

Application No: 16/2006C

Location: MIDPOINT 18 (Phase 3) POCHIN WAY/CLEDFORD LANE,
MIDDLEWICH

Proposal: Application for variation of conditions 1,3,4,5,7,12,14,15,18,20,21,22,23,25,26, & 28 and removal of conditions 2 & 24 on application 11/0899C for extension to time limit on application 07/0323/OUT (Midpoint 18 phase 3: proposed development for B1, B2 and B8, appropriate leisure and tourism (including hotel) uses, the completion of the southern section of the Middlewich eastern bypass & associated landscaping mitigation and enhancement works,)

Applicant: Mr Andrew Round, Cheshire East Council

Expiry Date: 22-Jul-2016

SUMMARY

The principle of this development has already been accepted and deemed to be a sustainable form of development.. The issue of relevance is the effect of the variation of the conditions in terms of the revision to the phasing arrangements to allow the Bypass to be constructed before the commencement of any further development and Compliance with Para 206 of the NPPF concerning conditions on the following matters:

Landscape and Visual Impact
Design
Soil handling
Air Quality and noise
Archaeology
Sustainable transport
Flood risk and drainage
Pollution control

RECOMMENDATION: Approve with conditions

REASON FOR REFERRAL

This application is before Strategic Planning Board as this relates to a significant major employment site.

DESCRIPTION AND SITE CONTEXT

The site is situated immediately east of Middlewich and two miles west of Junction 18 of the M6. It occupies a site south of Pochin Way and Cledford Lane and to the east of Booth Lane

(A533). It is entirely within land allocated for employment, leisure and tourism use, as defined in the adopted Congleton Borough Local Plan First Review 2005.

The site, with an area of 91.7 hectares is used for grazing of livestock (grade 3 farmland). The northern boundary of the site is defined by the existing Midpoint 18 development and by Cledford Lane, to the east by Sandersons Brook and to the west by the Sandbach – Middlewich – Northwich railway line beyond which is a mixture of industrial/commercial land uses, residential development and greenfield land. The area beyond the southern boundary is occupied by the Trent and Mersey Canal and Booth Lane (A533) and a cluster of private residential properties. Further south there is a mixture of open countryside and industrial development along Booth Lane towards Sandbach.

PLANNING HISTORY AND DETAILS OF PROPOSAL

Planning History

- Outline planning permission granted (June 2008) by Congleton Borough Council for a mixed use development and the southern section of the Middlewich Eastern Bypass (Ref:07/0323/OUT).
- Reserved matters application for landscaping details was approved February 2009 (Ref: 08/0557/REM).
- An extension of time application (Ref: 11/0899C) to the outline planning permission (07/0323/OUT) was granted (July 2011).

The approved scheme

The permission provides for the construction of a number of buildings for employment (B1, B2, B8), tourism and leisure (including hotels) uses, together with the completion of the southern section of the Middlewich Eastern Bypass and the associated landscape, mitigation and enhancement works.

The section of the Middlewich Eastern Bypass will be extended from its current termination at the southern end of Pochin Way, through the development site and over the railway to join Booth Lane (A533) at a new junction to the south. This will provide access via new access roads to development plots to the east and west of this route.

The size of the proposed buildings will generally range from small units of approximately 454m² (4,887ft²) grouped in terraces to large units of approximately 2,880m² (31,000ft²) to 59,260m² (637,869ft²). A hotel (121 beds approx.) is also proposed. The overall gross floorspace is approximately 143,000m² (1,539,240ft²) within the overall site area of 91.7ha (226.6 acres). The development proposals will include extensive structural landscaping and ecological protection, mitigation and enhancement measures in order to diminish the impact of the development on the area.

Unit 101 is to be located to the west of the Middlewich Eastern bypass, between it and the railway line. Unit 101 will be the largest unit proposed for Midpoint 18 (at 59,260m² gross internal area).

The Proposed Development

This application seeks permission under Section 73 of the Town and Country Planning Act 1990 (TCPA 1990) to vary a number of conditions of planning permission 11/0899C in order to amend the phasing of the scheme. In order to achieve this, the applicant proposes to vary conditions 1, 3, 4, 5, 7, 12, 14, 15, 18, 20, 21, 22, 23, 25, 26, and 28 of planning permission 11/0899C. Conditions 2 and 24 are also proposed to be removed as they are no longer considered to be relevant. The details of the existing conditions, the proposed variations/removal and reasoning are contained in the table in Appendix 1 of this report and are summarised below.

Condition 1 of permission 11/0899C stipulates that the development shall be implemented with Phase 1 of the approved scheme comprising the construction of Unit 101 and the whole of the Bypass; and Phase 2 forming the remainder of the development. The proposed variations would move the construction of Unit 101 into Phase 2, thereby enabling the applicant to commence the development of the Bypass, without having to finalise details of any of the associated building development.

Condition 2 of permission 11/0899C requires the landscaping of the site to be carried out in accordance with approved plans submitted under permission 08/0557/REM which reflect the former phasing arrangements. As such the applicant seeks to remove this condition.

Instead the applicant proposes to retain the provisions of condition 3 of 11/0899C which allows for an alternative landscaping scheme for Phase 1 to be submitted (under an application for approval of reserved matters) prior to the expiry of the outline consent (11 July 2016). The existing requirements for the implementation of the landscaping for the Bypass within 9 months of work to the Bypass commencing, and for such landscape works to be substantially completed within 9 months of the Bypass being completed are also retained.

No amendments are sought to the time limit for the commencement of the development which requires Phase 1 to be commenced before 11 July 2016 or, if alternative landscaping details are submitted (as per the provisions above), before three years from the date of the approval of the last reserved matters to be approved for that phase (whichever is the later). *Note: time limits for the commencement of a planning permission cannot be extended under a section 73 application.*

The remainder of the amendments largely seek to remove the requirement for various details (as listed in the table in Appendix 1) to be submitted for approval prior to any development commencing on the development; and instead require them to be submitted prior to the commencement of Phase 2, or that particular phase being developed (as relevant) or prior to occupation.

POLICIES

National Guidance

National Planning Policy Framework.

Local Plan Policy

By virtue of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the application should be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the Development Plan is the Congleton Borough (January 2005).

Congleton Borough Local Plan First Review 2005

DP1	Employment Sites
DP3	Mixed Use Sites
DP5	Recreation, Leisure and Community Use Sites
DP7	Development Requirements
DP10	New Road Schemes
PS4	Towns
PS8	Open Countryside
PS12	Major Employment Development
PS13	Strategic Transport Corridors
GR1	General Criteria for Development
GR2	Design
GR4 & GR5	Landscaping
GR6	Amenity
GR7 & GR8	Pollution
GR9	Accessibility, Servicing and Parking Provision
GR11	New Roads
GR13, GR14 & GR 15	Sustainable Transport Measures
GR17	Car Parking
GR18	Traffic Generation
GR19	Infrastructure
GR20	Public Utilities
GR21	Flood Prevention
NR1	Trees and Woodlands
NR2, NR3, NR4 & NR5	Nature Conservation
E12	Distribution & Storage Facilities

Cheshire East Local Plan

SD2	Sustainable Development Principles
IN1	Infrastructure
EG1	Economic Prosperity
EG3	Existing and Allocated Employment Sites
SE3	Biodiversity and Geodiversity
SE4	The Landscape
SE5	Trees, Hedgerows and Woodland
SE7	The Historic Environment
SE12	Pollution, Land Contamination and Land Instability
SE13	Flood Risk and Water Management
SE14	Jodrell Bank
CO4	Travel Plans
Site CS56	Middlewich (former SL 10)

Supplementary Planning Guidance/Documents

SPD15 Midpoint 18 Phase 3 Development Brief

CONSIDERATIONS

Highways: There are no highway objections to the variation of conditions and extension of time limit, the new phasing will allow the proposed alignment of the Middlewich Eastern Bypass to be finalised.

Environmental Health: No objections. Contaminated Land Officer notes that there are no specific conditions relating to land contamination and as part of the original application (07/0323/OUT) site investigations were planned. Conditions therefore recommended in respect of contaminated land investigations, remediation strategy and validation report.

Landscape: no concerns over the proposed variations

Nature Conservation: no comments

Forestry: Does not anticipate any new forestry issues associated with this proposal.

Public Rights of Way:

National Planning Policy Framework and Defra Guidance

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

The application documents depict the Public Right of Way running along the side of the proposed bypass with a 2 metre mound to the other side. It should be noted that *“any alternative alignment [of a Public Right of Way] should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic”* (Defra Rights of Way Circular (1/09), Guidance for Local Authorities, Version 2, October 2009, para 7.8). The proposed diversion as depicted would constitute a partial extinguishment of the Right of Way and therefore not be an acceptable proposal.

Conditions

The Public Rights of Way team would seek the following conditions to be applied to any planning consent granted:

- a) Prior to the commencement of development, a Public Rights of Way scheme of management shall be submitted to and approved by the Planning Authority in liaison with the Public Rights of Way team as the Highway Authority. The scheme shall include provision for:
 - i. the design of access and Public Rights of Way routes within the development and their surfacing, widths, gradients, landscaping and structures;
 - ii. any proposals for the diversion or extinguishment of any Public Right of Way under section 257 of the Town and Country Planning Act 1990; and,
 - iii. any proposals for the temporary closure of any Public Rights of Way, along with alternative route provision.

- b) The line of the Public Right of Way shall be marked out on the development site prior to the commencement of and during the development.
- c) Pre-commencement and post-completion condition surveys of the surface of the Public Right of Way shall be undertaken by the developer, with the developer restoring any degradation identified.

Improvements

Proposed developments should present an opportunity to deliver and improve walking, cycling and equestrian facilities for transport and leisure purposes, both within the proposed development site and in providing access to local facilities for education, employment, health etc. These aims are stated within the policies and initiatives of the Council's statutory Local Transport Plan and Rights of Way Improvement Plan and also within the Local Plan Strategic Priority 2: *"Creating sustainable communities, where all members are able to contribute and where all the infrastructure required to support the community is provided. This will be delivered by:*

2. *Ensuring that development provides the opportunity for healthier lifestyles through provision of high quality green infrastructure and cultural, recreational, leisure and sports opportunities*

4. *Improving links between existing and new neighbourhoods by giving priority to walking, cycling and public transport and providing a genuine choice of transport modes and supporting community integration".*

In order to encourage people to walk and cycle for travel purposes, specific support and facilities should be offered to people at a 'transition point' in their lives, for instance, when they are changing job, house or school. The National Institute for Health and Clinical Excellence (NICE) guidance *Walking and cycling: local measures to promote walking & cycling as forms of travel or recreation*, November 2012, states that "at these times people may be open to trying a new mode of transport or new types of recreation". It is therefore important that the facilities for walking and cycling, including routes, destination signage and information materials, are completed and available for use prior to the first occupation of any property within any phase of the development, and remain available for use during the completion of other phases.

Environment Agency: no comments received at time of writing report.

Canal and Rivers Trust: no comments received at time of writing report.

United Utilities: no comments received at time of writing report.

Jodrell Bank Telescope: no comments received at time of writing report.

Brine Board: no comments received at time of writing report.

Network Rail: request that the developer submit a risk assessment and method statement (RAMS) for the proposal to the Network Rail Asset Protection Engineer once the proposal has entered the development and construction phase. The RAMS should consider all works to be undertaken within 10m of the operational railway. Network Rail needs to be reassured that the works on site follow safe methods of working and have taken into consideration any

potential impact on Network Rail land and the operational railway. The developer should contact Network Rail Asset Protection prior to works commencing at AssetProtectionLNWNorth@networkrail.co.uk to discuss the proposal and RAMS requirements in more detail.

(2) A BAPA (Basic Asset Protection Agreement) will need to be agreed between the developer and Network Rail. The developer will be liable for all costs incurred by Network Rail in facilitating this proposal, including any site security, possession costs, asset protection costs, asset protection presence and site visits and any review and agreement of proposal documents.

The developer should contact Network Rail's Asset Protection team directly to set up the BAPA.

Natural England:

No objections

VIEWS OF TOWN/PARISH COUNCIL

No objection.

OTHER REPRESENTATIONS

None received at the time of report writing.

APPLICANT'S SUPPORTING INFORMATION

Supporting Planning Statement

Indicative masterplan

KEY ISSUES

Scope of this application

The previous outline planning permission has established the acceptability in principle of this development. NPPG makes it clear that the local planning authority must only consider the conditions that are the subject of the application – it is not a complete re-examination of the application. The main issues in the consideration of this application therefore are the acceptability of the proposed amendments to the conditions which seek to vary the sequence of phasing for the scheme and associated submission of details required to reflect the new phasing arrangements.

In considering the proposed amendments it is necessary to consider paragraph 206 of NPPF which states that planning conditions should only be imposed where they meet the 'six tests'; namely that they are:

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| <i>i.</i> | <i>Necessary;</i> |
| <i>ii.</i> | <i>Relevant to planning and;</i> |
| <i>iii.</i> | <i>To the development to be permitted;</i> |
| <i>iv.</i> | <i>Enforceable;</i> |
| <i>v.</i> | <i>Precise and;</i> |
| <i>vi.</i> | <i>Reasonable in all other respects.</i> |

In respect of each of the six tests, NPPG provides guidance on the application of these test and advises that a condition must not be imposed unless there is a definite planning reason for it; it must also be justified by the nature or impact of the development permitted, and conditions which place unjustifiable and disproportionate burdens on an applicant will fail the test of reasonableness.

Therefore, in assessing the amendments proposed and the impacts arising from these amendments, it is necessary to consider these in light of these tests.

Landscape and Visual

The proposed revisions would prioritise the development of the Bypass as Phase 1 before the remainder of the scheme in Phase 2. The amendments sought to the conditions would provide for a detailed landscape scheme for the road to be submitted for approval (under an application for reserved matters) prior to the expiry of the outline consent i.e. before 11 July 2016 thus allowing the Council landscape officer sufficient opportunity to agree the detailed specification of the landscaping proposed for the Bypass.

The amended condition also includes a requirement for the landscaping works to commence within 9 months of the works to the Bypass commencing and be completed within 9 months of the substantial completion of the Bypass. The timescales stipulated are an exact replica of those currently contained within condition 2 of the outline consent. These timescales are considered sufficient to ensure that the construction works being undertaken on the road and landscaping works do not impact on each other; and yet ensure that the landscaping of the road is in place in reasonable time period after the road is constructed to provide the necessary mitigation. The existing requirements for the details of the storage of soils and aggregate and lighting arrangements are also (subject to updated to reflect the new phasing) replicated which would control visual impacts.

The Landscape Officer considers the proposed variations are acceptable and as such the amendments to wording of the conditions proposed is considered acceptable and is considered to accord with the approach of the NPPF and policies GR1, GR2, GR4, GR4 and GR6 of Congleton Borough Local Plan First Review.

Amenity and Public Access

Amendments are proposed to the wording of the conditions concerning the timing of the submission of air quality management plans and noise schemes; however the proposed wording would still ensure that sufficient details are provided relative to each phase of development to control any impacts on amenity or the environment. The nature of information to be provided remains consistent with that required on the outline permission and the Environmental Health Officer is satisfied with the proposed wording of the conditions. Given that there will be sufficient controls in place to ensure the impacts on amenity from noise and air quality are addressed it is considered that the proposals accord with policies GR1, GR6, GR7, GR11 of Congleton Borough Local Plan First Review.

The Public Rights of Way officer has identified that the wider development would have a direct and significant effect on the Public Right of Way and the application documents depict the Public Right of Way running along the side of the proposed bypass with a 2 metre mound

to the other side and the proposed diversion as depicted would constitute a partial extinguishment of the Right of Way which would not be acceptable. A condition is therefore recommended to secure a public rights of way scheme of management to be submitted for approval prior to the commencement of any development which would provide for the design of access and public rights of way routes within the development. It should be noted that in accordance with NPPG, only the conditions being varied can be considered in the assessment of this application and the impact on public right of way has already been assessed and accepted through the previous planning permissions. Given that there are no changes to the nature or scale of the scheme aside from those identified above, there are no new impacts on the public rights of way arising from this application to vary planning conditions. It is also anticipated that the requirement for landscape plans to be submitted under a reserved matters application would likely cover the alignment and provision of any diverted public right of way and its detailed design. As such it is not considered that the provision of such conditions would meet the six tests as identified above. However, it is considered an informative should be issued to the applicant advising them of this request from the Public Rights of Way officer.

Highway Impacts

The amendments proposed do not seek to alter the nature or scale of the development proposed and the highway impacts of the whole proposal have previously been considered acceptable. The amendments would prioritise the development of the road in Phase 1 before the remainder of the built development in Phase 2; and it is noted that there is an existing condition requiring the bypass to be opened to traffic before any of the approved buildings are occupied which would be replicated on any new consent. The Highways Officer does not raise any concerns over the proposed amendments and as such it is considered that the proposals would not cause any significant adverse impact on the operation of the highway network, highway safety or local amenity; and would accord with policies GR1, GR6, GR7, GR11 and GR18 of Congleton Borough Local Plan.

Flood Risk and Drainage

The scheme proposes to remove condition 24 which requires the flood attenuation of phase 1 to be constructed prior to occupation of unit 101. This requirement would be replaced by revised condition 25 (listed as condition 24 on the proposed list of conditions in the recommendation) which seeks to secure flood attenuation schemes for each of the phase 2 buildings. The wording of this condition as proposed by the applicant does not stipulate when the flood attenuation scheme for each building in phase 2 should be submitted, or when the approved details should be implemented. It also does not stipulate when the flood attenuation lagoon identified in the Flood Risk Assessment accompanying the outline permission, which would manage any flood water associated with the Bypass, would be provided on site.

It is therefore recommended that, should this application be approved, revised wording of condition 25 is agreed in liaison with the Flood Risk Manager to ensure these matters are addressed in full.

Amendments are also proposed to the wording of the conditions concerning the timing of the submission of drainage schemes; however the proposed wording would still ensure that

sufficient details are provided relative to each phase of development to control any impacts on the environment. The nature of information to be provided remains consistent with that required on the outline permission. No comments have been received from the Flood Risk Manager and this will be provided in the update report to Members. Subject to the Flood Risk Officer being satisfied with the amendment, it is considered that the variations proposed would be acceptable and ensure there are no adverse impacts from flood risk, complying with policies GR7 and GR21 of Congleton Borough Local Plan.

Archaeology

The applicant seeks to vary condition 20 which requires details of an archaeological watching brief to be submitted prior to any construction taking place on the site. The amendment would require the submission of relevant details prior to each phase of development. No other change to the nature or scope of information required is proposed. This amendment would still ensure that sufficient details are provided relative to each phase of development to control any adverse impacts on cultural assets and ensure they are properly recorded.

An amendment is also sought to condition 21 which prevents any construction until an archaeological survey dig has been undertaken on Site 9. The applicant seeks to vary this to allow the construction of phase 1, with no construction on phase 2 until the survey has been undertaken. The area of Site 9 lies partly within the route of the Bypass and there is concern that this amendment could prevent proper protection of the archaeological asset in this area. The views of the Council Archaeologist are still awaited and therefore this issue will be addressed in an update report to Members.

Nature Conservation

The existing permission includes planning conditions requiring details of ecological mitigation, management and enhancement measures to be submitted prior to the development of each phase. This includes the requirement for updated surveys to be undertaken and updated mitigation strategies to be submitted, with details of how the management of retained, restored and created habitats will be implemented and integrated to meet the aims of the whole of the development. Whilst the phasing arrangements would change as a result of this proposal; given the above measures would be replicated on any new consent no adverse impacts on nature conservation assets are anticipated and the Nature Conservation Officer does not raise any concerns. The development is therefore considered to accord with policy NR4 of Congleton Borough Local Plan.

Contaminated land

With regards to the variation of condition 28 relating to handling of pollutants, no concerns are raised by the environmental health and contaminated land officer. The Contaminated Land officer recommends a condition is imposed to secure contaminated land investigations prior to any development being undertaken on the site. Following the guidance in NPPG, only the conditions being varied should be considered. Given that there is no change to the location of the development or nature of the development aside from changes to how the development is phased; it is not considered that such a condition could be justified in terms of the 'six tests'. However, it is considered an informative should be issued to the applicant advising them of this request from the Contaminated Land Officer.

CONCLUSIONS

The previous planning permission has established the acceptability and the principle of this development, and, therefore, this application does not present an opportunity to re-examine those issues. The only issues in the consideration of this application are the acceptability of the proposed amendments to the conditions that have already been imposed on that planning permission.

The proposed revisions would prioritise the development of the Bypass as Phase 1 before the remainder of the scheme in Phase 2. It would also allow for a scheme of landscape planting to be secured with the approval of the Council and the timescales for implementation would not be altered from that originally approved. These timescales are considered sufficient to ensure that the construction works being undertaken on the road and landscaping works do not impact on each other; and yet ensure that the landscaping of the road is in place in reasonable time period after the road is constructed to provide the necessary mitigation.

Amendments are proposed to the wording of the conditions concerning the timing of the submission of various pieces of supporting information; however the proposed wording would still ensure that sufficient details are provided relative to each phase of development to control any impacts on amenity or the environment.

In respect of flood risk, revisions to the proposed wording of the conditions are recommended in liaison with the Flood Risk Manager, to ensure that the appropriate timescales for submission and implementation of flood alleviation are secured, and to ensure that the flood alleviation for the Bypass is secured at the necessary stage in the works.

The amendments to the requirement for archaeological watching brief are considered acceptable and would secure the necessary mitigation to protect the cultural assets. The impact on archaeological assets located around Site 9 will be addressed as part of an update report to Members.

No highways impacts are anticipated as the amendments proposed do not seek to alter the nature or scale of the development proposed and the highway impacts of the whole proposal have previously been considered acceptable.

On the basis of a revision to the amendment of condition 21 being agreed with the Council Archaeologist, the application is therefore considered acceptable and is recommended for approval subject to the conditions that were attached to permission 11/0899C, albeit amended in accordance with the above.

RECOMMENDATION:

Subject to an amended form of words being agreed with the Council Archaeologist and Flood Risk Manager for condition 21 and 25, the application is approved subject to the following conditions

1. The development hereby approved shall be implemented as follows:
Phase 1: the bypass

Phase 2: The remainder of the development (including unit 101) or part thereof

2. The approval of reserved matters relating to the landscaping of the Phase 1 development shall be submitted to the Local Planning Authority before the expiration of five years from the date of the permission reference 11/0899C (granted 11 July 2011). The landscaping shall be carried out in accordance with the approved plans.

The approved landscaping works shall commence within 9 months of the commencement of the Phase 1 development; and shall be substantially completed within 9 months of the substantial completion of the Phase 1 development.

Any trees or plants within the approved advance landscaping scheme which, within a period of 5 years from the completion of the development die, are removed or become seriously damaged, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

3. The Phase 1 development hereby approved shall be commenced before the expiration of five years from the date of this permission reference 11/0899C (granted on 11 July 2011), or before three years from the date of the approval of the last reserved matters to be approved for this phase, whichever is the later.
4. Approval of the details of the layout, scale and appearance of the buildings, the means of access thereto and the landscaping of the phase 2 development (hereinafter called "the Phase 2 reserved matters") shall be obtained from the Local Planning Authority in writing before the development of Phase 2 is commenced.
5. Application for approval of the Phase 2 reserved matters shall be made to the Local Planning Authority before the expiration of ten years from the date of this permission.
6. The Phase 2 development hereby approved shall be commenced before the expiration of ten years from the date of permission reference 11/0899C (granted on 11 July 2011), or before the expiration of two years from the date of approval of the last reserved matters to be approved for this phase, whichever is the earlier.
7. None of the buildings hereby approved, shall be occupied until the whole of the Middlewich Eastern bypass has been opened to traffic.
8. Prior to the commencement of the development of each phase of the development hereby approved, a scheme for the protection of those trees proposed to be retained, shall be submitted to and approved in writing by the Local Planning Authority. The approved tree protection scheme shall be implemented prior to construction and retained during the construction work on each phase.
9. An Ecological and Landscape Management Plan shall be prepared for each phase of the development and shall be in accordance with the Strategic Ecological and Landscape Plan (SELP) and the amendment to Paragraph 5.2, hereby approved and dated March 2008 and June 2011.
10. Within the period of 6 months prior to the commencement of the ecological mitigation

and enabling works for each phase of the development hereby approved, an Ecological and Landscape Mitigation, Enhancement and Management Plan (ELMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. Each ELMP shall be in accordance with the framework established in the approved SELP (as amended in 2011), shall accord with, update and implement the mitigation strategies proposed for protected species in the Environmental Statement submitted with application number 07/0323/OUT, have specific regard to the particular issues related to that phase of development and include details of the habitat creation, enhancement scheme, ecological mitigation and implementation and monitoring programmes required. The ecology and landscape shall be implemented and managed in accordance with the approved Ecological and Landscape Mitigation, Enhancement and Management Plan.

11. Prior to the commencement of each phase of the development hereby approved, details showing where soils and aggregates are to be stored on the site relating to each phase, shall be submitted to and approved in writing by the Local Planning Authority and thereafter soils and aggregates shall be stored in accordance with the approved details.
12. Prior to the commencement of development of the bypass hereby approved the design of the railway bridge and a method statement for its construction, shall be submitted to and approved in writing by the Local Planning Authority. The construction of the bridge shall be carried out in accordance with the approved details unless otherwise agreed in writing.
13. Prior to the commencement of each phase of the development hereby approved an air quality management plan covering the period of construction for that phase shall be submitted to and approved in writing by the Local Planning Authority. Construction shall be carried out in accordance with the approved air quality management plan.
14. Prior to the commencement of each phase of the development hereby approved a noise management plan covering the period of construction for that phase shall be submitted to and approved in writing by the Local Planning Authority. Construction shall be carried out in accordance with the approved noise management plan.
15. Prior to the occupation of any building hereby approved a scheme for the acoustic enclosure of any fans, compressors or other equipment with the potential to create noise shall be submitted to and approved in writing by the Local Planning Authority. The development of the scheme shall be implemented in accordance with the approved details prior to the first occupation and retained thereafter.
16. During the construction of B1, B2, and B8 units and hotel in any phase of the development hereby approved, foundation and other piling should only take place between the following hours, except as otherwise agreed in writing with the Local Planning Authority:

Monday to Friday	0730hrs to 1730hrs
Saturday	0730hrs to 1300hrs
Sunday & Public Holidays	Nil

During the construction of B1, B2 and B8 units and hotel in any phase of the development hereby approved, 'floor floating' should only take place between the following hours, except as otherwise agreed in writing with the Local Planning Authority:

Monday to Friday	0730hrs to 1730hrs
Saturday	0730hrs to 1300hrs
Sunday & Public Holidays	Nil

17. Prior to the commencement of phase 2, samples of the external materials and finishes to be used on the buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
18. All boundary treatments shall be in accordance with details which have been submitted to and approved in writing by the Local Planning Authority prior to first occupation. The details shall include the position, size, design, colour and implementation for all boundary treatments.
19. No construction shall take place until details of an archaeological watching brief for each phase have been submitted to and approved in writing by the Local planning Authority. Construction shall take place in accordance with the approved details.
20. No construction shall take place until an archaeological survey dig has been undertaken on the area identified as Site 9 on the Environmental Statement submitted with application number 07/0323/FUL, the scope and methodology of which shall be approved in writing by the Local Planning Authority. A written report of this survey shall be submitted to the Cheshire Archaeology Planning Advisory Service in A4 format within one year of the completion of the dig unless otherwise agreed in writing with the Local Planning Authority.
21. The occupier of each of the buildings hereby approved shall, within 6 months of occupation of phase 2 development, prepare and submit a travel plan for approval in writing by the Local Planning Authority. The travel plan shall be based upon staff travel survey data and include targets and an action plan. Each occupier shall nominate a member of staff to act in the role of travel plan co-ordinator to liaise with the Highway Authority and oversee implementation of the travel plan.
22. Prior to first occupation of any phase 2 unit a scheme detailing all external lighting shall be submitted to and approved in writing by the Local Planning Authority. All external lighting shall be implemented in strict accordance with the approved details.
23. Where identified in the Environmental Statement submitted with application number 07/0323/OUT, flood attenuation schemes for each other building shall be submitted to and approved in writing by the Local Planning Authority and shall be carried out in accordance with the approved details.
24. No phase 2 development approved by this permission shall be commenced until a

scheme for the disposal of foul and surface waters has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be constructed and completed in accordance with the approved plans.

25. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from impermeable parking areas, roadways and hardstandings for vehicle, commercial lorry parks and petrol stations shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
26. No phase 2 development approved by this permission shall be commenced until a scheme for the storage, handling, loading and unloading of fuels, oils, chemicals or effluents has been approved in writing by the Local Planning Authority. The works shall be constructed and completed in accordance with the approved scheme and programme.
27. Prior to first occupation of Unit 101 a scheme detailing the sprinkler tanks shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail an implementation programme. The development shall be undertaken in accordance with the approved scheme and programme.
28. Prior to the first occupation of Unit 101 a scheme detailing the electricity sub stations shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail an implementation programme. The development shall be undertaken in accordance with the approved scheme and programme.
29. Unless otherwise agreed in writing by the Local Planning Authority, the development hereby approved shall not exceed the heights indicated in Section 6.2 of the Design and Access Statement (March 2007), which was submitted with application number 07/0323/OUT.
30. The general site mitigation measures during the construction and operational phases of the development as identified within Paragraphs 6.2 and 6.8 of the Environmental Statement: Technical Annex 1. Geology, Soils and Land Contamination (March 2007) submitted with application number 07/0323/OUT, shall be implemented in full unless otherwise agreed in writing with the Local Planning Authority.
31. The mitigation measures proposed to limit the potential for water contamination during the construction and operational phases of the development as identified within Sections 5.2 – 5.4 of the Environmental Statement: Technical Annex 4. Water Quality (March 2007) submitted with application number 07/0323/OUT, shall be implemented in full unless otherwise agreed in writing with the Local Planning Authority.
32. On or prior to each application for the approval of reserved matters for Phase 2, a statement detailing:
 - (a) The design principles and design concepts of those aspects of the development to which the application for the approval of reserved matters

relates;

- (b) How such principles and concepts are reflected in the proposals for development set out in the reserved matters application; and
- (c) The relationship of the portion of the development to which the reserved matters application relates, to the development site as a whole and to the wider context

Shall be submitted to and approved in writing by the Local Planning Authority and the approval of reserved matters shall be in accordance with that approved statement.

33. Car parking spaces shall be provided in accordance with the approved details under application number 07/0323/OUT before the building to which they relate is occupied and shall be retained at all times for car parking, except as otherwise agreed in writing with the Local Planning Authority.

34. Secure cycle spaces shall be provided in accordance with the approved details under application number 07/0323/OUT before the building to which they relate is occupied and shall be retained at all times for cycle storage, except as otherwise agreed in writing by the Local Planning Authority.

Appendix 1 – Table of existing conditions with applicants proposed variations

Condition	Existing Condition	Proposed Variation to Condition (highlighted in bold)	Reason for Variation
Condition 1 – Phasing	The development hereby approved shall be implemented as follows: Phase 1: Unit 101 and the whole of the bypass Phase 2: The remainder of the development or part thereof	The development hereby approved shall be implemented as follows: Phase 1: The bypass Phase 2: The remainder of the development (including Unit 101) or part thereof	Unit 101 is moved from Phase 1 to Phase 2 in order to enable the separate development of the 'Middlewich Eastern Bypass'
	Reason: In order to ensure that any impacts on the environment are minimised in accordance with the Environmental Statement submitted with application number 07/0323/OUT and Policy PS1 of the adopted Congleton Borough Local Plan First Review 2005.	Reason: In order to ensure that any impacts on the environment are minimised in accordance with the Environmental Statement submitted with application number 07/0323/OUT and Policy PS1 of the adopted Congleton Borough Local Plan First Review 2005.	
Condition 2 – Landscaping	The landscaping of the site shall be carried out in complete accordance with the plans approved under application number 08/0557/REM, numbered 3824.2.001 – 0010 Rev F, date stamped received on 8th January 2008. The landscaping of the Phase 1 development shall be implemented as follows: The approved landscaping works within 9 months of the commencement of the Phase 1 development. The remainder of the approved landscaping	REMOVE CONDITION	Removed as related to a landscaping scheme relating to the former Phase 1 development. Text relating to the implementation of a landscaping scheme has been moved to condition 3

Condition	Existing Condition	Proposed Variation to Condition (highlighted in bold)	Reason for Variation
	works within 9 months of the substantial completion of the Phase 1 development. Any trees or plants within the approved advance landscaping scheme which, within a period of 5 years from the completion of the development die, are removed or become seriously damaged, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.		
	Reason: Required to be imposed in accordance with Section 92 of the Town and Country Planning Act	NA	
Condition 3 - Landscaping	Alternatively, any further matters applications for the approval of reserved matters relating to the landscaping of the Phase 1 development shall be submitted to the Local Planning Authority before the expiration of five years from the date of this permission. The landscaping shall be carried out in accordance with the approved plans.	<p>The approval of reserved matters relating to the landscaping of the Phase 1 development shall be submitted to the Local Planning Authority before the expiration of five years from the date of the permission reference 11/0899C (granted 11 July 2011). The landscaping shall be carried out in accordance with the approved plans.</p> <p>The landscaping of the Phase 1 development shall be implemented as follows: The approved landscaping works within 9 months of the commencement of the Phase 1 development.</p> <p>The remainder of the approved landscaping works within 9 months of the substantial completion of the Phase 1</p>	Added relevant part of former Condition 2 relating to the implementation of an approved landscaping scheme

Condition	Existing Condition	Proposed Variation to Condition (highlighted in bold)	Reason for Variation
		development. Any trees or plants within the approved advance landscaping scheme which, within a period of 5 years from the completion of the development die, are removed or become seriously damaged, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.	
	Reason: Required to be imposed in accordance with Section 92 of the Town and Country Planning Act.		
Condition 4 – Time Limits	The Phase 1 development hereby approved shall be commenced before the expiration of five years from the date of this permission, or before three years from the date of the approval of the last reserved matters to be approved for this phase, whichever is the later.	The Phase 1 development hereby approved shall be commenced before the expiration of five years from the date of permission reference 11/0899C (granted 11 July 2011) , or before three years from the date of the approval of the last reserved matters to be approved for this phase, whichever is the later.	Slight change as the time limit for the commencement of development cannot be extended under Section 73 TCPA 1990, reference to the original permission 11/0899C is added.
	Reason: Required to be imposed in accordance with Section 92 of the Town and Country Planning Act.	Reason: Required to be imposed in accordance with Section 73 and 92 of the Town and Country Planning Act.	
Condition 5 – Phase 2 Reserved	Approval of the details of the layout, scale and appearance of the buildings, the means of access thereto and the landscaping of the phase 2 development or part thereof	Approval of the details of the layout, scale and appearance of the buildings, the means of access thereto and the landscaping of the phase 2 development or part thereof	To allow development of Phase 1 before submission of the details

Condition	Existing Condition	Proposed Variation to Condition (highlighted in bold)	Reason for Variation
Matters	(hereinafter called "the Phase 2 reserved matters") shall be obtained from the Local Planning Authority in writing before the development is commenced.	(hereinafter called "the Phase 2 reserved matters") shall be obtained from the Local Planning Authority in writing before the development of Phase 2 is commenced	required by Condition 5.
	Reason: Required to be imposed in accordance with Section 92 of the Town and Country Planning Act.	Reason: Required to be imposed in accordance with Section 92 of the Town and Country Planning Act.	
Condition 7 – Commencement of Phase 2 Time Limits	The Phase 2 development hereby approved shall be commenced before the expiration of ten years from the date of this permission, or before the expiration of two years from the date of approval of the last reserved matters to be approved for this phase, whichever is the later.	The Phase 2 development hereby approved shall be commenced before the expiration of ten years from the date of permission reference 11/0899C (11 July 2011) , or before the expiration of two years from the date of approval of the last reserved matters to be approved for this phase, whichever is the earlier .	Slight change as the time limit for the commencement of development cannot be extended under Section 73 TCPA 1990, reference to the original permission 11/0899C is added. Approval of Phase 2 reserved matters is currently not time constrained
	Reason: This condition is required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 and a period of 10 years is considered to be a reasonable time limit in view of the extent and timescale of the proposals.	Reason: This condition is required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 and a period of 10 years is considered to be a reasonable time limit in view of the extent and timescale of the proposals.	
Condition 12 – Soils and Aggregates Storage	Prior to the commencement of the development hereby approved, details showing where soils and aggregates are to be stored on the site, shall be submitted to and approved in writing by the Local Planning	Prior to the commencement of each phase of the development hereby approved, details showing where soils and aggregates are to be stored on the site, relating to each phase , shall be submitted to and approved in	To allow development of Phase 1 before submission of the details of Phase 2 required by the

Condition	Existing Condition	Proposed Variation to Condition (highlighted in bold)	Reason for Variation
	Authority and thereafter soils and aggregates shall be stored in accordance with the approved details.	writing by the Local Planning Authority and thereafter soils and aggregates shall be stored in accordance with the approved details.	condition.
	Reason: To protect the habitats of protected and ecologically sensitive species, to protect the soil and its structure and to ensure that soils are stored efficiently and accessibly on the site in accordance with Policies NR2 and NR5 of the adopted Congleton Borough Local Plan First Review 2005.	Reason: To protect the habitats of protected and ecologically sensitive species, to protect the soil and its structure and to ensure that soils are stored efficiently and accessibly on the site in accordance with Policies NR2 and NR5 of the adopted Congleton Borough Local Plan First Review 2005.	
Condition 14 – Air Quality Management Plan	Prior to the commencement of each phase of the development hereby approved an air quality management plan covering the period of construction shall be submitted to and approved in writing by the Local Planning Authority. Construction shall be carried out in accordance with the approved air quality management plan.	Prior to the commencement of each phase of the development hereby approved an air quality management plan covering the period of construction, for that phase , shall be submitted to and approved in writing by the Local Planning Authority. Construction shall be carried out in accordance with the approved air quality management plan.	To allow development of Phase 1 before submission of the details of Phase 2 required by the condition.
	Reason: To protect the amenities of neighbours during construction and operation in accordance with Policy GR6 of the adopted Congleton Borough Local Plan First Review 2005.	Reason: To protect the amenities of neighbours during construction and operation in accordance with Policy GR6 of the adopted Congleton Borough Local Plan First Review 2005.	
Condition 15 – Noise	Prior to the commencement of each phase of the development hereby approved a noise	Prior to the commencement of each phase of the development hereby approved a noise	To allow development of Phase 1 before

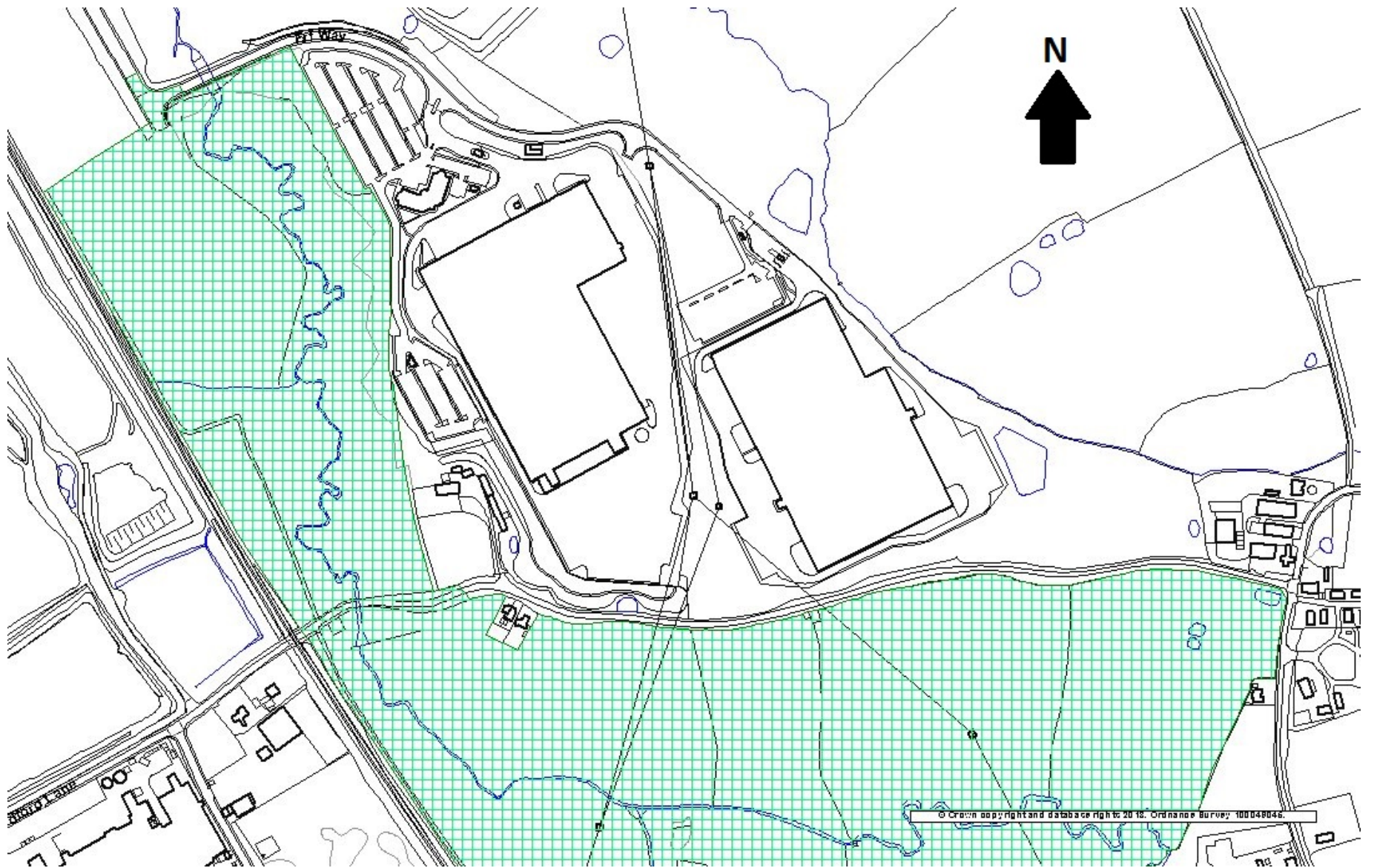
Condition	Existing Condition	Proposed Variation to Condition (highlighted in bold)	Reason for Variation
Management Plan	management plan covering the period of construction shall be submitted to and approved in writing by the Local Planning Authority. Construction shall be carried out in accordance with the approved noise management plan.	management plan covering the period of construction, for that phase , shall be submitted to and approved in writing by the Local Planning Authority. Construction shall be carried out in accordance with the approved noise management plan.	submission of the details of Phase 2 required by the condition.
	Reason: To protect the amenities of neighbours during construction and operation in accordance with Policy GR6 of the adopted Congleton Borough Local Plan First Review 2005.	Reason: To protect the amenities of neighbours during construction and operation in accordance with Policy GR6 of the adopted Congleton Borough Local Plan First Review 2005.	
Condition 18 – External Materials	Within 3 months of the commencement of development, samples of the external materials and finishes to be used on the buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.	Prior to the commencement of development of Phase 2 , samples of the external materials and finishes to be used on the buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.	To allow development of Phase 1 before submission of the details of Phase 2 required by the condition.
	Reason: To ensure that the development meets the requirements of Policy GR2 (B) & (D) of the adopted Congleton Borough Local Plan First Review 2005.	Reason: To ensure that the development meets the requirements of Policy GR2 (B) & (D) of the adopted Congleton Borough Local Plan First Review 2005.	
Condition 20- Archaeological Watching Brief	No construction shall take place until details of an archaeological watching brief have been submitted to and approved in writing by the Local planning Authority. Construction shall	No construction shall take place until details of an archaeological watching brief, for each phase , have been submitted to and approved in writing by the Local planning Authority.	To allow development of Phase 1 before submission of the details of Phase 2 required by the

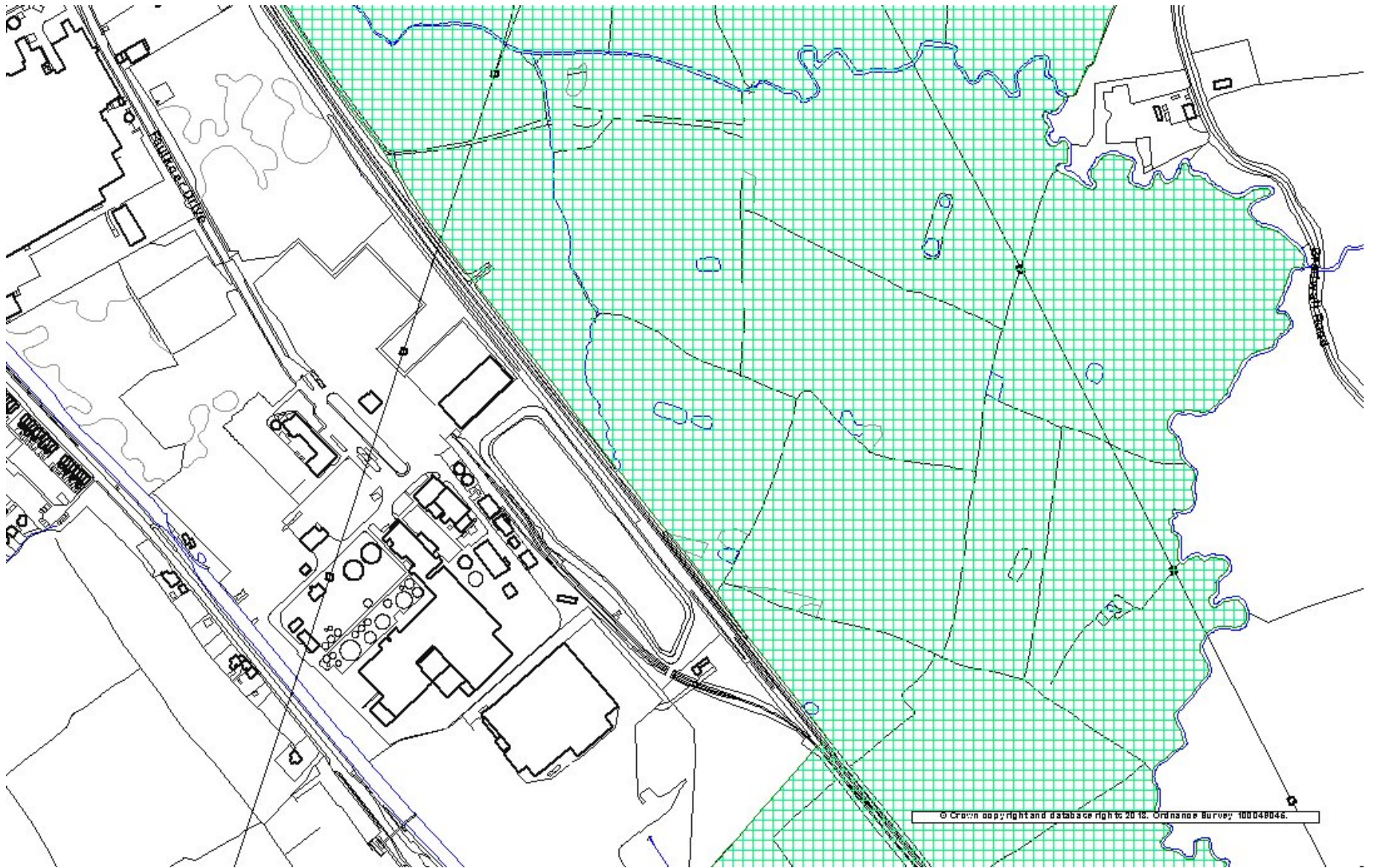
Condition	Existing Condition	Proposed Variation to Condition (highlighted in bold)	Reason for Variation
	take place in accordance with the approved details.	Construction shall take place in accordance with the approved details.	condition.
	Reason: To protect potential archaeological sites and finds within the development site in accordance with Policy BH12 of the adopted Congleton Borough Local Plan First Review 2005.	Reason: To protect potential archaeological sites and finds within the development site in accordance with Policy BH12 of the adopted Congleton Borough Local Plan First Review 2005.	
Condition 21- Archaeological Survey	No construction shall take place until an archaeological survey dig has been undertaken on the area identified as Site 9 on the Environmental Statement submitted with application number 07/0323/FUL, the scope and methodology of which shall be approved in writing by the Local Planning Authority. A written report of this survey shall be submitted to the Cheshire Archaeology Planning Advisory Service in A4 format within one year of the completion of the dig unless otherwise agreed in writing with the Local Planning Authority.	No construction shall take place on Phase 2 , until an archaeological survey dig has been undertaken on the area identified as Site 9 on the Environmental Statement submitted with application number 07/0323/FUL, the scope and methodology of which shall be approved in writing by the Local Planning Authority. A written report of this survey shall be submitted to the Cheshire Archaeology Planning Advisory Service in A4 format within one year of the completion of the dig unless otherwise agreed in writing with the Local Planning Authority.	To allow development of Phase 1 before submission of the details of Phase 2 required by the condition.
	Reason: To protect potential archaeological sites and finds within the development site in accordance with Policy BH12 of the adopted Congleton Borough Local Plan First Review 2005.	Reason: To protect potential archaeological sites and finds within the development site in accordance with Policy BH12 of the adopted Congleton Borough Local Plan First Review 2005.	
Condition 22 – Travel Plan	The occupier of each of the buildings hereby approved shall, within 6 months of occupation, prepare and submit a travel plan	The occupier of each of the buildings hereby approved shall, within 6 months of occupation of Phase 2 development , prepare and	To allow development of Phase 1 before submission of the details

Condition	Existing Condition	Proposed Variation to Condition (highlighted in bold)	Reason for Variation
	for approval in writing by the Local Planning Authority. The travel plan shall be based upon staff travel survey data and include targets and an action plan. Each occupier shall nominate a member of staff to act in the role of travel plan co-ordinator to liaise with the Highway Authority and oversee implementation of the travel plan.	submit a travel plan for approval in writing by the Local Planning Authority. The travel plan shall be based upon staff travel survey data and include targets and an action plan. Each occupier shall nominate a member of staff to act in the role of travel plan co-ordinator to liaise with the Highway Authority and oversee implementation of the travel plan.	of Phase 2 required by the condition.
	Reason: In order to ensure the use of more sustainable modes of transport, in accordance with Policy GR10 of the adopted Congleton Borough Local Plan First Review 2005.	Reason: In order to ensure the use of more sustainable modes of transport, in accordance with Policy GR10 of the adopted Congleton Borough Local Plan First Review 2005.	
Condition 23 – External Lighting	Prior to first occupation of any unit a scheme detailing all external lighting shall be submitted to and approved in writing by the Local Planning Authority. All external lighting shall be implemented in strict accordance with the approved details.	Prior to first occupation of any Phase 2 unit a scheme detailing all external lighting shall be submitted to and approved in writing by the Local Planning Authority. All external lighting shall be implemented in strict accordance with the approved details.	Clarification that Phase 2 will be the only phase with buildings to be occupied.
	Reason: To protect the amenity of neighbours in accordance with Policy GR6 of the adopted Congleton Borough Local Plan First Review 2005. Borough Local Plan First Review 2005.	Reason: To protect the amenity of neighbours in accordance with Policy GR6 of the adopted Congleton Borough Local Plan First Review 2005. Borough Local Plan First Review 2005.	
Condition 24 – Flood	Prior to the occupation of Unit 101 hereby approved, the flood attenuation associated with Phase 1 of the development shall be	REMOVE CONDITION	Condition 24 is to be removed, as it is not now needed as it is part of

Condition	Existing Condition	Proposed Variation to Condition (highlighted in bold)	Reason for Variation
Attenuation	constructed in accordance with the plans approved under application number 07/0323/OUT for the storage lagoon reference numbers CL(50)01 and CL(50)05 and the Midpoint 18 Phase III Flood Risk Assessments Volumes one and two dated April 2007.		Phase 2 development and covered in Condition 25 below
	Reason: To safeguard against the risk of flooding in accordance with Policy GR21 of the adopted Congleton Borough Local Plan First Review 2005.		
Condition 25 – Flood Attenuation	Where identified in the Environmental Statement submitted with application number 07/0323/OUT, flood attenuation schemes for each other building shall be submitted to and approved in writing by the Local Planning Authority and shall be carried out in accordance with the approved details.	Where identified in the Environmental Statement submitted with application number 07/0323/OUT, flood attenuation schemes for each of the phase 2 buildings shall be submitted to and approved in writing by the Local Planning Authority and shall be carried out in accordance with the approved details.	To allow development of Phase 1 before submission of the details of Phase 2 required by the condition.
	Reason: To safeguard against the risk of flooding in accordance with Policy GR21 of the adopted Congleton Borough Local Plan First Review 2005.	Reason: To safeguard against the risk of flooding in accordance with Policy GR21 of the adopted Congleton Borough Local Plan First Review 2005.	
Condition 26 – Foul and Surface Water Disposal	No development approved by this permission shall be commenced until a scheme for the disposal of foul and surface waters has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be constructed and completed in	No Phase 2 development approved by this permission shall be commenced until a scheme for the disposal of foul and surface waters has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be constructed and	This relates to building development and hence phase 2, thus allowing development of Phase 1 before submission of the details of Phase 2

Condition	Existing Condition	Proposed Variation to Condition (highlighted in bold)	Reason for Variation
	accordance with the approved plans.	completed in accordance with the approved plans.	required by the condition.
	Reason: To ensure a satisfactory means of drainage in accordance with Policy GR20 of the adopted Congleton Borough Local Plan First Review 2005.	Reason: To ensure a satisfactory means of drainage in accordance with Policy GR20 of the adopted Congleton Borough Local Plan First Review 2005.	
Condition 28 - storage, handling, loading and unloading of fuels, oils, chemicals or effluents	No development approved by this permission shall be commenced until a scheme for the storage, handling, loading and unloading of fuels, oils, chemicals or effluents has been approved in writing by the Local Planning Authority. The works shall be constructed and completed in accordance with the approved scheme and programme.	No Phase 2 development approved by this permission shall be commenced until a scheme for the storage, handling, loading and unloading of fuels, oils, chemicals or effluents has been approved in writing by the Local Planning Authority. The works shall be constructed and completed in accordance with the approved scheme and programme.	To allow development of Phase 1 before submission of the details of Phase 2 required by the condition.
	Reason: To prevent the discharge of contaminated drainage or accidental spillages to underground strata or surface waters in accordance with Policy GR20 of the adopted Congleton Borough Local Plan First Review 2005.	Reason: To prevent the discharge of contaminated drainage or accidental spillages to underground strata or surface waters in accordance with Policy GR20 of the adopted Congleton Borough Local Plan First Review 2005.	





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