comprises wet and dry working of the southern extent of the eastern extension. Overburden would be placed on the remaining section of the northern extension awaiting restoration and on parts of the consented area to assist with lake formation. Once Phases 1 to 4 have been completed, mineral extraction will be completed in the remaining areas of the existing quarry south of School Lane falling under the current planning permission. This is anticipated to take place over two to three years.

It is estimated in the northern extension that extraction will take place to a maximum depth of 106m AOD (current ground levels rise from approximately 111mAOD to 117m AOD (east to west)). The eastern extension would be extracted down to 106mAOD (the land slopes up from approximately 118mAOD on the western boundary to 123mAOD on the eastern boundary). The remainder would be extracted wet below the water table to a varying depth of approximately 106mAOD to 98mAOD (east to west) to tie into the levels created by extraction on the permitted area.

Restoration

Upon cessation of quarrying activities all plant and machinery will be removed. The proposed eastern extension would be restored to a waterbody to tie in with the existing lake on site created by current mineral working. This will create one large open water body of circa. 27.8ha with a water level of 105m AOD. The banks of the lake would be restored to heathland, grassland and grassland pasture and would include areas of oak woodland planting and native hedge and tree planting. The northern extension would be restored to grassland/pasture at a level of 106m AOD to 108m AOD. The land will be restored by placing topsoil, subsoil and overburden to an approximately depth of 5m. Areas of oak woodland planting and native hedgerow planting are proposed to tie in with existing landscape features, along with the provision of new ponds.

The proposed restoration strategy is to create a large lake, along with agricultural pasture with hedgerow and field margins of heath grassland and native woodland planting. Existing hedgerow along the site boundaries would be reinforced and incorporated into the scheme and form links of vegetation throughout the site. Marginal aquatic planting will be planted in shallow margins of the lake. Rights of way alongside the tracks would also allow access around the site.

Restoration would be progressive. Existing boundary hedgerows would be reinforced with supplementary planting of native deciduous trees and shrubs, whilst blocks of advanced woodland planting and hedgerows would be planted to screen the mineral works.

Traffic, public rights of way and working operations

The scheme will generate 171 HGV movements a day (i.e. 85 HGVs in and 85 HGVs out) associated with the extraction of sand and gravel and import of soils/compost for blending. The level of traffic would be consistent with that already generated by the existing quarrying activities as there would be no intensification of quarrying as a result of this proposal and all activities on site would continue as existing.

The working practices and operational hours would mirror that currently undertaken on the site. The development would sever restricted bridleway Eaton RB1. The applicant proposes to divert this bridleway prior to the commencement of mineral extraction in phase 1.

RELEVANT HISTORY: The quarry has a long planning history; the most relevant of which is as follows:

- 5/96/0181P Erection of additional plant and modifications to existing infrastructure granted may 1996
- 5/APP/2004/0012 Extension of industrial sand workings north of School Lane, provision of conveyor tunnel beneath School Lane, dumper crossing point, retention of existing processing plant and infrastructure
- 5/05/3042 Erection of bagging facility
- 5/06/1782p Erection of bagging and storage facility
- 12/3869W Variation of conditions of 5/06/1782P

NATIONAL & LOCAL POLICY

National Policy:

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

Of particular relevance are paragraphs 14 concerning sustainable development; and paragraphs 144, 145 and 146 with regards to planning for minerals, particularly industrial minerals.

Development Plan:

The Development Plan for this area is the Cheshire East Local Plan Strategy 2010 – 2030 Adopted July 2017 (CELP), the Cheshire Replacement Minerals Local Plan 1999 (CRMLP) and the Macclesfield Borough Local Plan 2004 (MBLP).

The relevant policies of the **Cheshire East Local Plan Strategy (CELP)** are:

MP1 and SD1 Sustainable development
SD2 Sustainable development principles
PG6 Open countryside
SE3 Biodiversity and geodiversity
SE4 The landscape
SE5 Trees, hedgerows and woodland
SE7 The historic environment
SE10 Sustainable provision of minerals
SE12 Pollution, land contamination and land instability
SE13 Flood risk and water management
SE14 Jodrell bank
CO1 Sustainable travel and transport
CO4 Travel plans and transport assessments

The relevant Saved Policies are: -

Cheshire Replacement Minerals Local Plan (CRMLP)

Policy 2 Need
Policy 9 Planning applications
Policy 10 Geological content of planning applications
Policy 12 Conditions
Policy 15 Landscape
Policy 17 Visual amenity
Policy 20, 21 Archaeology
Policy 25 Ground water/surface water/flood protection
Policy 26 - 27 Noise
Policy 28 Dust
Policy 31 Cumulative impact
Policy 32 Advance planting
Policy 33 Public rights of way
Policy 34 Highways
Policy 37 Hours of operation
Policy 39 Stability and support
Policy 41 Restoration
Policy 42 Aftercare
Policy 43 Liaison committees

Macclesfield Borough Local Plan (MBLP)

NE11 Nature conservation interests
NE14 Nature conservation
NE17 Nature conservation improvements
BE21 Archaeology
DC3 Amenity
DC6 Circulation and access
DC9 Tree protection

DC13 and 14 Noise
DC17, DC19, DC20 Water Resources

Other considerations

National Planning Practice Guidance (NPPG)
North West Aggregate Working Party Annual Monitoring Report 2015 (NNAWP)
'Collation of the results of the 2014 Aggregate Minerals survey for England and Wales' British Geological Survey/DCLG 2014
Circular 6/2005
Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (As amended)
EC Habitats Directive
Conservation of habitats and species regulations 2010

CONSULTATIONS:

Archaeology: no objection subject to securing a programme of archaeological work in accordance with a written scheme of investigation.

Highways: no objection subject to conditions controlling the vehicle movements associated with the export of blended material.

Nature Conservation: no objection but recommend revisions to the restoration scheme in respect of increased areas of grassland/heathland and nature conservation after use; incorporation of scalloped edges, shallow water and sloping banks to the lake along with islands. Also recommend a long term aftercare period and conditions to ensure mitigation for protected species, bluebells, submission of details of ponds and rafts and implementation of restoration management plan.

Environmental Health: no objections subject to planning conditions in respect of:

- Control of operational working hours,
- Details of the acoustic mitigation (earth bund)
- Noise limits
- Noise monitoring plan
- Dust management plan/environmental management plan
- Fleet modernisation programme
- Best practice means to minimise noise, vibration and dust
- Measures to address any potential for land contamination from any restoration works
- Measures to deal with unexpected contamination

Public Rights of Way: no objection

Flood Risk Management: no objection subject to condition restricting discharges to the stream and no additional discharges into the watercourse without prior written consent of the LPA.

Landscape: No objection subject to additional planting being secured along the western boundary in addition to gapping up the hedges as mitigation to visual impacts from Congleton Road.

Heritage: no objections

Environment Agency: no objection subject to planning conditions securing a scheme for groundwater monitoring and a restriction on dewatering.

Manchester Airport: no objection

Natural England: no objection. Recommend clarification on proposals for soil handling and restoration methods.

Cheshire Wildlife Trust: do not object but raise concerns in relation to the adequacy of the assessment of biodiversity impacts, level of mitigation habitat provision and recommend appropriate compensatory habitat provision is secured along with monitoring and long term aftercare.

Jodrell Bank: no comments

Parish Council: no objection

REPRESENTATIONS:

Neighbour notification letters were sent to all adjoining occupants and a site notice erected. One letter of representation has been received raising the following matters:

- impacts of noise, dust and interruption to adjacent business and what assessments have been done on the impacts on amenity of adjacent neighbours.
- Impact on property prices

Applicants Supporting Information

The application is accompanied by planning drawings, a planning statement and an Environmental Statement (including non-technical summary) dated June 2016 (amended May 2017) along with associated technical assessments.

APPRAISAL:

The key issues are:

Principle of development
Impact on public rights of way
Impact on Jodrell Bank
Development in Open Countryside
Cultural Heritage
Water Resources and Flood Risk
Agricultural Land and Soils
Nature Conservation
Highway Impacts
Pollution Control

Landscape and Visual Amenity
Geotechnical Stability
Impact on Manchester Airport

Principle of Development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this instance the Development Plan consists of the Cheshire Local Plan Strategy 2017 (CELP), the saved policies of the Cheshire Replacement Minerals Local Plan 1999 (CRMLP) and the Macclesfield Borough Local Plan 2004 (MBLP). Material considerations include National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).

The NPPF (paragraph 142) identifies that minerals are essential to support sustainable economic growth and it is important to ensure a sufficient supply of material to meet the needs of the country. Since minerals are a finite natural resource, and can only be worked where they are found, NPPF states that it is important to make best use of them to secure their long-term conservation. Paragraph 144 requires Local Planning Authorities to give 'great weight to the benefits of the mineral extraction, including to the economy', and 'as far as is practical, provide for the maintenance of landbanks'.

Need

Silica sand is recognised in the NPPF as an important industrial mineral. It occurs in only a very limited number of locations in the UK and is used for a range of specialist applications. It provides essential raw materials for a wide range of downstream manufacturing industries, and as such their economic importance extends well beyond the sites from which they are extracted. Silica sand is therefore treated differently from more general construction aggregate and is considered to be of national importance in national planning policy terms.

The NPPF requires mineral planning authorities to plan for a steady and adequate supply of industrial minerals by:

- Co-ordinating the planning of industrial minerals in co-operation with other planning authorities to ensure adequate provision is made to support their likely use in industrial and manufacturing processes;
- Encouraging safeguarding or stockpiling so that important minerals remain available for use; and
- Providing a stock of permitted reserves to support the level of actual and proposed investment required for new or existing plant and the maintenance and improvement of existing plant and equipment.

For silica sand, the stock of permitted reserves required by the NPPF is "*at least 10 years for individual sites*" (quarries) or "*at least 15 years where significant new capital is required*". This is reflected in policy SE10 of CELP.

Additionally national and local planning policy requires the maintenance of landbanks of at least 7 years for sand and gravel (construction sand) throughout the plan period across all sand and gravel sites.

The current permitted reserves of silica sand at Eaton Hall Quarry equate to a landbank of approximately 6.94 years, below the 10 year figure required in planning policy. The assessment of reserves submitted identifies that the proposed extensions would provide (when combined with existing permitted reserves) 4.3 million tonnes of silica sand which equates to a landbank of 10.8 years thus satisfying the 10 year requirement of the planning policy.

For construction sand, the applicant advises that readily available permitted supplies have been exhausted. The latest figures from North West Aggregate Working Party Annual Monitoring Report 2015 suggest that the Cheshire East sand and gravel landbank is well in excess of the 7 year policy requirement (with 19 years provision); however forthcoming monitoring data is likely to indicate a more reduced landbank level. The NPPG however states that there is no maximum landbank level and an adequate or excess landbank is not a reason for withholding planning permission. The total landbank size is only one measure of the need to release additional reserves. It is also necessary to consider the ability of the existing operational sites to supply market demands, the suitability and availability of alternative materials and issues of possible sterilisation should production cease at a quarry site.

In respect of construction sand supply in Cheshire East, extraction at the main sand and gravel quarry (Mere Farm Quarry) has now ceased. The remainder of permitted reserves of construction sand in the authority are solely contained within silica sand quarries which produce construction sand as an ancillary product; extraction rates are therefore influenced by the rate of silica extraction. Based on the applicant's assessment of mineral reserves, the proposed extensions would release (when combined with existing permitted reserves) 1.3 million tonnes which based on the current rate of extraction equates to a 3.3 year landbank of sand and gravel.

The applicant notes that this proposal will utilise the existing processing area and will also require additional capital investment which in total amounts to £1.7 million, and the level of additional investment together with the substantial capital already invested into the site therefore represents justification for the provision of the substantial reserves within the proposed development. The applicant also states that the proposed extension is required to ensure the continuity of Gawsorth Sand onto the market while also securing valuable supplies of nationally significant Congleton Sand; and will satisfy a demonstrable need for sand, avoiding the need to identify green field sites for mineral extraction. As such it is considered that the proposed extensions would assist in contributing to the strategic provision of silica sand and construction sand/gravel landbanks which is a national and local planning policy requirement and therefore accords with policy SE10 of CELP and the NPPF.

Preferred Area of Search

The CRMLP identifies areas of preferred extensions to existing silica sand ('Preferred Area') which should be the location of any proven additional future sites needed to maintain the silica sand landbank unless exceptional circumstances prevail (Policy 54). In addition, for sand and gravel (construction sand), any requirement for additional reserves should be met (in priority order) from the Preferred Area and then through Areas of Search identified in the CRMLP unless exceptional circumstances prevail (Policy 47).

The proposed eastern extension falls entirely within a 'Preferred Area' in the CRMLP for silica sand. None of the proposed northern extension (which comprises of circa.20ha of land) lies within a Preferred Area. There are two Preferred Areas identified for silica sand which lie in close proximity to the application site; a parcel of land directly to the north of the proposed eastern extension (comprising circa.9ha), and a large area (circa.60ha) to the west of the A34 Congleton Road. No Preferred Areas or Areas of Search for construction sand are located on the site. The closest Area of Search for construction sand is located approximately 700m to the north and covers an area of approximately 850ha.

Given that approximately half the proposed site is not located on a Preferred Area for silica sand in the CRMLP nor on Preferred Area, or Area of Search for sand and gravel, the application has been advertised as a Departure from the Development Plan and it is therefore necessary to consider what exceptional circumstances exist in this instance to justify the proposed northern extension.

Alternative Preferred Areas

The 'Preferred Area' for silica sand identified in the CRMLP adjacent to the proposed northern extension has a boundary with two residential properties and a road. Mineral development in this area could generate additional adverse amenity impacts and any mitigation required could potentially result in some mineral sterilisation. This parcel of land (9ha) is significantly less than the proposed northern extension (20ha). Use of this area as an alternative to the proposed northern extension would reduce the amount of mineral reserve available. The two extensions proposed by this application would (when combined with existing permitted reserves) only marginally exceed the required 10 year landbank set out in planning policy; additionally the geological assessment submitted notes that based on borehole data collected around Fields Farm and Gorsey Moor Farm, the sand in this area appears to thin towards Fields Farm and there are high levels of overburden which would also suggest the area is not feasible or economically viable for mineral extraction. The use of the Preferred Area may therefore not provide sufficient mineral resource to meet the national and local policy requirements.

Historic site investigations undertaken by the applicant into the other Preferred Area for silica sand west of A34 demonstrates the presence of thick overburden with 20m of clay above just 2.5m of Gawsworth sand and a complete absence of silica sand, suggesting that the overburden increases in thickness westwards into the Preferred Area and there are potentially limited or no silica sand reserves in this area. Only one borehole was drilled however in the 60ha of land included in the allocation which is not considered to be sufficient to provide a robust assessment of mineral reserves present in this area.

Despite this, an expansion of the quarry into this Preferred Area is unlikely to be feasible or economically viable. There would be practical and operational challenges by working one area west of the A34 whilst finishing working and restoring the permitted area north of School Lane due to the need to store overburden and soils on other parts of the quarry whilst extraction is being carried out and the need to utilise the existing processing plant south of School Lane. This would involve the transportation of large volumes of material and minerals across a major A road. Additionally the applicant estimates that the current proposed extension would require infrastructure investment of circa. £1.7 million; as such the financial costs of transporting mineral and material across a major A road is likely to be substantially higher. Equally for sand and gravel the closest Area of Search identified in the CRMLP is

over 700m to the north of the site. For these same reasons, the extension of the existing site into the identified Area of Search area is considered neither practical nor economically viable.

The proposals are a natural extension of the site and allow the current working area to be expanded north and eastwards. The applicant identifies that the proposals for working the two extension areas in a planned sequence of phases has been designed to achieve a consistent ratio of industrial and construction sand through the development notwithstanding the complex geology, and achieve successful progressive restoration. If the quarry was only extended eastwards within the Preferred Area, there would be a significant amount of time within the lifetime of the development where there would be limited or no extraction of construction sand which would not provide the continuity of both silica and construction sand required to ensure reserves are responsive to market demand.

The development of the northern extension would avoid unnecessary sterilisation of mineral resources that are otherwise unprotected by any mineral safeguarding designation in the Minerals Local Plan. Additionally, the two proposed site extensions subject to this planning application were put forward by Tarmac as potential site extensions in the 'Call for Sites' exercise undertaken by the Council in 2014 as part of the evidence base for the emerging Local Plan to identify potential new mineral sites. Following detailed assessments, both were recommended to be included as site allocations in the emerging Minerals and Waste Development Plan Document.

On the basis of these points it is considered that there is sufficient justification to warrant the development of a new mineral site on land not identified as a Preferred Area or Area of Search in the Minerals Local Plan and this meets the requirements of policy 5 and 47 of CRMLP.

Development in Open Countryside

CELP policy PG6 does not support development in the open countryside unless it is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure and works by public services/statutory undertakers, or other uses appropriate to a rural area. It has previously been accepted that mineral development is appropriate in the open countryside in this located through the grant of a number of historical permissions on the Eaton Hall Quarry site. As this is a direct extension of the existing quarry it is considered that this principle applies to the proposed development. Equally Preferred Areas for future silica sand and Areas of Search for sand and gravel identified in the CRMLP are located within the open countryside, thus there is an acceptance of mineral development in the open countryside. As such it is considered that the development does not conflict with policy PG6

Sustainability

The National Planning Policy Framework definition of sustainable development is:

"Sustainable means ensuring that better lives for ourselves don't mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they

will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and

These roles should not be undertaken in isolation, because they are mutually dependent.

Social sustainability

Impacts on public rights of way

Restricted Bridleway Eaton RB1 runs along the northern boundary of the current mineral extraction area (north of School Lane) and connects A34 Congleton Road to Fords Lane. This bridleway would be directly affected by the mineral extraction and an application for a formal permanent diversion around the western and northern boundary of the proposed northern extension area has been submitted. The public rights of way officer advises that the new diverted route is considered to be an acceptable alternative as it provides a longer route through the countryside with more accessible gradients than is provided by the current route. The diverted route would be ready for use on commencement of the development and this could be secured by planning condition. The application is therefore considered to accord with CRMLP policy 33 as there would be no unacceptable adverse impact on, or result in a net loss of, a public right of way.

Impact on Jodrell Bank

Policies SE14 of CELP does not permit development which would impair the efficiency of the Jodrell Bank radio telescopes. Jodrell Bank advise that they have no comments on this proposal and it is also noted that the existing quarry site also falls within the consultation zone and was previously considered acceptable. It is therefore considered in the absence of any objection from Jodrell Bank that the development would not impair the efficiency of the telescope and complies with policy SE14.

Environmental sustainability

Impact on agricultural land and soil resources

Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality (NPPF para 112). All development will be expected to avoid the permanent loss of agricultural land quality of 1, 2 or 3a (Best and Most Versatile (BMV)) unless the strategic need overrides the issue (Policy SD2 of CELP).

The proposal would affect 34.29ha of BMV land (15.85ha of Grade 2 and 18.44ha of grade 3a) which is currently used for grazing (northern extension) and arable farming (eastern extension). 5.14ha of BMV land would remain undisturbed by the proposals (including land on the consented site); whilst a further 3.11ha of BMV land would be restored as part of the consented restoration scheme. The restoration of the proposed eastern and northern extension would provide 15.19ha of BMV land (11.42 of grade 2 and 4.05ha of grade 3a). In total 27ha of BMV land would be available on completion of the restoration (including land in the consented site); resulting in an overall loss of 7ha.

Natural England has reviewed the proposals with regard to protection of soil resources and impacts on BMV land. Whilst not objecting, concerns are raised regarding the degree of surplus soils remaining on restoration and whether the amount of agricultural land proposed has been maximised. Concern is also raised in respect of the potential for good quality top soils to be used as subsoils and requirements for drainage.

The amount of agricultural land provision in the restoration scheme has been maximised as far as possible; however the geological and hydrological conditions on site dictate the extent of mineral extraction and resulting landform on its completion. The area taken up by the lake cannot be reduced as this is created by silica sand extraction and a substantial amount of the silica deposit is located beneath the water table. Any reduction would sterilise nationally important mineral reserves which would conflict with national and local planning policy and the mineral can only be worked where it is found.

The proposals include for improvements to the grade of BMV land on completion of the restoration where possible; some of the grade 3a soils stripped from the extraction areas would be used to restore parts of the consented extraction area thus providing improvements over the existing quality of land. Following the aftercare period, the soils will be capable of supporting arable and pastoral farming enabling the current agricultural practices to recommence following restoration. A soils management plan has been submitted which details appropriate soil handling methods to protect soil resources during soil handling, storage, and replacement, and appropriate depths of soil replacement on restoration. It identifies that the majority of soils would be used in restoration, and any surplus would be retained on site and used for habitat creation and to stabilise the lake margins. With respect to drainage the applicant advises that soil profiles are of permeable textures and therefore drainage is unlikely to be required.

Whilst the concerns of Natural England are noted it is considered that the proposal provides as much agricultural land as possible given the constraints on the site. It provides an appropriate balance of land uses taking into account the need to maximise a nationally significant mineral resource, landowner requirements and other factors such as biodiversity and landscape provision.

It is accepted within the CRMLP that the scale and depth of most silica sand workings in the authority means that it is inevitable that some agricultural land will be lost but should be kept to a minimal as far as possible; and the 'Preferred Areas' designated for future silica sand extraction in the CRMLP all comprise predominantly BMV land with significant areas of Grade 2 quality land so the loss of BMV to facilitate silica sand extraction has been accepted in planning policy. Additionally with respect to the NPPF, it is the loss of 'significant' areas of BMV land which is of principal concern, and a recent Inspectors appeal decision has defined 'significant' in this context as the loss of over 20ha of BMV; therefore the loss of 6.88ha is not considered as significant under this definition. Furthermore, with respect to the restoration of mineral sites, NPPG states that where working is proposed on BMV land, the proposed after-use need not always be for agriculture.

On the basis of these points and subject to securing the measures contained within the soils management plan, and the restoration and aftercare arrangements by planning condition, the proposals are not considered to result in any significant adverse impacts on BMV land and would not harm soil resources; furthermore on completion of the restoration the land would be restored to an acceptable form of afteruse and be capable of being used for either arable or pastoral farming. This accords with policy SD2 of CELP and the approach of the NPPF and CRMLP.

Impact on farm business

The ES includes an assessment on farm business and notes three farm businesses will be impacted by the proposals namely Fields Farm, Gorsey Moor Farm and Jack Fields Farm. The farms are under a tenancy and stock cereal crops and livestock (dairy and beef cattle). The applicant advises that they have signed a lease holding with the mineral operator and are aware of the farm business impacts associated with the proposed mineral extraction. On this basis a farm business impact assessment is not required and the impacts on the farm businesses (taking account of the proposed mitigation) are not considered to be significant.

Nature Conservation

Designated sites

Within 2km of the site lies Madams Wood Site of Special Scientific Interest (SSSI), Cocks Moss Wood and Cranberry Moss Local Wildlife Sites (LWS). Natural England does not consider that the SSSI represents a constraint in determining this application. No hydrological impacts are anticipated on either LWS, and a dust management method statement would protect against any contamination of Cocks Moss Wood, which could be secured by planning condition.

Protected species

Great crested newts

The majority of ponds supporting great crested newts within 250m of the development would be unaffected and all ponds would be retained; however there is a potential for loss of terrestrial habitat and some impacts during the operational phase of the development.

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

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

The Habitat Regulations 2010 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.

Test 1: Overriding Public Interest

The economic benefits of mineral extraction in maintaining supplies of locally and nationally important reserves to contribute to the policy requirement for mineral landbanks are set out above and have previously been accepted in the grant of the current mineral permission. Whilst the proposals may result in some disturbance or harm to small numbers of the population; any such harm could be appropriately managed and mitigated. Given this, the proposal contributes to meeting an imperative public interest, and that the interest is sufficient to override the protection of, and any potential impact on great crested newts, setting aside the proposed mitigation that can be secured.

Test 2: No satisfactory alternative

The alternative option is a ‘do nothing scenario’. However should no development take place the specialist mitigation for great crested newts would not be provided which would be of benefit to the species.

Test 3: “the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range”.

All great crested newt ponds would be retained as part of the proposals and all newts would be removed and excluded from the working areas. The loss of terrestrial habitat would be mitigated by the creation of hibernacula and rough grassland habitat, and any ponds not used by newt that are lost would be replaced on a 1:1 basis. The Nature Conservation Officer

considers the proposed mitigation and compensation to be sufficient to maintain the favourable conservation status of the local population of great crested newts, subject to mitigation being secured by planning conditions. Therefore, providing appropriate conditions are included, it is considered that the proposal meets the third test.

Overall, therefore it is considered that the development contributes to meeting an imperative public interest, there is no satisfactory alternatives, and that the interest is sufficient to override the protection of, and any potential impact on great crested newts, setting aside the proposed mitigation. It is considered that Natural England would grant a licence in this instance.

Other protected species

The mitigation identified for great crested newts would address any impacts on common toad. The site has low value for foraging and commuting bats and there are no roosts on site. A detailed bat survey is recommended prior to the felling of any trees with bat roost potential. An outlying badger sett would also be closed under license and there would be some loss of foraging habitat which would be progressively replaced through site restoration. An updated badger survey and mitigation strategy is recommended for works after April 2018.

Breeding/wintering birds

The site supports a number of species including Priority Species and some habitat would be lost as a result of the proposals. Cheshire Wildlife Trust (CWT) do not raise any objections but consider that the cumulative impacts of the proposal alongside other consented schemes have not been sufficiently addressed and are likely to be significant at a County level. They recommend enhancing an area of the site to ensure no net loss of ground nesting bird habitat or alternatively securing offsite provision. No concerns are raised by the Council Nature Conservation Officer aside from noting the loss of habitat for breeding birds.

The applicant notes that the phased working would result in the current habitat on site (comprising 41ha of improved grassland/farmland/poor semi-improved grassland) being gradually removed over time, and on restoration there would be 25ha of grassland pasture and 2.3ha of heathland habitat (not including the large lake to be created) brought forward in a phased manner as restoration progresses. The proposals also include for:

- Retention and reinstatement of large areas of habitat specifically for declining wetland and farmland bird species;
- Retention of hedgerows and field boundaries available for use during the development;
- Reinstatement of native species hedgerows of a higher biodiversity value than those being replaced with greater density of available food.

Additional species not presently breeding on the site may also be attracted by the new restored habitat such as little ringed plover, sand martin and barn owl. The applicant also estimates that there are significant areas of agricultural habitat available within 5km of the site to mitigate any temporary displacement during certain periods of mineral working.

During mineral extraction extensive areas of open bare ground, standing water and grassed bunds are created which often provide breeding bird habitat; this is evident on other mineral sites in the authority which have a range of bird species established on the site during active

mineral extraction. It is also noted that the legal protection afforded to breeding birds on active mineral sites (as opposed to agricultural fields which are largely exempt from such restrictions) are also likely to support breeding bird productivity.

Whilst the concerns of CWT are noted, on the basis of the above, and given the other constraints influencing the restoration scheme which are discussed further below, it is considered that the impacts on breeding birds are acceptable. The potential for increasing areas of habitat within the restoration scheme is considered below.

Impact on Habitats

Areas of new heathland habitats are proposed which are a priority for nature conservation and would be guided by a heathland restoration strategy to be secured by planning condition as recommended by the Nature Conservation Officer. The translocation of affected Native Bluebells (a Local BAP species) to an area of established woodland is also recommended.

The proposals would result in an overall net gain in native hedgerow provision which are a Priority habitat, and appropriate management arrangements are set out in a hedgerow management strategy which could be secured by planning condition.

The woodland habitats on site are also a Priority Habitat of County value. An area of 0.22ha would be lost to the development; with circa.10.23ha of replacement compensatory woodland planting proposed. This net gain in compensatory planting is considered acceptable to account for the loss caused by the development.

Restoration scheme design and aftercare arrangements

Overall the Nature Conservation Officer considers the proposed mix of lake, tree/hedgerow planting and grassland/heathland habitats to provide nature conservation benefits. Revisions to the final restoration scheme are recommended in respect of increasing the areas of nature conservation and species rich grassland/heathland, along with incorporating additional feature in the lake including islands, scalloped edges and gently sloping banks. CWT do not consider that the impacts on habitats resulting from the time lag between initial damage from mineral extraction and replacement habitats some years later has been sufficiently assessed and therefore consider there is an overall significant net deficit on biodiversity which requires compensation; a matter which the applicant disagrees over.

The restoration scheme has been revised as far as is reasonably practical with increased areas of grassland/heathland, scalloped edges and rafts in the lake for wintering/breeding birds. With respect to the other suggestions of the Nature Conservation Officer, the applicant advises that in some areas this is not feasible due to geotechnical and geological restrictions and the extent of material likely to be necessary to construct islands in deep open water; a matter which is accepted.

Whilst an increase in habitat provision would benefit biodiversity, this would reduce the amount of BMV land and farmland available to the existing farm business. As noted above, the lake area cannot be reduced without impacting on nationally important silica sand reserves. Given that the proposed afteruse of the site is predominantly to agriculture which is identified as an acceptable afteruse in the NPPF and CRMLP, the restoration proposals are considered to provide an appropriate balance of land uses, taking into account the need to maximise mineral resource use, protect soil resources and BMV agricultural land, as well as

protect the landscape and biodiversity and landowner requirements. As such, an increase is not considered feasible or justified in this regard.

Aftercare arrangements

The Nature Conservation Officer, Forestry Officer and CWT consider that long term aftercare should be secured; noting that the Priority woodland requires in excess of 30 years to establish. CWT also consider that dedicated funding should be secured for the long term management and monitoring period.

Aftercare is required to '*ensure that, following site restoration, the land is brought up to the required standard which enables it to be used for the intended afteruse*' (NPPG); which in this case is primarily to agriculture with some provision for nature conservation uses. The proposed five year aftercare period would be informed by a restoration and aftercare management plan tailored to the needs of each habitat/land type to ensure it is supported during the early stages of formation so that at the end of the aftercare period, the land is at a standard whereby it does not have to be treated differently from undisturbed land. The applicant considers that five years is sufficient and highlight that they do not own a large proportion of the land. They also note that five years is a generally accepted practice for mineral development, reflecting planning legislation. They therefore consider it unreasonable and impractical to extend the timescale further and seek any financial arrangements for any long term monitoring.

The TCPA 1990 (Schedule 5) makes it clear that mineral planning authorities cannot require any steps to be taken after the end of a statutory 5 year aftercare period without the agreement of the minerals operator. Additionally saved policy 42 of CRMLP states that the Council will require mineral development to be subject to a programme of aftercare management for a period of up to five years.

The majority of the land would be returned to agriculture and Natural England raise no concerns over the aftercare period proposed. Likewise the measures contained within the aftercare management plan for the establishment of the wildlife habitats, aside from the woodland, are considered acceptable and would comply with policy SE3 of CELP. The five year period proposed would also meet the requirements of the Act and CRMLP.

With regard to the woodland to be planted as replacement 'Priority' habitat, whilst the five years would ensure the initial planting is established, it is not likely to ensure it reaches the standard required to be considered as 'Priority' woodland. As such there is likely to be an overall negative impact in terms of biodiversity and forestry as a result which would conflict with CELP policy SE3. This policy conflict needs to be balanced against the strategic economic need for mineral provision and other sustainable development factors presented by the scheme. On balance, given the majority of the site would be subject to acceptable aftercare arrangements and the proposed timescales for the other habitats proposed are acceptable, it is not considered that there are sufficient grounds to warrant refusal of the scheme due to impacts on woodland in this instance.

Landscape and Visual Impacts

In terms of landscape character, the main impacts will result from the change from agricultural farmland to mineral working, with the resultant loss of vegetation and field boundaries. The impacts range from slight to moderate adverse during extraction and negligible following

restoration but would be temporary in nature and would reduce over time through progressive restoration.

Visual impacts from receptors would be partially screened by existing vegetation, boundary screening provided by the proposed soil bunds created by soil stripping, the proposed advanced woodland planting and gapping up of existing hedgerows. The method of working also limits the amount of open areas of extraction and proposes progressive restoration which further minimises visual impacts. Furthermore, the woodland located to the west of the proposed northern extension is now being retained, which will provide additional screening in addition to the proposed woodland planting in this area. With regards to the closest residential properties (all situated between 40 to 90m away from the northern and eastern site boundary), the proposed soil bunds would provide a visual screen for all properties during the course of the development. Some would have upper storey views which may in part be mitigated by existing vegetation however the visual impacts are not assessed as significant. Views from footpaths would be partially screened by intervening vegetation and bunding.

The extent of restoration proposals are considered acceptable to ensure that a natural landform is achieved on completion of all mineral working which reflects the character of the area and incorporates vegetative features which are reflective of the landscape of the area. All restored land would be subject to a period of aftercare in accordance with a detailed restoration and aftercare management plan. Subject to securing these provisions, it is considered that the proposals would not have an unacceptable impact on the landscape or visual amenities of sensitive receptors and would accord with saved policies 15 and 17 of CRMLP.

Impacts on forestry

All existing trees and hedgerows will be retained as far as possible and reinforced where necessary. A significant number of mature trees would be removed to accommodate mineral extraction along with 0.23ha of woodland, and 935m of hedgerow. The loss of the individual trees and woodland is considered by the Forestry Officer to be high in amenity terms.

The proposals would require the removal of hedgerows which exist along field boundaries that are shown on the 1840 Tithe Map. They pre-date the Enclosure Act and are therefore deemed to be 'Important' under the Hedgerow Regulations 1997, and as such the loss is a significant material planning consideration. To offset this, the proposals include for 10.23 ha of new woodland and 1580m of hedgerow. This represents a 5ha increase in woodland over the consented restoration scheme. Additionally, 2400m of gapping up is proposed with new native species rich hedgerow and hedgerow trees planted as part of the restoration plans which would provide a net gain in terms of the overall linear meterage.

The retention of the two blocks of woodland to the west and south west of site, along with the proposed planting is considered by the Forestry Officer as reasonable mitigation when balanced against the collective proposed arboricultural implications. Overall the forestry officer considers that the proposals would provide a reasonable approach to the restoration of the area in the long term. Extended aftercare provisions are recommended to ensure the woodland is established which the applicant does not consider necessary or justified. This matter has been addressed in the above section. Tree protection measures are also recommended which can be secured by condition. The level of mitigation planting is

considered sufficient to outweigh the loss of trees and 'Important' hedgerow, and is considered to comply with saved policy 41 of CRMLP.

Water Resources and flood risk

Mineral extraction has the potential to locally increase the volume of rainfall reaching the underlying aquifer and reduce the amount of time it takes rainfall to reach the watertable, which has the potential to raise groundwater levels immediately surrounding areas of extraction. The proposals are expected to raise groundwater levels around the extraction areas by 0.35m particularly around the western and southern boundaries of the dredging lake being created, but the impact would diminish over a 200m distance. The depth to groundwater in the aquifer is such that the anticipated rise in groundwater levels is not predicted to cause significant impacts.

The development would require the removal of one groundwater abstraction well; and three others are likely to be seasonally affected by the anticipated changes in groundwater levels. Legal agreements are in place with all affected landowners to secure replacement water supplies should the development cause adverse effects on the wells. No other anticipated effects to existing groundwater supply sources are expected as a result of the mineral extraction, and no significant off-site discharges of groundwater or surface water run-off are likely.

In order to address initial concerns by the Environment Agency regarding the impacts of the expanded dredging lake on the hydrology of the local area; restrictions on off-site dewatering to Fernhill Stream are recommended where the levels of the southern lake and River Dane demonstrate this is necessary. This can be secured by planning condition and would be informed by the current groundwater monitoring scheme which would be expanded to incorporate the new site extensions. Water levels in each lagoon and the boreholes around the site would be monitored, with the results reports periodically to the Council in order to identify any long term trends on and around the site. This would also assess any secondary impacts of modified groundwater levels, along with identifying mitigation as necessary for the duration of the development and aftercare period. These matters could be secured by planning condition and the Environment Agency and flood risk management team are satisfied with these provisions.

In respect of protection of water quality, the same working practices currently adopted on site would be implemented and there is anticipated to be a negligible likelihood of surface water quality derogation as a result of the proposals and no adverse impacts anticipated on existing abstractions, or sites of ecological interest. Subject to securing the mitigation measures identified, it is considered that the proposals would accord with policies SE12 and SE13 of CELP and saved policy 25 of CRMLP which does not support development which would have an unacceptable impact on groundwater or surface water regimes.

Flood Risk

The development is located in flood zone 1 and is considered to be appropriate development in this flood zone, having a flood risk vulnerability classification of 'water compatible' in the NPPG. With respect to groundwater flooding, the depth to groundwater is more than sufficient to ensure any increased rainfall as a result of climate change would not increase risk of flooding from the dredging lake created by the extraction proposed, and the size of storage provided by the lake could accommodate any surface water runoff. As detailed

above, off-site discharges to Fernhill Stream would be controlled as necessary (and informed by the groundwater monitoring scheme) to ensure there is no increased risk of flooding. Furthermore the frequency and duration of pumping is regulated by the Environment Agency. It is therefore not considered that the development would present any adverse impacts on or off site with respect to flood risk and complies with NPPF, policies SE12 and SE13 of CELP and saved policy 25 of CRMLP.

Highway Impacts

Mineral development should ensure traffic can be accommodated within the existing highway network, the volume and nature of traffic should not create unacceptable adverse impact on amenity or road safety, and the junction arrangements should be satisfactory in terms of layout and safety (policy 34 of CRMLP). Development should also not significantly injure the amenities of adjoining or nearby sensitive land uses due to traffic generation and access (Policy DC3 of MBLP).

The existing quarry permission has no limit on vehicle movements and HGVs movements are permitted over a 24 hour and 7 days a week period. The proposal is anticipated to generate 170 HGV movements (85 in and 85 out) a day, which represents approximately 1.3% of the 5 day average two way flows on the A34 serving the site. This traffic is already accommodated on the highway network. In addition to exporting minerals, the site also exports sand/soil/peat mixes which involves the importation of soils and compost averaging one HGV per day. These vehicle movements are controlled by planning condition on the current consent restricting movements to 400 per week (200 in and 200 out) during the summer months (with permitted movements reducing in winter reflecting the seasonally dependent nature of the product). Car and light vehicle movements will also continue at the existing rate and will utilise the existing access off on School Lane. The existing access for HGVs off A34 via a priority T junction with a deceleration and acceleration lane is considered acceptable and no concerns are raised over the capacity of the highway network or road safety concerns.

The Head of Strategic Infrastructure considers that the proposal is acceptable subject to replicating the existing planning conditions restricting HGV movements for the production of blended sand/soil/peat which can be imposed on any new consent. As such the application is not considered to present any adverse impacts on the local highway network or road safety and complies with policy 34 of CRMLP and DC3 of MBLP.

Pollution Control

CRMLP policies 25, 26, and 28 do not permit development which would give rise to unacceptable levels of water, noise or dust pollution. MBLP policy DC3 does not support development which would significantly injure the amenities of nearby residents or sensitive receptors due to (amongst others) noise, dust or environmental pollution.

Noise and Vibration

With regards to mineral development, the NPPG advises that noise level limits should not exceed background noise levels by more than 10dB(A) between 0700 and 1900 hours. Where it will be difficult not to exceed the background level by more than 10dB(A) without imposing unreasonable burdens on the mineral operator, the limit set should be as near that level as practicable, and the total noise from the operations should not exceed 55dB(A) (with limits reduced to 42 dB(A) during night time hours). During temporary operations for site

preparation and restoration, increased daytime noise levels of up to 70dB(A) at noise sensitive properties are advised.

There are a number of sensitive receptors located in all directions from the site. Noise modelling has been carried out for dry and wet working for each of the phases and restoration activities which identifies that during temporary operations for site preparation and restoration (when typically noise levels can be higher), along with during normal mineral activities, the noise levels are predicted to remain within the levels set out in NPPG and therefore noise associated with the proposals would have a negligible impact. It is also noted that the quarry will only operate during the daytime, and additional noise mitigation will be gained as the quarry face drops below the existing ground level. No significant cumulative noise impacts are anticipated as a result of the development alongside the operation of the Congleton Link Road. The Environmental Health officer does not consider that there would be any cumulative impacts on site from the mineral activities as the phases would be worked sequentially and no objections are raised subject to the imposition of conditions in respect of:

- Controls on operational working hours and restriction on time periods for site preparation and restoration works
- Construction and maintenance of the proposed earth bunds
- controls on noise levels as per the guidance in NPPG and noise monitoring

The applicant has requested a more flexible noise limit with average noise levels measured over a typical working week to allow for occasional periods where noise levels may be exceeded for a short period of time. Given that the noise assessment concludes that without mitigation the noise levels in NPPG can be met at each receptor, and given that the NPPG already incorporates a flexible approach to controlling noise from mineral activities, it is not considered necessary or justified to provide further allowances in any planning condition.

With respect to vibration, the assessment identifies that there may be short term minor adverse effects on sensitive receptors located in the immediate vicinity of the development however this would only occur for limited periods during the development. No specific vibration mitigation measures are proposed however a range of good working practices are recommended to be adopted by the operator including careful choice of plant and machinery to avoid any likely to cause significant vibration at sensitive receptors, and use of low speed limits in the vicinity of sensitive receptors. With the implementation of mitigation, no significant residual impacts from vibration are predicted and no concerns are raised by the Environmental Health Officer.

Subject to the imposition of these measures, the development is not considered to pose any adverse impacts on sensitive receptors and complies with policies 26 of CRMLP and DC3 of MBLP, and the approach of the NPPF.

Air Quality

Air Quality impacts associated with mineral extraction can include dust emissions from surface stripping and soil handling/storage during mineral working, and haulage of material, along with the emissions of NO₂ and ultra-fine particles from vehicle movements.

The Environmental Statement (ES) predicts that the dust impacts associated with the different phases of mineral extraction would largely result in insignificant effects on nearby receptors.

Those properties located within 250m of the working areas are predicted to have a moderate to minor adverse effect for all phases of the development apart from during phase 1 where the effects are major to moderate adverse at some properties. Following the implementation of mitigation however these are reduced to insignificant across all phases of the development. An updated dust management plan has been submitted which can be secured by planning condition and this would include for dust monitoring, along with mitigation such as:

- Recording dust deposition at nearby receptor locations, in order to identify causes and take appropriate measures to reduce emissions;
- Erecting screens or barriers as deemed necessary;
- Compaction, grading and maintenance of haul roads;
- Wheel cleaning facilities (preferably automated) within the site; and
- Regular removal of spilled materials from haul roads;

The air quality assessment does not take account of potential impacts from vehicle emissions. The Environmental Health Officer notes that air quality is of increasing concern, especially around the Congleton area. Many of the HGVs associated with the quarry would travel through Congleton until the bypass is constructed and HGVs emit higher levels of harmful pollutants than light vehicles. Increased emissions from road transport have the potential for worsening air quality, and to adversely affect health. The Environmental Health Officer notes that the cumulative impacts of consented developments around Congleton are likely to lead to significant increases in traffic related emissions. Mitigation in the form of a fleet modernisation programme is recommended for those HGVs under the control of the mineral operator to mitigate the increase in emissions and this could be secured by planning condition on any consent.

Subject to the imposition of these planning conditions it is considered that the proposals would not result in significant adverse impacts on air quality and would comply with policy 28 of CRMLP and policy DC3 and DC13 of MBLP, along with the approach of the NPPF.

Land Contamination

The current use of the application site is agricultural land and as such the risks of encountering potential contamination from the proposed mineral activities are low. Only site won material would be used for restoration with no other material imported. No objections are raised from the contaminated land officer and a planning condition is recommended in respect of managing any risks from unexpected contamination encountered on site which is considered acceptable.

Cultural Heritage

There are no designated heritage assets within the site. Four Grade II listed buildings are located circa. 430m – 760m to the south east of the proposed eastern extension; with a further three located west of Congleton Road circa. 870m to 1180m from the proposed northern extension. A grade I building (Church of St James and St Paul) is located circa 1470m north of the proposed northern extension. With respect to the grade II listed buildings, the proposed development would not physically impact on the heritage assets or impact their settings. It is not considered that there would be any impact on the Grade I church given the distance to the site and the presence of Congleton Road. The built heritage officer considers that the proposals would not have any adverse impacts on these heritage assets.

In respect of buried archaeological remains, there is one non-designated heritage asset identified within the site boundary (the findspot of a Bronze age axehead). The previous archaeological watching brief for the consented working area revealed little archaeological evidence apart from field drains and field boundaries potentially forming the early limit of the Eaton Hall estate. There is no evidence that the proposed extensions would disturb buried remains of greater significance. A written scheme of investigation for archaeological watching brief has been submitted which is considered acceptable by the Cheshire Archaeological advisory service and its implementation can be secured by planning condition. This accords with policy 20 of CRMLP.

Geological conditions

CRMLP policy 10 states that an application for the winning and working of minerals should be supported by adequate geological information to prove the existence of the mineral, its quantity, and quality by reference to appropriate British Standards and any special chemical or physical properties.

A geological background and mineral reserve assessment has been submitted which demonstrates a large quantity of high quality reserves within the application site, supported by an extensive programme of borehole drilling. It identifies that the deposit consists of varying thickness of overburden above Gawsworth (construction) sand and Congleton (Silica) sand and that the Gawsworth and Congleton sands in the proposed extension areas are similar in quantity to that in the current quarry and would be suitable to supply existing markets. This is considered to satisfy the requirements of CRMLP policy 10.

Geotechnical Stability

A stability assessment has been submitted which identifies that the stability of the excavated sub-water slopes within the eastern and northern extension areas are adequate. For the dry excavated slopes above the water line the assessment identifies that the slope gradients within the upper dry slopes will be stable for the temporary period prior to restoration. Once restored, the slopes would be in excess of 1.4 and this would indicate that the stability of these slopes would be adequate. Additionally the screening bunds have been assessed and whilst it is identified that some minor surface erosion may occur, given the local height of the bunds any movement would not be considered significant. Overall therefore the assessment considers that the proposed excavation design and restoration profiles for the extension areas are adequate and as such no significant adverse impacts are anticipated with regard to land instability. It is also noted that such matters are covered by relevant mining and health and safety legislation under which the proposals would be regulated.

Impact on Manchester Airport

The previous restoration scheme was considered acceptable by Manchester Airport in terms of aerodrome safeguarding and the amended proposals incorporating the new extension areas are not considered by Manchester Airport to present any adverse impacts from bird strike risks and no objections are raised. The proposals are not considered to pose any impacts in terms of aerodrome safeguarding.

PLANNING BALANCE

Taking account of Paragraph 14 and 143 of the NPPF there is a presumption in favour of the sustainable development unless there are any adverse impacts that *significantly and*

demonstrably outweigh the benefits. It is therefore necessary to make a free-standing assessment as to whether the proposal constitutes “sustainable development” in order to establish whether it benefits from the presumption under paragraph 14 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).

In this case the development would provide significant benefits to the economy. The NPPF recognises that minerals are essential to support sustainable economic growth and it is important to ensure a sufficient supply of material to meet the needs of the country. Since minerals are a finite natural resource, and can only be worked where they are found, it is important to make best use of them to secure their long-term conservation, and Local Planning Authorities should give ‘great weight to the benefits of the mineral extraction, including to the economy’, and ‘as far as is practical, provide for the maintenance of landbanks’. The economic benefits of the scheme are therefore clear and considered to be significant. The proposal would release a substantial amount of nationally significant mineral reserve which occurs in only a very limited number of locations in the UK and provides specialist mineral to a wide range of industries. It would enable the Council to ensure a 10 years supply of industrial mineral at the site as required by national and local planning policy which is not currently provided by the site at present. Additionally the proposal would release reserves of construction sand contributing to the maintenance of a 7 year landbank as required by planning policy. It also provides direct and indirect benefits to the local economy by providing raw materials for a wide range of products. The scheme also provides social benefits in terms of providing a more acceptable public right of way across the site with more accessible gradients for users.

With respect to environmental sustainability benefits are provided through the mitigation during mineral activities and on completion of the comprehensive restoration scheme. This includes provision of a large lake, grassland, heathland and pasture, an overall net gain in hedgerow provision and provision of hedgerows of higher biodiversity value. The scheme also provides new ponds and habitat for protected species, improvements to BMV land, and a net gain in woodland planting.

This should be balanced against the harm to biodiversity resulting from the potential loss of habitat particularly for ground nesting birds, delay in the provision of replacement habitat due to the timescales when restoration would take place, and impact on Priority habitat resulting from the lack of long term management. Additionally the minor loss of BMV land and the longer period of mineral extraction on local amenity need to be considered.

Overall the harm caused by the scheme is considered to be significantly outweighed by the benefits arising from the proposal, most notably the significant strategic national importance of maintaining silica sand reserves and ensuring this nationally significant mineral reserve is not sterilised. The potential harm to residential amenity and the environment can be adequately mitigated by planning conditions and through the controls in other environmental legislation. As such the scheme is considered to accord with policies of CELP, CRMLP, MBLP and the approach of the NPPF.

RECOMMENDATION

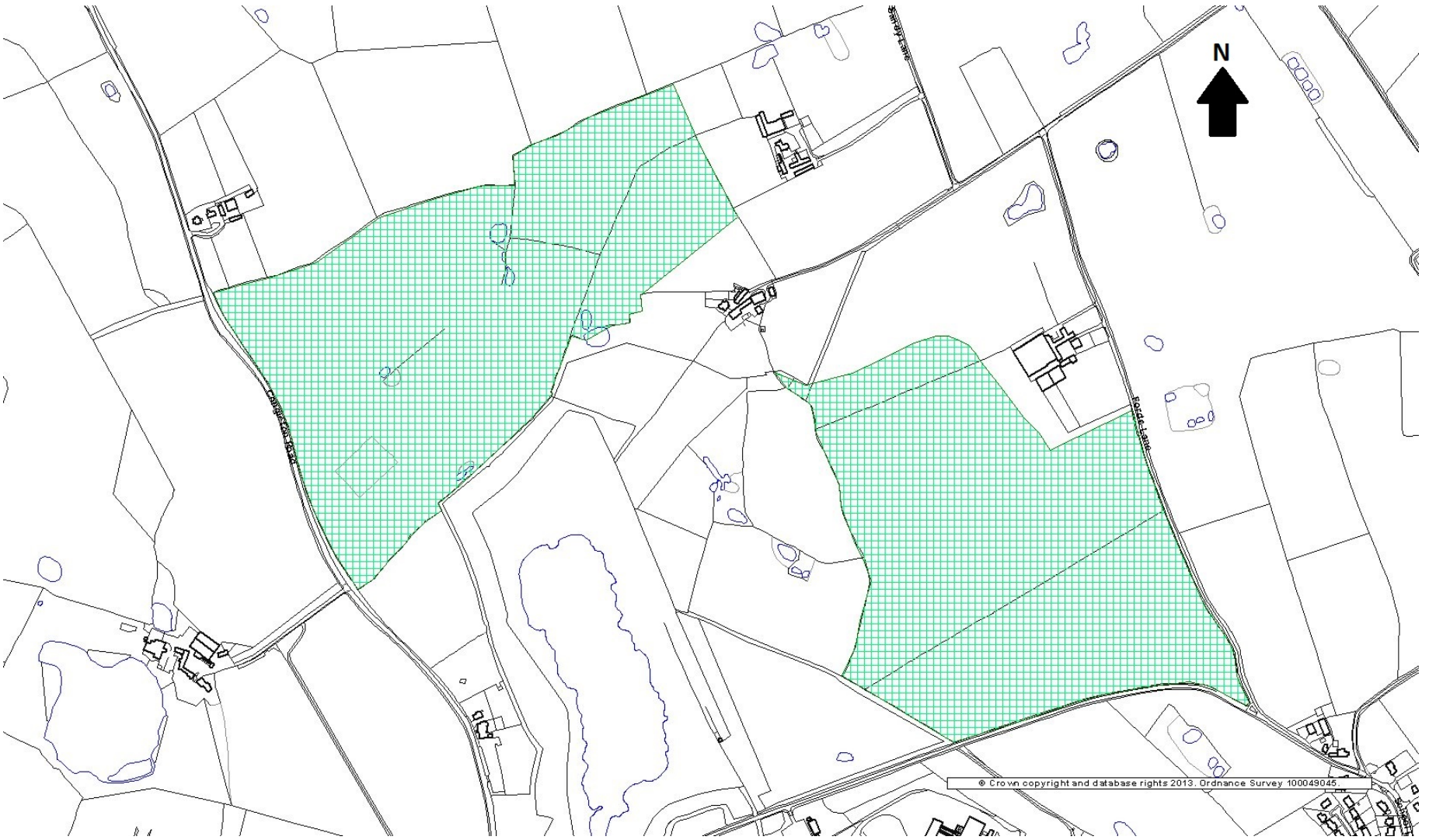
That subject to the Secretary of State deciding not to 'call-in' the application under the Departure from the Development Plan procedures, planning permission be granted subject to the following conditions:

1. Approved documents
2. Commencement of development
3. Cessation of mineral working and restoration within 25 years of commencement
4. Hours of working
5. Vehicle numbers from blended mixes and records of movements
6. Access arrangements
7. Method of working
8. Depths of extraction
9. Phased working and annual report of mineral working undertaken over previous and future 12 month period
10. Protection of trees/vegetation
11. Plant and machinery
12. Noise limits
13. Implementation and maintenance of noise mitigation
14. Best practice for controlling vibration
15. Dust control measures in accordance with dust management method statement
16. Drainage and pollution control
17. Lighting details to be agreed
18. Archaeological mitigation
19. Site maintenance
20. Soil handling, storage and use in accordance with soil management plan
21. Measures to deal with unexpected contamination
22. Details and implementation of mitigation for protected species
23. Updated protected species surveys
24. Implementation of habitat mitigation
25. Submission of heathland restoration strategy
26. Submission and implementation of bluebell translocation method statement
27. Implementation of hedgerow management plan
28. Provision of alternative public right of way and protection of route for the duration of the development
29. Restoration drainage arrangements
30. Mitigation for derogated abstraction
31. Limits on off-site dewatering
32. Groundwater monitoring and mitigation
33. Controls on water quality
34. Fleet modernisation programme
35. Implementation of restoration/aftercare in accordance with approved plans and restoration and aftercare management plan
36. Aftercare for five years

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

(Regulation) has delegated authority to do so in consultation with the Chairman of the Strategic Planning Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

Should this application be the subject of an appeal, authority be delegated to the Head of Planning (Regulation) in consultation with the Chairman of the Strategic Planning Committee to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.



Application No: 16/3282W

Location: EATON HALL QUARRY, MANCHESTER ROAD, EATON, CONGLETON, CHESHIRE, CW12 2LU

Proposal: Application to vary planning permission 5/APP/2004/0012 under section 73 of the Town and Country Planning Act 1990 (as amended) to develop land without compliance to conditions

Applicant: Mr G Fyles, Tarmac Trading Ltd

Expiry Date: 31-May-2017

SUMMARY

There is a presumption in the NPPF in favour of the sustainable development unless there are any adverse impacts that significantly and demonstrably outweigh the benefits.

In terms of sustainability the proposal would satisfy the economic sustainability role by ensuring that the remaining mineral reserves are fully utilised, contributing to the requirement for a seven year landbank for sand and gravel and ten year stock of permitted silica sand reserves at the site as required by national planning policy. It also provides direct and indirect benefits to the local economy by providing mineral required for a variety of industries and businesses and enables the site to be restored to a high standard.

This should be balanced against any potential harm to residential amenity and the environment resulting from the extended timescales for the restoration of the site. The benefits arising from the proposal are considered sufficient to outweigh any harm caused by the scheme, and the potential harm to residential amenity and the environment can be adequately mitigated by a range of planning conditions and through the controls in other environmental legislation. Subject to securing appropriate planning conditions, the proposal would not give rise to any unacceptable impacts on the highway network, residential amenity or the local environment, nor would it have any adverse impacts on the landscape or any significant adverse visual impacts. As such the scheme is considered to accord with policies of CELP, CRMLP, MBLP and the approach of the NPPF.

SUMMARY RECOMMENDATION: Approve subject to planning conditions

SITE DESCRIPTION AND HISTORY

Eaton Hall Quarry is a silica sand quarry that has been operational since the early 1970s. It is located near the village of Eaton, Cheshire and is approximately 1km north of the edge of Congleton. The quarry site is broadly bounded by restricted Byway Eaton RB1 and agricultural fields to the north; A34 to the west, Macclesfield Road to the south and agricultural fields to the east.

The quarry covers an area of approximately 96 hectares and is split in half by School Lane. The current mineral extraction area is located to the north of School Lane and includes an area of open water used as a dredging lake. To the south of School Lane is a large open water body used as a dredging lake created by previous mineral extraction, along with site offices, processing plant, dry packing operation, sub-stations, sand storage areas, car parks and truck stocking areas. The site also has mineral storage areas, tanks and pipelines. Access into the site is off A34 via an internal access road which runs around the north west edge of the lake in the southern section of the site.

There are a small number of properties located off Bebbington Road, Sandy Lane and the A34. Beyond this the village of Eaton is located approximately 0.2km to the south-east of the site.

PROPOSAL

This application seeks to vary a number of planning conditions on the current mineral permission (Reference: 5/APP/2004/0012) to extend the timescales for mineral extraction, processing and restoration for a further 25 year period.

A northern and eastern extension to the site is proposed under a separate planning application (Reference: 16/3298W). These two areas would be extracted first prior to the remaining mineral reserves from the current permission being worked on land to the south of School Lane. This process would take a 25 year period and the existing quarry infrastructure and processing plant would be required during this period. At present all mineral extraction and processing must cease by 2026, with restoration completed by 2027. In order to ensure consistency across permissions should the proposed quarry extensions under application 16/3298W be approved, this application seeks to vary the conditions to:

- Extend the time for mineral extraction, processing and export, and restoration of the site by 25 years.
- Permit the transportation of overburden, soils and minerals from the proposed extension area to the processing area on the consented site;
- Revise the working and restoration schemes to reflect the proposed site extensions.

This would ensure that the permitted mineral reserves in the area south of School Lane can be extracted; ensure that site infrastructure, plant and machinery can be utilised throughout the planned lifetime of the site and enable the complete restoration of the quarry.

RELEVANT HISTORY: The quarry has a long planning history; the most relevant of which is as follows:

5/96/0181P	Erection of additional plant and modifications to existing infrastructure granted may 1996
5/APP/2004/0012	Extension of industrial sand workings north of School Lane, provision of conveyor tunnel beneath School Lane, dumper crossing point, retention of existing processing plant and infrastructure
5/05/3042	Erection of bagging facility
5/06/1782p	Erection of bagging and storage facility
12/3869W	Variation of conditions of 5/06/1782P relating to traffic movements and hours of operation

NATIONAL & LOCAL POLICY

National Policy:

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

Of particular relevance are paragraphs 14 concerning sustainable development; and paragraphs 144, 145 and 146 with regards to planning for minerals, particularly industrial minerals.

Development Plan:

The Development Plan for this area is the Cheshire East Local Plan Strategy 2010 – 2030 Adopted July 2017 (CELP), the Cheshire Replacement Minerals Local Plan 1999 (CRMLP) and the Macclesfield Borough Local Plan 2004 (MBLP).

The relevant policies of the CELP are:

MP1 and SD1 Sustainable development
SD2 Sustainable development principles
PG6 Open countryside
SE3 Biodiversity and geodiversity
SE4 The landscape
SE5 Trees, hedgerows and woodland
SE7 The historic environment
SE10 Sustainable provision of minerals
SE12 Pollution, land contamination and land instability
SE13 Flood risk and water management
SE14 Jodrell bank
CO1 Sustainable travel and transport
CO4 Travel plans and transport assessments

The relevant Saved Policies are: -

Cheshire Replacement Minerals Local Plan (CRMLP)

Policy 2 Need
Policy 9 Planning applications
Policy 10 Geological content of planning applications

Policy 12 Conditions
Policy 15 Landscape
Policy 17 Visual amenity
Policy 20 – 21 Archaeology
Policy 25 Ground water/surface water/flood protection
Policy 26 - 27 Noise
Policy 28 Dust
Policy 31 Cumulative impact
Policy 32 Advance planting
Policy 33 Public rights of way
Policy 34 Highways
Policy 37 Hours of operation
Policy 39 Stability and support
Policy 41 Restoration
Policy 42 Aftercare
Policy 43 Liaison committees

Macclesfield Borough Local Plan (MBLP)

NE11 Nature conservation interests
NE14 Nature conservation
NE17 Nature conservation improvements
BE21 Archaeology
DC3 Amenity
DC6 Circulation and access
DC9 Tree protection
DC13 and 14 Noise
DC17, DC19, DC20 Water Resources

Other considerations

National Planning Practice Guidance (NPPG)
North West Aggregate Working Party Annual Monitoring Report 2015 (NNAWP)
'Collation of the results of the 2014 Aggregate Minerals survey for England and Wales' British Geological Survey/DCLG 2014
Circular 6/2005
Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (As amended)
EC Habitats Directive
Conservation of habitats and species regulations 2010

CONSULTATIONS:

Archaeology: no objections

Highways: no objection

Nature Conservation: no objection but recommend revisions to the restoration scheme in respect of increased areas of grassland/heathland and nature conservation after use;

incorporation of scalloped edges, shallow water and sloping banks to the lake along with islands. Also recommend a long term aftercare period and conditions to ensure mitigation for protected species, bluebells, submission of details of ponds and rafts and implementation of restoration management plan.

Environmental Health: no objections

Public Rights of Way: no objection

Flood Risk Management: no objection

Environment Agency: no objection subject to planning conditions securing a scheme for groundwater monitoring and a restriction on dewatering.

Manchester Airport: no objection

Landscape: no objection

Natural England: no objection. Recommend clarification on proposals for soil handling and restoration methods.

Jodrell Bank: no comment

Cheshire Wildlife Trust: do not object but raise concerns in relation to the adequacy of the assessment of biodiversity impacts, level of mitigation habitat provision and recommend appropriate compensatory habitat provision is secured along with monitoring and long term aftercare.

Built Heritage: no comment

Parish council: no comments received

REPRESENTATIONS:

One letter of objection has been received raising concerns over:

- Deleterious impact on the area
- Unacceptable disruption and disturbance from increased noise pollution, airborne pollution, traffic volumes or route disruption for residents of surrounding local roads.

Applicants Supporting Information

The application is accompanied by planning drawings, a planning statement and an Environmental Statement (including non-technical summary) dated June 2016 (amended May 2017) along with associated technical assessments.

APPRAISAL:

The key issues are:

Principle of development
Impact on public rights of way
Impact on Jodrell Bank
Development in Open Countryside
Cultural Heritage
Water Resources and Flood Risk
Agricultural Land and Soils
Nature Conservation
Highway Impacts
Pollution Control
Landscape, Visual Amenity and land stability
Impact on Manchester Airport

Principle of Development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this instance the Development Plan consists of the Cheshire Local Plan Strategy 2017 (CELP), the saved policies of the Cheshire Replacement Minerals Local Plan 1999 (CRMLP) and the Macclesfield Borough Local Plan 2004 (MBLP). Material considerations include National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).

The NPPF (paragraph 142) identifies that minerals are essential to support sustainable economic growth and it is important to ensure a sufficient supply of material to meet the needs of the country. Since minerals are a finite natural resource, and can only be worked where they are found, NPPF states that it is important to make best use of them to secure their long-term conservation. Paragraph 144 requires Local Planning Authorities (LPA) to give *'great weight to the benefits of the mineral extraction, including to the economy'*, and *'as far as is practical, provide for the maintenance of landbanks'*. Paragraph 145 of NPPF and the CELP requires minerals planning authorities to plan for a steady and adequate supply of aggregates; making provision for the maintenance of landbanks of at least 7 years for sand and gravel (policy SE10). In addition, with respect to silica sand, NPPF requires LPAs to provide a stock of permitted reserves of 10 years for each individual silica sand site. This approach is mirrored in the CELP.

Eaton Hall Quarry has reserves of both construction sand (Gawsworth sand) and nationally important silica sand (Congleton sand). The current permitted reserves of silica sand at Eaton Hall Quarry equate to a landbank of approximately 6.94 years, below the 10 year figure required in planning policy; whilst the available permitted reserves of construction sand have now been exhausted. The latest figures from North West Aggregate Working Party Annual Monitoring Report 2015 suggest that the Cheshire East construction sand and gravel landbank is well in excess of the 7 year policy requirement; however forthcoming monitoring data is likely to indicate a more reduced landbank level. The total landbank size is however only one measure of the need to release additional reserves. It is also necessary to consider the ability of the existing operational sites to supply market demands, the suitability and availability of alternative materials and issues of possible sterilisation should production cease at a quarry site. A large proportion of the construction sand available within the authority is extracted as a by-

product of extracting silica sand and its supply is therefore, to a certain extent dependent on demands for silica sand. Furthermore, Mere Farm Quarry which was the only construction sand quarry within Cheshire East has now closed. Therefore the landbank for construction sand reported in future is expected to be lower and potentially under the 7 year requirement set out in the NPPF.

The northern and eastern extensions to mineral working proposed under application 16/3298W would release a further 6,837,457 tonnes of sand (construction and silica combined). In addition, under the current planning permission, a further 916,000 tonnes of silica sand remains on land to the south of School Lane. This application would therefore enable the existing permitted reserves to be extracted to contribute to the landbank requirement in planning policy. Additionally should application 16/3298W be approved, it would provide the site infrastructure necessary to allow the remaining mineral reserves to be extracted and avoid unnecessary sterilisation of minerals meeting the requirements of NPPF and policy SE10 of CELP. A time extension of 25 years is therefore considered reasonable and acceptable in this context.

Development in the Open Countryside

CELP policy PG6 does not support development in the open countryside unless it is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure and works by public services/statutory undertakers, or other uses appropriate to a rural area. It has previously been accepted that mineral development is appropriate in the open countryside in this location through the grant of a number of historical permissions on the Eaton Quarry site. No changes to the approved development are proposed aside from an extension of time and amendments to the phasing and restoration plans to tie in with the proposed extension areas. The proposals would prolong the period within which there would be impacts from mineral extraction on the landscape however there would be no significant increase in the degree of harm over this period as the operations would remain largely the same, and the degree of impacts would continue to reduce as restoration progresses and worked areas reduce. The site is also well screened by existing vegetation and bunds established as part of the current quarrying which assists in reducing the overall impacts associated with mineral operations. The revised plans would also ensure that on cessation of mineral extraction, a good quality of restoration is achieved. As such it is considered that this development does not conflict with policy PG6 of CELP.

Sustainability

The National Planning Policy Framework definition of sustainable development is:

“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

These roles should not be undertaken in isolation, because they are mutually dependent.

ENVIRONMENTAL SUSTAINABILITY

Impact on agricultural land and soil resources

Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality (NPPF para 112). All development will be expected to avoid the permanent loss of agricultural land quality of 1, 2 or 3a (Best and Most Versatile (BMV)) unless the strategic need overrides the issue (Policy SD2 of CELP).

The impacts on BMV land have already been accepted by virtue of the previous mineral permissions on the site. The revised restoration scheme proposed would provide 27ha of BMV land across the wider quarry site (including land in both this application and under application 16/3298W); which is an overall loss of 7ha compared to the current land available on the quarry site.

Natural England has reviewed the proposals with regard to protection of soil resources and impacts on BMV land. Whilst not objecting, concerns are raised regarding the degree of surplus soils remaining on restoration and whether the amount of agricultural land proposed has been maximised. Concern is also raised in respect of the potential for good quality top soils to be used as subsoils and requirements for drainage.

The amount of agricultural land provision in the restoration scheme has been maximised as far as possible; however the geological and hydrological conditions on site dictate the extent of mineral extraction and resulting landform on its completion. The area taken up by the lake cannot be reduced as this is created by silica sand extraction and a substantial amount of the silica deposit is located beneath the water table. Any reduction would sterilise nationally important mineral reserves which would conflict with national and local planning policy and the mineral can only be worked where it is found.

The proposals include for improvements to the grade of BMV land on completion of the restoration where possible. Some of the grade 3a soils stripped from the proposed extraction

areas under application 16/3298W would be used to restore parts of the consented extraction area of permission 5/APP/2004/0012, thus providing improvements over the existing quality of land. Following the aftercare period, the soils will be capable of supporting arable and pastoral farming enabling the current agricultural practices to recommence following restoration. A soils management plan has been submitted which details appropriate soil handling methods to protect soil resources during soil handling, storage, and replacement, and appropriate depths of soil replacement on restoration. It identifies that the majority of soils would be used in restoration, and any surplus would be retained on site and used for habitat creation and to stabilise the lake margins. With respect to drainage the applicant advises that soil profiles are of permeable textures and therefore drainage is unlikely to be required.

Whilst the concerns of Natural England are noted it is considered that the proposal provides as much agricultural land as possible given the constraints on the site. It provides an appropriate balance of landuses taking into account the need to maximise a nationally significant mineral resource, landowner requirements and other factors such as biodiversity and landscape provision.

It is accepted within the CRMLP that the scale and depth of most silica sand workings in the authority means that it is inevitable that some agricultural land will be lost but should be kept to a minimal as far as possible; and the 'Preferred Areas' designated for future silica sand extraction in the Development Plan all comprise predominantly BMV land with significant areas of Grade 2 quality land so the loss of BMV to facilitate silica sand extraction has been accepted in planning policy. Additionally the loss of 7ha of BMV land is not considered to be 'significant' in the context of the NPPF. Furthermore, with respect to the restoration of mineral sites, NPPG states that where working is proposed on BMV land, the proposed after-use need not always be for agriculture.

On the basis of these points and subject to securing the measures contained within the soils management plan, and the restoration and aftercare arrangements by planning condition, the proposals are not considered to result in any significant adverse impacts on BMV land and would not harm soil resources; furthermore on completion of the restoration the land would be restored to an acceptable form of afteruse and be capable of being used for either arable or pastoral farming. This accords with policy SD2 of CELP and the approach of the NPPF and CRMLP.

Impact on farm business

The impacts on the adjacent farm businesses has already been accepted by virtue of the current planning permission and the applicant advises that the farms have signed a lease holding with the mineral operator and are aware of the farm business impacts associated with the proposed mineral extraction. As such the impacts on the farm businesses (taking account of the proposed mitigation) are not considered to be significant.

Nature Conservation

The impacts on designated sites have already been accepted in the grant of the current permission and no additional impacts from the proposed amendments are anticipated. Natural England does not consider that Madams Wood SSSI represents a constraint in determining

this application, and there are no anticipated adverse impacts on Cocks Moss Wood and Cranberry Moss Local Wildlife Sites (LWS) which could be protected from any dust deposition from any mineral activities by dust management measures secured by condition.

Protected Species

Great crested newts

The current restoration scheme includes for mitigation to protect great crested newts. Updated surveys have been undertaken to inform the revised working and restoration proposals which identify a small cluster of ponds on the northern and southern boundary of the application site supporting great crested newts which would be affected by these amendments. Additionally there is a potential for loss of terrestrial habitat and some impacts during the operational phases of the quarry.

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

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

The Habitat Regulations 2010 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.

Test 1: Overriding Public Interest

The economic benefits of mineral extraction in maintaining supplies of locally and nationally important reserves to contribute to the policy requirement for mineral landbanks are set out above and have previously been accepted in the grant of the current mineral permission. Whilst the proposals may result in some disturbance or harm to small numbers of the population; any such harm could be appropriately managed and mitigated. Given this, the proposal contributes to meeting an imperative public interest, and that the interest is sufficient

to override the protection of, and any potential impact on great crested newts, setting aside the proposed mitigation that can be secured.

Test 2: No satisfactory alternative

The alternative option is a 'do nothing scenario'. However should no development take place the specialist mitigation for great crested newts secured through the revised restoration proposals would not be provided which would be of benefit to the species.

Test 3: "the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range".

As part of the revised restoration proposals all great crested newt ponds would be retained and all newts would be removed and excluded from the working areas. The loss of terrestrial habitat would be mitigated by the creation of hibernacula and rough grassland habitat, and any ponds not used by newt that are lost would be replaced on a 1:1 basis. The Nature Conservation Officer considers the proposed mitigation and compensation to be sufficient to maintain the favourable conservation status of the local population of great crested newts, subject to mitigation being secured by planning conditions. Therefore, providing appropriate conditions are included, it is considered that the proposal meets the third test.

Overall, therefore it is considered that the development contributes to meeting an imperative public interest, there is no satisfactory alternatives, and that the interest is sufficient to override the protection of, and any potential impact on great crested newts, setting aside the proposed mitigation. It is considered that Natural England would grant a licence in this instance.

Other protected species

The mitigation identified for great crested newts would address any impacts on common toad. The quarry is identified as having low value for foraging and commuting bats and there are no roosts on site. A detailed bat survey is recommended prior to the felling of any trees with bat roost potential. An outlying badger sett would also be closed under license and there would be some loss of foraging habitat which would be progressively replaced through site restoration. An updated badger survey and mitigation strategy is recommended for works after April 2018.

Breeding/wintering birds

The quarry supports a number of species including Priority Species and some habitat would be lost as a result of the revised proposals. Cheshire Wildlife Trust (CWT) do not raise any objections but consider that the cumulative impacts of the continued and extended quarrying alongside other consented schemes have not been sufficiently addressed and are likely to be significant at a County level. They recommend provision of an enhanced area for ground nesting bird habitat within the restoration scheme to ensure no net loss of habitat or alternatively securing offsite provision. No concerns are raised by the Council Nature Conservation Officer aside from noting the loss of habitat for breeding birds and it is noted that the impact on breeding birds has previously been accepted in the grant of the current consent.

The applicant highlights that the phased working would result in the current habitat on the quarry being gradually removed over time, and on restoration there would be 25ha of grassland pasture and 2.3ha of heathland habitat (not including the large lake to be created) brought forward in a phased manner as restoration progresses. The proposals also include for:

- Retention and reinstatement of large areas of habitat specifically for declining wetland and farmland bird species;
- Retention of hedgerows and field boundaries available for use during the development;
- Reinstatement of native species hedgerows of a higher biodiversity value than those being replaced with greater density of available food.

Additional species not presently breeding on the site may also be attracted by the new restored habitat such as little ringed plover, sand martin and barn owl. The applicant also estimates that there are significant areas of agricultural habitat available within 5km of the site to mitigate any temporary displacement during certain periods of mineral working.

During mineral extraction extensive areas of open bare ground, standing water and grassed bunds are created which often provide breeding bird habitat; this is evident on other mineral sites in the authority which have a range of bird species established on the site during active mineral extraction. It is also noted that the legal protection afforded to breeding birds on active mineral sites (as opposed to agricultural fields which are largely exempt from such restrictions) are also likely to support breeding bird productivity.

Whilst the concerns of CWT are noted, on the basis of the above, and given the other constraints influencing the restoration scheme which are discussed further below, it is considered that the impacts on breeding birds are acceptable. The potential for increasing areas of habitat within the restoration scheme is considered below.

Impact on Habitats

Areas of new heathland habitats are proposed which are a priority for nature conservation and would be guided by a heathland restoration strategy to be secured by planning condition as recommended by the Nature Conservation Officer. The translocation of affected Native Bluebells (a Local BAP species) to an area of established woodland is also recommended.

The proposals would result in an overall net gain in native hedgerow provision across the whole quarry site which is a Priority habitat, and appropriate management arrangements are set out in a hedgerow management strategy which could be secured by planning condition.

The woodland habitats on site are also a Priority Habitat of County value. An area of 0.22ha would be lost to the whole development; with circa.10.23ha of replacement compensatory woodland planting proposed. This net gain in compensatory planting is considered acceptable to account for the loss caused by the development.

Restoration scheme design and aftercare arrangements

Overall the Nature Conservation Officer considers the proposed mix of lake, tree/hedgerow planting and grassland/heathland habitats provide nature conservation benefits. Revisions to the final restoration scheme are recommended in respect of increasing the areas of nature

conservation and species rich grassland/heathland, along with incorporating additional feature in the lake including islands, scalloped edges and gently sloping banks. CWT do not consider that the impacts on habitats resulting from the time lag between initial damage from mineral extraction and replacement habitats some years later has been sufficiently assessed within the final restoration scheme and therefore consider there is an overall significant net deficit on biodiversity which requires compensation; a matter which the applicant disagrees over.

The restoration scheme has been revised as far as is reasonably practical with increased areas of grassland/heathland, scalloped edges and rafts in the lake for wintering/breeding birds. With respect to the other suggestions of the Nature Conservation Officer, the applicant advises that in some areas this is not feasible due to geotechnical and geological restrictions and the extent of material likely to be necessary to construct islands in deep open water; a matter which is accepted. Whilst an increase in habitat provision would benefit biodiversity, this would reduce the amount of BMV land and farmland available to the existing farm business. The lake area cannot be reduced without impacting on nationally important silica sand reserves as a large proportion of the silica reserves are beneath the water table. Given that the proposed afteruse of the site is predominantly to agriculture which is identified as an acceptable afteruse in the NPPF and CRMLP, the restoration proposals are considered to provide an appropriate balance of landuses, taking into account the need to maximise mineral resource use, protect soil resources and BMV agricultural land, as well as protect the landscape and biodiversity and landowner requirements. As such, an increase is not considered feasible or justified in this regard.

Aftercare arrangements

The Nature Conservation Officer, Forestry Officer and CWT consider that long term aftercare should be secured; noting that the Priority woodland requires in excess of 30 years to establish. CWT also consider that dedicated funding should be secured for the long term management and monitoring period.

Aftercare is required to '*ensure that, following site restoration, the land is brought up to the required standard which enables it to be used for the intended afteruse*' (NPPG); which in this case is primarily to agriculture with some provision for nature conservation uses. The proposed five year aftercare period would be informed by a restoration and aftercare management plan tailored to the needs of each habitat/land type to ensure it is supported during the early stages of formation so that at the end of the aftercare period, the land is at a standard whereby it does not have to be treated differently from undisturbed land. The applicant considers that five years is sufficient and highlight that they do not own a large proportion of the land. They also note that five years is a generally accepted practice for mineral development, reflecting planning legislation. They therefore consider it unreasonable and impractical to extend the timescale further and seek any financial arrangements for any long term monitoring.

The TCPA 1990 (Schedule 5) makes it clear that mineral planning authorities cannot require any steps to be taken after the end of a statutory 5 year aftercare period without the agreement of the minerals operator. Additionally saved policy 42 of CRMLP states that the Council will require mineral development to be subject to a programme of aftercare management for a period of up to five years.

The majority of the land would be returned to agriculture and Natural England raise no concerns over the aftercare period proposed. Likewise the measures contained within the aftercare management plan for the establishment of the wildlife habitats, aside from the woodland, are considered acceptable and would comply with policy SE3 of CELP. The five year period proposed would also meet the requirements of the Act and CRMLP.

With regard to the woodland to be planted as replacement 'Priority' habitat, whilst the five years would ensure the initial planting is established, it is not likely to ensure it reaches the standard required to be considered as 'Priority' woodland. As such there is likely to be an overall negative impact in terms of biodiversity and forestry as a result which would conflict with CELP policy SE3. This policy conflict needs to be balanced against the strategic economic need for mineral provision and other sustainable development factors presented by the scheme. On balance, given the majority of the site would be subject to acceptable aftercare arrangements and the proposed timescales for the other habitats proposed are acceptable, it is not considered that there are sufficient grounds to warrant refusal of the scheme due to impacts on woodland in this instance.

Landscape, visual impacts and land stability

New development should not have an unacceptable impact on the landscape or on the visual amenities of sensitive properties (CRMLP policy 15 and 17) and should respect local landscape character (CELP policy SE4). The main visual receptors are those properties surrounding the site boundary and users of the public bridleway RB1.

The proposed time extension would result in a prolonged period within which there will be open areas of mineral extraction and associated activities. The visual and landscape impacts are however mitigated by the existing substantial vegetative planting on the site boundary which partially screens views into the site. Furthermore the progressive restoration and careful working practices enable any impact to be minimised and reduced over time as more land is restored.

The revised plans proposed include for the removal of some of the existing screen bunds within the current mineral permission to allow new areas of extraction to take place. These screen bunds were originally established as part of historical quarrying and provide visual screen to nearby receptors. Further replacement screening is however proposed in order to provide mitigation for any landscape and visual impacts during these phases of the development. In terms of impacts on views from the public right of way, the proposed diverted route of the bridleway to the north of the current quarry boundary would increase the distance of receptors to the extraction area, and move the route of the bridleway from the edge of the quarry into agricultural fields which benefit from some partial vegetative screening and from screening due to the topography of the land.

The amended restoration scheme provides for a natural landform on completion of all mineral working which reflects the character of the area and incorporates vegetative features which are reflective of the landscape of the area. The Landscape Officer raises no concerns with the amendments proposed. The suite of planning conditions on the current consent concerning landscape screening and site restoration would be replicated as necessary on any new consent and the land would be subject to a period of aftercare in accordance with a detailed restoration and aftercare management plan. Subject to securing these provisions, it is considered that the proposals would not have an unacceptable impact on the landscape or

visual amenities of sensitive receptors and would accord with saved policies 15 and 17 of CRMLP.

Impacts on forestry

The impacts on existing trees and hedgerows resulting from mineral extraction has already been accepted in the grant of the current permission. The revised restoration scheme includes for (across the whole site north of School Lane) 10.23 ha of new woodland and 1580m of hedgerow which represents a 5ha increase in woodland over the consented restoration scheme. Additionally, 2400m of gapping up is proposed with new native species rich hedgerow and hedgerow trees planted as part of the restoration plans which would provide a net gain in terms of the overall linear meterage. Overall this is considered to provide a reasonable approach to the restoration of the area in the long term. Extended aftercare provisions are recommended by the Forestry Officer to ensure the woodland is established which the applicant does not consider necessary or justified. This matter has been addressed in the above section. Tree protection measures are also recommended which can be secured by condition. The revised restoration scheme is considered acceptable and accords with saved policy 41 of CRMLP.

Land stability

The revised working and restoration proposals have been informed by a geotechnical stability assessment which identifies that the proposed excavation design, screen bunds and restoration profiles are adequate and as such no significant adverse impacts are anticipated with regard to land instability. It is also noted that such matters are covered by relevant mining and health and safety legislation under which the proposals would be regulated.

Pollution Control and Hydrology

The proposed development would prolong the timescales within which the effects of mineral extraction on local amenity and the environment are likely to be present. The NPPF requires that any unavoidable noise, dust and particle emissions are controlled, mitigated or removed at source and sets a range of appropriate noise standards applicable to mineral activities. CRMLP policies 25, 26, and 28 do not permit development which would give rise to unacceptable levels of water, noise or dust pollution. MBLP policy DC3 does not support development which would significantly injure the amenities of nearby residents or sensitive receptors due to (amongst others) noise, dust or environmental pollution; whilst policy DC19 does not normally support proposals which would damage groundwater resources or prevent the use of those resources.

The current consent provides a suite of conditions to ensure there is no harm to the local environment, human health or amenity which would be replicated on any new consent (and amended as necessary to reflect those imposed on the new site extension under 16/3298W should that be approved or to reflect other extant consents on the site as necessary). In respect of noise this includes controls over the hours of working, set noise levels for mineral activities, regular noise monitoring, and implementation of best practicable means to minimise noise from machinery, plant and vehicles. The Environmental Health Officer does not anticipate any significant cumulative noise impacts as a result of the development alongside the operation of the Congleton Link Road or cumulative impacts on site from the mineral activities as the phases would be worked sequentially.

With respect to vibration, the assessment identifies that there may be short term minor adverse effects on sensitive receptors located in the immediate vicinity of the development however this would only occur for limited periods during the development. No specific vibration mitigation measures are proposed however a range of good working practices are recommended to be adopted by the operator including careful choice of plant and machinery to avoid any likely to cause significant vibration at sensitive receptors, and use of low speed limits in the vicinity of sensitive receptors. With the implementation of mitigation, no significant residual impacts from vibration are predicted and no concerns are raised by the Environmental Health Officer.

No changes are proposed to the methods of working and existing operational practices to control air and water pollution currently adopted on the site which would be controlled by planning condition. There are measures in place under the existing permission for effects on local groundwater levels and surface water features to be monitored by the operator using a network of monitoring equipment in accordance with a monitoring scheme approved under the current permission. These measures would be replicated on any new consent and updated as necessary to reflect the most recent environmental standards and the requirement for monitoring will remain in place throughout the development and restoration.

No objections are raised by the Environment Agency or Environmental Health and the regulatory controls imposed by other environmental legislation would remain in force. Subject to the imposition of conditions controlling noise and vibration impacts, air and water pollution and impacts on water resources, the proposed extension of time for the mineral working is considered acceptable and accords with the approach of the NPPF, and policies 25, 26, 27, 28, and 37 of CRMLP, and DC3 and Dc19 of MBLP.

Highway impacts

Mineral development should not have an unacceptable adverse impact on traffic (NPPF para. 143) and development should only being refused on transport grounds where residual cumulative transport impacts are severe (para. 32). CRMLP policy 34 does not permit mineral development unless (amongst others) the traffic associated with the proposal can be accommodated within the existing highway network; the volume and nature of traffic generated does not create an unacceptable adverse impact on amenity or road safety, and the junction arrangements should be satisfactory in terms of layout and safety. Development should also not significantly injure the amenities of adjoining or nearby sensitive land uses due to traffic generation and access (Policy DC3 of MBLP).

The impacts of the quarrying operations on traffic levels and the local transport network has been assessed in previous planning applications and deemed acceptable and the quarry would extract at the same rate during the extended period as at present so no significant changes are proposed in terms of the nature or volume of traffic generated at the site.

The existing quarry permission has no limit on vehicle movements and HGVs movements are permitted over a 24 hour and 7 days a week period. The proposal is anticipated to generate 170 HGV movements (85 in and 85 out) a day, which represents approximately 1.3% of the 5 day average two way flows on the A34 serving the site. This traffic is already accommodated on the highway network. In addition to exporting minerals, the site also exports sand/soil/peat mixes which involves the importation of soils and compost averaging one HGV per day.

These vehicle movements are controlled by planning condition on the current consent restricting movements to 400 per week (200 in and 200 out) during the summer months (with permitted movements reducing in winter reflecting the seasonally dependent nature of the product). Car and light vehicle movements will also continue at the existing rate and will utilise the existing access off on School Lane. The existing access for HGVs off A34 via a priority T junction with a deceleration and acceleration lane is considered acceptable and no concerns are raised over the capacity of the highway network or road safety concerns.

The Head of Strategic Infrastructure considers that the proposal is acceptable subject to replicating the existing planning conditions restricting HGV movements for the production of blended sand/soil/peat. Additionally the existing planning conditions requiring records of HGV movements to be kept could be replicated on any new consent. As such the application is not considered to present any adverse impacts on the local highway network or road safety and complies with policy 34 of CRMLP and DC3 of MBLP.

Cultural Heritage

Part of the current planning permission boundary is identified as a Site of Archaeological Importance on the MBLP Proposals Map. No new areas of mineral extraction are proposed by this application and no direct or indirect impacts on this designation are anticipated given the nature of amendments proposed by the application. The Archaeology Planning Advisory Service have no comments on this application and it is considered that the proposed development is acceptable, subject to the replication of the existing planning conditions concerning the implementation of the approved programme of archaeological work. No other impacts on cultural heritage assets are anticipated by the scheme.

SOCIAL SUSTAINABILITY

Impacts on Manchester Airport

The previous restoration scheme was considered acceptable by Manchester Airport in terms of aerodrome safeguarding and the amended proposals are not considered by Manchester Airport to present any adverse impacts from bird strike risks and no objections are raised. The proposals are not considered to pose any impacts in terms of aerodrome safeguarding.

Impacts on public rights of way

Restricted Bridleway Eaton RB1 runs along the northern boundary of the current mineral extraction area (north of School Lane) and connects A34 Congleton Road to Fords Lane. Should the proposed site extensions under application 16/3298W be approved, this bridleway would be directly affected by the mineral extraction and an application for a formal permanent diversion around the western and northern boundary of the proposed northern extension has been submitted. The public rights of way officer advises that the new diverted route is considered to be an acceptable alternative as it provides a longer route through the countryside with more accessible gradients than is provided by the current route. The diverted route would be ready for use on commencement of the development and this could be secured by planning condition on the grant of permission 16/3298W (if approved). The application is therefore considered to accord with CRMLP policy 33 as there would be no unacceptable adverse impact on, or result in a net loss of, a public right of way.

Jodrell Bank

Policies SE12 of CELP does not permit development which would impair the efficiency of the Jodrell Bank radio telescopes. Jodrell Bank advise that they have no comments on this proposal and it is also noted that the existing quarry site also falls within the consultation zone and was previously considered acceptable. It is therefore considered in the absence of any objection from Jodrell Bank that the proposed time extension would not impair the efficiency of the telescope and complies with policies GC14 and 18.

ECONOMIC SUSTAINABILITY

The economic benefits of the proposal in terms of securing the long term provision of minerals to meet planning policy requirements and avoid unnecessary sterilisation of mineral reserves have been assessed above. The site also provides direct and indirect benefits in terms of employment at the site and economic benefits to the local industries and services associated with the quarry which the proposed time extension would support. This supports the approach of the NPPF and CELP.

Other matters

A range of other planning conditions are included on the current consent in respect of controlling working practices, soil handling and protection of soil resources, tree and hedgerow protection, and lighting mitigation which would be imposed on any new consent to ensure the continued protection of the environment and local amenity.

PLANNING BALANCE

Taking account of Paragraph 14 and 143 of the NPPF there is a presumption in favour of the sustainable development unless there are any adverse impacts that *significantly and demonstrably* outweigh the benefits. It is therefore necessary to make a free-standing assessment as to whether the proposal constitutes “sustainable development” in order to establish whether it benefits from the presumption under paragraph 14 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).

In this case the development would provide significant benefits to the economy. The NPPF recognises that minerals are essential to support sustainable economic growth and it is important to ensure a sufficient supply of material to meet the needs of the country. Since minerals are a finite natural resource, and can only be worked where they are found, it is important to make best use of them to secure their long-term conservation, and Local Planning Authorities should give ‘great weight to the benefits of the mineral extraction, including to the economy’, and ‘as far as is practical, provide for the maintenance of landbanks’. The economic benefits of the scheme are therefore clear and considered to be significant. The proposal would enable the current permitted mineral reserves and new extension areas to be worked (should they be approved), helping to release a substantial amount of nationally significant mineral reserve which occurs in only a very limited number of locations in the UK and provides specialist mineral to a wide range of industries. It would enable the Council to ensure a 10 years supply of industrial mineral at the site as required by

national and local planning policy which is not currently provided by the site at present. Additionally the proposal would release reserves of construction sand contributing to the maintenance of a 7 year landbank as required by planning policy. It also provides direct and indirect benefits to the local economy by providing raw materials for a wide range of products. The scheme also provides social benefits in terms of providing a more acceptable public right of way across the site with more accessible gradients for users.

With respect to environmental sustainability benefits are provided through the mitigation during mineral activities and on completion of the comprehensive restoration scheme. This includes provision of a large lake, grassland, heathland and pasture, an overall net gain in hedgerow provision and provision of hedgerows of higher biodiversity value. The scheme also provides new ponds and habitat for protected species, improvements to BMV land, and a net gain in woodland planting. This should be balanced against the harm to biodiversity resulting from the potential loss of habitat particularly for ground nesting birds, delay in the provision of replacement habitat due to the timescales when restoration would take place, and impact on Priority habitat resulting from the lack of long term management. Additionally the minor loss of BMV land and the longer period of mineral extraction on local amenity need to be considered.

Overall the harm caused by the scheme is considered to be significantly outweighed by the benefits arising from the proposal, most notably the significant strategic national importance of maintaining silica sand reserves and ensuring this nationally significant mineral reserve is not sterilised. The potential harm to residential amenity and the environment can be adequately mitigated by planning conditions and through the controls in other environmental legislation. As such the scheme is considered to accord with policies of CELP, CRMLP, MBLP and the approach of the NPPF.

RECOMMENDATION

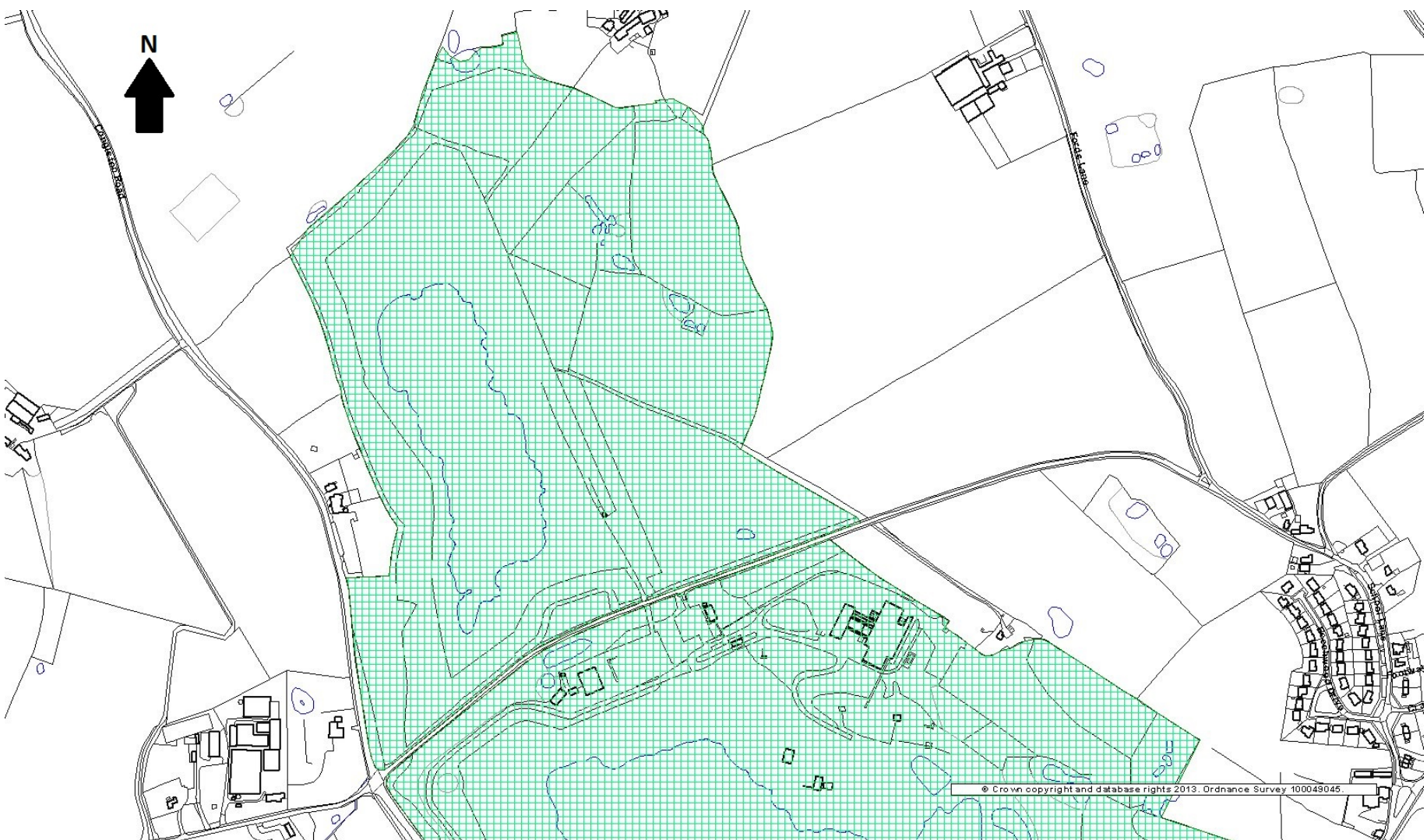
That the application be approved subject to the imposition of planning conditions in respect of:

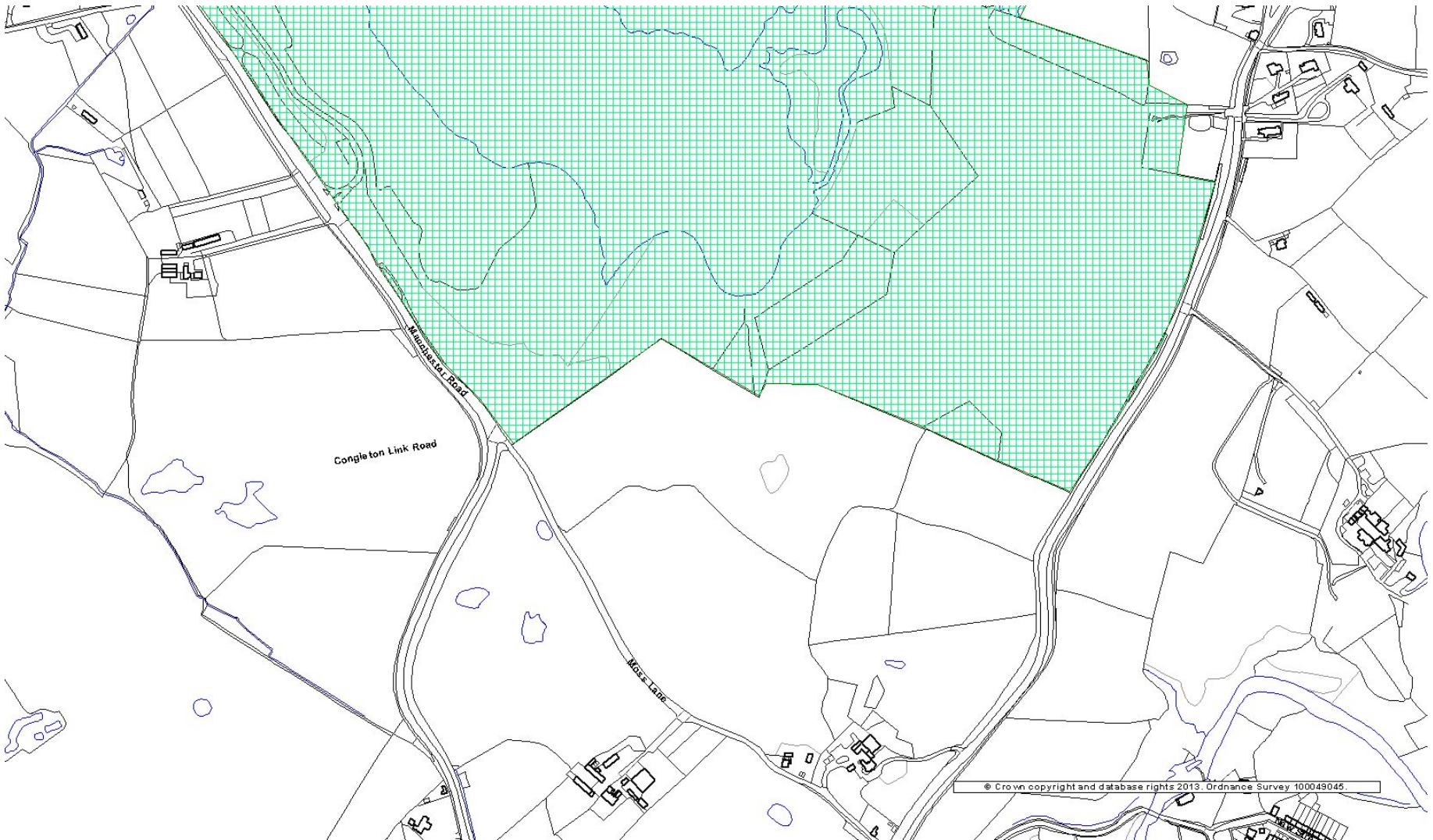
- 1. All the conditions attached to permission 5/APP/2004/0012 as relevant unless amended by those below;**
- 2. Revised restoration plan;**
- 3. Revised phasing plans and annual report of mineral working undertaken over previous and future 12 month period**
- 4. Extension of time for a period of 25 years from the date of commencement**
- 5. Confirmation of date of commencement**
- 6. Provision of ecological mitigation measures**
- 7. Best practice for controlling vibration**
- 8. Dust control measures in accordance with dust management method statement**
- 9. Implementation of soil management plan**
- 10. Measures to deal with unexpected contamination**
- 11. Details and implementation of mitigation for protected species**

- 12.Implementation of habitat mitigation**
- 13.Heathland restoration strategy**
- 14.Implementation of hedgerow management plan**
- 15.Restoration drainage arrangements**
- 16.Limits on off-site dewatering**
- 17.Updated groundwater monitoring and mitigation**
- 18.Implementation of restoration/aftercare in accordance with approved plans and aftercare management plan**
- 19.Aftercare for five years**

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 (Regulation) has delegated authority to do so in consultation with the Chairman of the Strategic Planning Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

Should this application be the subject of an appeal, authority be delegated to the Head of Planning (Regulation) in consultation with the Chairman of the Strategic Planning Committee to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.





CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD REPORT

Date: 30 August 2017

Report of: David Malcolm Head of Planning (Regulation)

Title: Update following the resolution to approve application 15/5840C – Outline planning permission for up to 235 residential dwellings (including up to 30% affordable housing), introduction of structural planting and landscaping, informal public open space, and children's play area, 0.22ha for a community facility (use class D1 or D2), surface water flood mitigation and attenuation, vehicular access point from Warmingham Lane and associated ancillary works. All matters to be reserved with the exception of the main site access.

LAND OFF WARMINGHAM LANE, MIDDLEWICH,
CHESHIRE

1.0 Purpose of Report

1.1 Planning application 15/5840C was considered by Strategic Planning Board on 2 August 2017 where it was resolved to approve the application subject to A S106 Agreement and conditions and a further report to the next meeting to provide further information and clarification about phasing of contributions to the Middlewich Eastern Bypass and provision of education and affordable housing contributions, in the event that the by pass does not come forward. This report is that item.

1.2 The draft minutes from the meeting are as follows:

That for the reasons set out in the report and in the written and verbal update to Board, the application be approved subject to the completion of a Section 106 Agreement securing the following :-

- Management Company to maintain all open space in perpetuity (including, inter alia, the NEAP, woodland, general amenity open space, village green, nature conservation area, drainage areas, ponds and any other areas of incidental open space not within private gardens or the adopted highway).
- 10% Affordable Housing

- Funding for the TROs necessary on Warmingham Lane/Travel Plan Co-ordinator (£5000)
- Contribution of £1,223,645 towards the provision of the Middlewich Eastern Relief Road with a phased contribution.
- Should the Middlewich Eastern Bypass not come forward within a reasonable time frame the money be spent on either affordable housing and/or education provision.

A report providing further information and clarification on this would be brought back to the next meeting.

And the following conditions:-

1. Standard Outline
2. Submission of Reserved Matters
3. Time limit for submission of reserved matters
4. Prior to the submission of any reserved matter application a detailed masterplan and design code shall be submitted to the LPA for approval in writing
5. The framework plan is not approved as the spatial parameters of the scheme other than establishing the overall coverage of the site with green infrastructure
6. No development shall commence until a mitigation scheme for protecting the proposed dwellings from traffic noise has been submitted to and approved by the Local Planning Authority; all works which form part of the scheme shall be completed before any of the dwellings are occupied.
7. The developer shall agree with the LPA an Environmental and Construction Management Plan (EMP) with respect to the construction phase of the development. The EMP shall identify all potential dust sources and outline suitable mitigation/ pile driving methods and hours of pile driving. The plan shall be implemented and enforced throughout the construction phase.
8. Prior to the commencement of development a Phase I Contaminated Land Risk Assessment shall be submitted to the LPA for approval in writing.
9. The development hereby permitted shall not be commenced until such time as; a scheme to limit the surface water run-off generated by the proposed development, has been submitted to and approved in writing by the local planning authority.
10. detailed design and associated management and maintenance plan of surface water drainage to accommodate (1 in 30 & 1 in 100 (+30% allowance for Climate Change)) & any temporary storage facilities included
11. Existing and proposed levels, inc FFL to be approved by Flood Risk
12. Electric vehicle charging

13. NEAP (Min 8 pieces of equipment in min 1000 m sq area) with 30m interface to adj property - details to be provided as part of 1st reserved matters
14. Reserved matters to have updated protected species assessment and detailed mitigation strategy.
15. Raft Foundations
16. Reserved matters application to be supported by an up to date tree survey, Arboricultural Impact Assessment and Arboricultural Method Statement prepared in accordance with BS 5837:2012 Guidelines.
17. Travel planning that includes provision of suitable bus shelters, provision of public transport vouchers to each household to the value of a 3 x 4-weekly Arriva travel cards on first occupation of each dwelling, and provision of one £200 cycle voucher per dwelling to be used as discount against cycle purchase.
18. Residential travel packs
19. The access to the site and associated traffic calming measures along Warmingham Lane shall be constructed in accordance with drawing no. 1279/25. implemented prior to first occupation and maintained for the life of the development.
20. Reserved matters application to provide for the retention and protection of hedgerows.
21. Reserved matters to include scheme to link site with adjoining developments
22. Phasing of development to form part of 1st reserved matters
23. Superfast broadband provision
24. Hedgehog Gaps
25. 10 Year habitat Management Plan
26. Fabric first approach to energy efficiency
27. Development /and or Each phase to incorporate a mix of units of:

1 bed and/or 2 bed dwellings – between 10% and 30% of the number of dwellings
3 bed dwellings – between 20% and 40% of the number of dwellings
4 bed and/or 5 bed dwellings –between 20% and 40% of the number of dwellings
Or in accordance with mix agreed in writing by the LPA
28. Requirement to inform LPA if unexpected contamination found
29. Reserved matters to provide details of bin and bike stores

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 (Regulation) 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 Board's decision.

2.0 Decision Required

- 2.1 To note and approve the detailed wording of the s106 legal agreement for Outline planning permission for up to 235 residential dwellings (including up to 30% affordable housing), introduction of structural planting and landscaping, informal public open space, and children's play area, 0.22ha for a community facility (use class D1 or D2), surface water flood mitigation and attenuation, vehicular access for land off Warmingham Lane, Middlewich

3 Background

- 3.1 At the last SPB, the Board resolved that they required a 10% affordable housing provision on this site, with the acceptance that viability issue on this site meant that the contribution to the Middlewich Eastern Bypass (MEB) was reduced to £1,223,645 and that there would be no education contribution. However, it was further agreed that if the money was not spent on the bypass that it should be re-directed to education or housing in the future.
- 3.2 This note therefore provides further clarification of the details of the s106 legal agreement
- 3.3 The MEB is a vital piece of infrastructure, central to the LPS's development strategy for the town, that will unlock this development site and the other allocated sites which are also contributing to the MEB as part of the LPS42 (Glebe Farm) allocation. The development, alongside other development sites, would help to secure funding for the MEB
- 3.4 Members will recall approving revised heads of terms for the Glebe Farm development (up to 450 units) earlier this year. If the Middlewich Bypass not delivered the sum will be spent on alternative highway improvement works provided in 4 equal instalments - on the first occupation of 20%, 40%, 60% and 80% of the dwellings approved on the site at the Reserved Matters stage.
- 3.5 The Strategic Highways Manager had not identified any such alternative works in the case of this site at Warmingham Lane.
- 3.6 Therefore, Members approval is being sought for the phasing of the highways contribution and a time frame for which, should the by-pass not come forward, the contribution paid in respect of the bypass (the £1,223,645 referred to above) should be directed toward education and affordable housing requirements locally at that time.
- 3.7 The Strategic Highways Manager advises that an appropriate phasing would one payment of £611,822 payable on 1st occupation of any dwelling and a further contribution of £611,822 upon occupation of the 75th dwelling

- 3.8 The proposed staged payment of the MEB contribution would still fully comply with Policy LPS42 (Glebe Farm) which states that the development will secure *'financial contributions to the delivery of the Middlewich Eastern Bypass'* whilst the justification for the policy states that *'Glebe Farm presents an opportunity to deliver a high quality, sustainable residential development whilst supporting the key infrastructure through financial contributions to the Middlewich eastern Link Road'*
- 3.9 The proposal to stagger the payment of the MEB contribution has been considered by Head of Strategic Infrastructure (Development Management Highways) and the Infrastructure Delivery Manager who both support this arrangement
- 3.10 The proposed redistribution of the S106 payment in the event that the MEB does not come forward within 5 years from the date of the implementation of the reserved matters associated with this permission is also considered to comply with the reasoned justification of Policy LPS42 which requires relevant contributions to education and contributions to affordable housing in accordance with Policy RES5. At this point if not triggered the monies should be redirected to housing or education (to be determined at that time).

4 Conclusion

- 4.1 On the basis of the above, it is recommended that the S106 Heads of Terms in relation to the application, including the updated MEB contribution as set out below are considered to be acceptable
- **Management Company to maintain all open space in perpetuity (including, inter alia, the NEAP, woodland, general amenity open space, village green, nature conservation area, drainage areas, ponds and any other areas of incidental open space not within private gardens or the adopted highway).**
 - **10% Affordable Housing**
 - **Funding for the TROs necessary on Warmingham Lane/Travel Plan Co-ordinator (£5000)**
 - **Contribution of £1,223,645 towards the provision of the Middlewich Eastern Relief Road £611,822 payable on 1st occupation of any dwelling and a further contribution of £611,822 upon occupation of the 75th dwelling.**
 - **Should the Middlewich Eastern Bypass not come forward within 5 years from the date of the implementation of the reserved matters of this outline scheme then the MEB contribution shall be re-allocated to either affordable housing and/or education provision, with a report going back to**

Strategic Planning Board (or any other committee which takes the responsibilities of SPB) to consider the issues for affordable housing and education provision as a result the development relevant at that time.

And the same conditions as detailed.

5 Recommendation

To note and approve the detailed wording of the s106 legal agreement for Outline planning permission for up to 235 residential dwellings (including up to 30% affordable housing), introduction of structural planting and landscaping, informal public open space, and children's play area, 0.22ha for a community facility (use class D1 or D2), surface water flood mitigation and attenuation, vehicular access for land off Warmingham Lane, Middlewich

6 Financial Implications

6.1 There are no financial implications.

7 Legal Implications

7.1 The Borough Solicitor has been consulted on the proposals and raised no objections

8 Risk Assessment

8.1 There are no risks associated with this decision.

9 Reasons for Recommendation

9.1 To agree the Heads of Terms to enable the Borough Solicitor to draft the legal agreement to enable a decision to be issued.

For further information:

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Officer: Sue Orrell – Principal Planning Officer
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Email: sue.orrell@cheshireeast.gov.uk

Background Documents:

- *Application 15/5840C*