

Application No: 15/5840C

Location: LAND OFF WARMINGHAM LANE, MIDDLEWICH, CHESHIRE

Proposal: 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.

Applicant: Gladman Developments

Expiry Date: 03-Aug-2017

SUMMARY

It should be noted that at the time of writing this report, the application site lies entirely within the Open Countryside as determined by the Congleton Borough Local Plan First Review 2005.

Within such locations, there is a presumption against development, unless the development falls into one of a number of categories as detailed by Local Plan Policy H6. The proposed development does not fall within any of the listed categories and as such, there is a presumption against the proposal unless material considerations indicate otherwise.

The site also forms part of the CS55 site allocation within the Submission Version of the Cheshire East Local Development Strategy, which is allocated for housing development and is an important material consideration to which significant weight can be attached, due to the stage the Local Plan Strategy has reached, which by the time this application is considered by SPB, may be Adopted and comprise the Development Plan in force for this site.

Notwithstanding the Development Plan position, Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites and that where this is the case housing applications should be considered in the context of the presumption in favour of sustainable development.

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 positive planning benefits such as; the provision of market housing on an allocated housing site in the Local Plan Strategy and the significant financial contribution the scheme can make to the Middlewich by-pass. The delivery of the by-pass is anticipated to deliver significant economic and environmental benefits to Middlewich and are a primary reason for the allocation of the site as a housing site for up to 235 dwellings within the Local Plan Strategy.

Balanced against these benefits must be the adverse impacts, which in this case would be the loss of open countryside, the lack of any affordable housing provision and the requested education contribution which; based on viability information provided, cannot be delivered whilst also providing the significant financial contribution to the link road.

In this instance, it is considered that the economic and environmental benefits of the scheme in the form of the financial contribution it will make to the Middlewich Eastern By-pass would outweigh the adverse social impacts to affordable housing and education.

RECOMMENDATION Approve subject to the completion of a S106 Agreement and conditions

DESCRIPTION OF SITE AND CONTEXT

The site is currently in agricultural use and there are a number of trees and hedgerows to the boundaries of the site. The site also includes a number of ponds. Part of the site in the vicinity of Warmingham Lane falls within the Parish of Moston whilst the majority falls within Middlewich. The western part of the site falls away from the boundary with the adjoining Bellway development by circa 11m from 45m to the east to 34m in the west. The levels in the majority of the site are circa 45m

A local centre with a Tesco Express, post office, pharmacy, ATM fast food outlets, bus stop and public house is located on Warmingham Lane circa 1km from the site. Middlewich High Street is circa 1.5km to the north of the site.

DETAILS OF PROPOSAL

This is an outline planning application for up to 235 dwellings with an average density of 35 dwellings per hectare. The site comprises 15.05 hectares, an indicated 7.58 hectares as residential development area, 7.65 hectares green infrastructure (including POS/play and drainage pond).

Access via Warmingham Lane is to be determined at this stage, with all other matters reserved. However it should be noted that the internal layout does not form part of the application to be determined at this stage.

The indicative housing layout shows that the site would include the provision of a linear area of public open space and a Local Equipped Area for Play (LEAP 0.04ha) within a central belt of open space that also incorporates newt mitigation and a GCN pond, buffer landscaping, a

proposed 'community' football pitch, 0.22he set aside as a 'community facility in D1 or D2) and open space.

The indicative plans consist of a mix of house types with the maximum height being three stories in height and mainly ranging from 1-5 bedroom units, retained trees and hedgerows. Links are also proposed into the adjacent Bellway and Morris Homes developments, currently under construction

RELEVANT HISTORY

With respect to the site itself

No relevant planning history

EIA Screening – EIA not required

With respect to adjoining sites

13/5297C - Reserved matters application for proposed residential development for 194 dwellings and associated public open space with details submitted for appearance, landscaping, layout and scale granted 21 March 2014 (Morris Homes site to the immediate north) – currently under construction

12/2584C - Full Planning Application for Erection of 149 Dwellings with Associated Access and Landscaping Arrangements Alongside a Newt Relocation Strategy granted 24 January 2014 (Bellway Homes to immediate north of Morris Homes site) – currently under construction

13/3449C - Outline application for residential development (approximately 450 dwellings) – resolved to be approved subject to conditions and S106 Agreement 2 April 2014. Glebe Farm, Booth Lane- Site to the immediate west of the application site

Two update reports have since been prepared, the most recent of which was on 19 April 2017, have adjusted the Heads of Terms for the Glebe Farm site to :

- 10% affordable units
- £220000 replacement playing field contribution
- £4,780,000 to Middlewich Eastern Bypass. If the MEB is not delivered the sum will be spent on the following highway/sustainability measures: Bus Service/Facility Improvements; Town Bridge – Signal Junction Improvements; Cycle Lanes -Towpath: Middlewich to Glebe Farm; Cycle Lanes -Carriageway Modification: Middlewich to Glebe Farm; and Cycle Lanes -Towpath: Glebe Farm to Elworth. The sum is to be paid in 4 equal stages on the first occupation of 20%, 40%, 60% and 80% of the dwellings approved on the site at the Reserved Matters stage.

The Glebe Farm application is undetermined at this stage as the S106 Agreement has yet to be signed.

POLICIES

National Policy

National Planning Policy Framework

Local Plan policy

PS3 – Settlement Hierarchy

PS8 - Open Countryside

GR21- Flood Prevention

GR1- New Development

GR2 – Design

GR3 - Residential Development

GR4 – Landscaping

GR5 – Landscaping

GR9 - Accessibility, servicing and provision of parking

GR14 - Cycling Measures

GR15 - Pedestrian Measures

GR16 - Footpaths Bridleway and Cycleway Networks

GR17 - Car parking

GR18 - Traffic Generation

NR1 - Trees and Woodland

NR3 – Habitats

NR4 - Non-statutory sites

NR5 – Habitats

H2 - Provision of New Housing Development

H6 - Residential Development in the Open countryside

H13 - Affordable Housing and low cost housing

RC2 – Protected Area of Open Space Recreational Facility

Other Considerations

The EC Habitats Directive 1992

Conservation of Habitats & Species Regulations 2010

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

Interim Planning Statement Affordable Housing

Interim Planning Statement Release of Housing Land

Middlewich Town Strategy

Cheshire East SHLAA

Cheshire East Urban Design Guide

Cheshire East Local Plan Strategy (CELP) – Submission Version

MP1 Presumption in favour of sustainable development

PG1 Overall Development Strategy

PG2 Settlement hierarchy

PG6 Spatial Distribution of Development

SD1 Sustainable Development in Cheshire East

SD2 Sustainable Development Principles

IN1 Infrastructure

IN2 Developer contributions

SC1 Leisure and Recreation

SC2 Outdoor sports facilities
SC4 Residential Mix
SC5 Affordable Homes
SE1 Design
SE2 Efficient use of land
SE3 Biodiversity and Geodiversity
SE4 The Landscape
SE5 Trees, Hedgerows and Woodland
SE6 Green Infrastructure
SE9 Energy Efficient Development
SE12 Pollution, Land contamination and land instability
SE13 Flood risk and water management
CO1 Sustainable Travel and Transport
CO2 Enabling business growth through transport infrastructure
CO4 Travel plans and transport assessments
CS 55 land off Warmingham Lane, Middlewich

Middlewich Neighbourhood Plan

The Draft Middlewich Neighbourhood Plan has yet to reach Regulation 14 Stage. Accordingly, no weight can be attached to the Plan.

CONSULTATIONS (External to Planning)

Cheshire Brine Subsidence Compensation Board: The area has a history of subsidence, require foundations to be strengthened and notification of the use of raft foundations

United Utilities: No objection

Strategic Highways Manager: No objection subject to conditions and S106 mitigation to the Middlewich bypass

Environmental Health: No objections, subject to conditions relating to hours of piling, the prior submission of a piling method statement, the prior submission of any proposed external lighting, acoustic noise mitigation, phase I contaminated land assessment, reserved matters to include how damage cost calculation of £55847.88 (total price) over a five year period to offset transport emissions on local air quality will be determined.

Public Open Space: No objection subject to a policy compliant amount of amenity Green Space and children's play space in the form of a NEAP which is of a minimum 1000 sq m. area.

Natural England: In terms of the Sandbach Flashes SSSI – no objection to the proposal. Refers to standing advice with regard to protected species

Health and Safety Executive: No reply

Education: Objection without a total education contribution (for primary, secondary and special educational needs) of a total of £1,071,332.

Strategic Housing Manager: Objection without an affordable housing contribution of 30% in a 65%:35% split.

Cheshire East PROW: No objection subject to conditions seeking to ensure routes are suitable for use by cyclists and walkers as well as vehicles and a scheme of information about local walking and cycling routes for both leisure and travel purposes to be provided for new residents, with key routes signposted

Archaeology: No objection – satisfied with the report submitted. Require no further action

VIEWS OF THE PARISH COUNCIL

Middlewich Town Council: Recommend refusal on the following grounds -

- Excessive traffic generated by the development, in an area where the existing road infrastructure is inadequate; there should be no additional development in this area until the completion of the Eastern by-pass;
- There is concern about the proximity of the site to the Sandbach Flashes and the Council supports Natural England in wanting assurances that there will be no damage to the Flashes from this development;
- The additional traffic generated by the development will be detrimental to air quality as Nitrous Oxide levels will be exceeded at two receptor points;
- There is insufficient information regarding contaminated land following previous industrial uses at the site;
- The development will have a detrimental impact on noise levels;
- There is insufficient public transport to support the additional development;
- There is inadequate amenity and safe routes to schools incorporated into the development.

Moston Parish Council: Do not support the development on the following grounds-

- The development would significantly add to the already increased amount of traffic on a number of the inadequate lanes of Moston
- The creation of 'Rat Runs' on country lanes in Moston which will be created on our busy narrow and dangerous lanes to access or avoid the by-pass.

If planning permission is granted Moston PC request the re-surfacing of Dragons Lane, speed restrictions and improved signage at the junctions of Warmingham Lane with Dragons Lane, Dragons Lane with Whitehall Lane and Dragons Lane with Tetton Lane.

OTHER REPRESENTATIONS

None

OFFICER APPRAISAL

Principle of Development

The site lies outside the settlement boundary of Middlewich, and is identified as open countryside within the Congleton Borough Local Plan First Review. The proposed development would not fall within any of the categories of exception to local plan policy PS8 relating to development within the open countryside. As a result, it constitutes a “departure” from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined “*in accordance with the plan unless material considerations indicate otherwise*”.

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy concerns.

In terms of the Cheshire East Local Plan Strategy the application site forms part of strategic site CS55, which is a large L-shaped parcel of land which would be located to the south of Middlewich and wraps around the current Bellway and Morris Homes developments to the west and Warmingham Lane to the east.

The emerging policy seeks to deliver a residential development of 450 new dwellings and the provision of pedestrian and cycle connections which enhance Green Infrastructure.

Specifically the emerging Local Plan identifies the following development over the Local Plan Strategy period:

‘The development at Warmingham Lane West (Phase II) over the Local Plan Strategy period will be achieved through:

- *The delivery of up to 235 new homes;*
- *Incorporation of green Infrastructure*
- *Pedestrian and cycle links, linking the site to the wider Bellway Homes and Morris Homes Sites to the north and east; and*
- *On site provision or where appropriate, relevant contributions towards highways and transport. Education, health, open space and community facilities*

Site Specific Principles of Development

- *Contributions towards complimentary highways measures on the existing highway network and or a financial contribution to the delivery of a Middlewich Eastern Bypass.*
- *A Transport Assessment will need to be provided at the planning application stage*
- *Provide a comprehensive landscaping scheme which retains existing mature trees and hedgerows, where possible, or provide appropriate mitigation measures*
- *The provision of affordable housing in line with policy requirements set out in Policy SC5 (Affordable Homes)*
- *Creation of new vehicular access onto Warmingham Lane*

- *New Development will be expected to respect any existing ecological constraints on site and where necessary, provide appropriate mitigation measures;*

Provide contributions to education and health infrastructure

- *The achievement of high quality urban and architectural design and the delivery of a high quality public realm.*
- *The provision of a network of open spaces for nature conservation and recreation which reinforce connections to adjacent green infrastructure.*
- *Contributions to education and health infrastructure.*
- *The site will deliver excellent connections to existing residential areas and facilities within Middlesbrough.*
- *A pre-determination desk based archaeological assessment will be required for the site.*
- *The Local Plan Strategy Site is expected to provide affordable housing in line with the policy requirements set out in Policy SC5 (Affordable Homes).*
- *The development proposals adjoining the Trent and Mersey Canal Conservation Area and associated listed buildings must reflect the location and be of a high standard'*

Housing Land Supply

On 20 June 2017 Inspector Stephen Pratt published his final report on the Cheshire East Local Plan Strategy, thus bringing the Plan's Examination to a close. He has concluded that with the recommended Main Modifications, the Cheshire East Local Plan Strategy meets the criteria for soundness in the National Planning Policy Framework, and is capable of adoption.

Accordingly a report is being prepared for the full meeting of the Council on 27 July recommending the adoption of the Plan. In the meantime paragraph 216 of the NPPF sets out the guidance on the weight that should be applied to emerging plans. The degree of weight depends on:

- The stage of the Plan (the more advanced the preparation, the greater the weight that may be given)
- The extent to which there are unresolved Objections
- The degree of consistency with the framework.

In the case of the Cheshire East Local Plan Strategy, the Plan is now on the cusp of adoption and so is clearly at a very advanced stage. With the publication of the Inspector's report there are no unresolved objections and the Inspector has confirmed that the policies of the plan are consistent with the Framework.

Accordingly, whilst ahead of adoption the Local Plan Strategy cannot be afforded full weight as a development plan, as an emerging plan it must now carry very significant weight.

The Inspector's Report signals the Inspector's agreement to the plans and policies of the plan, 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 are currently within the green belt will then be removed from that protective designation and will be available for development.

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”

In the run up to adoption, no 5 year supply can be demonstrated and so the presumption in favour of sustainable development will continue to apply.

Given the solution to housing supply now at hand, correspondingly more weight can be attributed to the housing supply policies (as per the Richbrough Supreme Court Judgement). In addition given the progression of emerging policies towards adoption very significant weight can now be given to those emerging policies. The scale of the development may also be a factor that should be weighed in the overall planning balance as to the degree of harm experienced.

Attention is also drawn to a recent appeal decision regarding a site in Cheshire East ref APP/R0660/W/16/3156959 where the inspector gave the following view on the status of the Councils emerging Local Plan prior to the recent report;

“This plan is now at an advanced stage of preparation, with the consultation on the main modifications having started on 6 February 2017. It was indicated that apart from a minor modification to the wording of the supporting text, the Local Plan Inspector has not suggested any modifications to this policy. As such, it is proposed that it would be adopted in its current format. In the light of this, and in accordance with paragraph 216 of the National Planning Policy Framework (the Framework), I consider that substantial weight can be given to this policy”

This conclusion was reached before the Inspector’s Report was published, now his findings are known and adoption is imminent the weight accorded to the emerging plan will be further enhanced.

Whilst policies PS8 of the Congleton Local Plan restricts new development within the Open Countryside, given the site is allocated in the Local Plan Strategy, a allocation to which significant weight can be attached, the development of the site is considered to be acceptable in principle.

An update on the position will be made following the outcome of the July 27 meeting.

Open Countryside Policy

This report is written prior to the Full Council meeting on 27 July 2017. At the time of writing, in the absence of a 5-year housing land supply the Local Planning Authority cannot rely on countryside protection policies to defend settlement boundaries and justify the refusal of development simply because it is outside of a settlement, but these policies can be used to help assess the impact of proposed development upon the countryside. Where appropriate,

as at Sandbach Road North, conflict with countryside protection objectives may properly outweigh the benefit of boosting housing supply.

Therefore, this proposal remains contrary to Congleton Borough Local Plan Open Countryside policy regardless of the 5 year housing land supply position in evidence at any particular time and a judgement must be made as to the value of the particular area of countryside in question and whether, in the event that a 5 year supply cannot be demonstrated, it is an area where the settlement boundary should be “flexed” in order to accommodate additional housing growth.

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.

These are not mutually exclusive and a scheme may contribute to or have impacts upon all 3 dimensions.

ENVIRONMENTAL SUSTAINABILITY

The site is a greenfield site and therefore not the first priority for development. However, it is acknowledged within the Council’s Strategic Housing Land Availability Assessment (SHLAA) recognises that the land is capable of development for housing, and as noted above, the site is within the zone which is also a preferred site for housing development (site CS55 Warmingham Lane) within the Local Plan Strategy 2016.

Paragraph 38 of the Framework states that for larger scale residential developments, policies should promote a mix of uses in order to provide opportunities to undertake day to day activities including work on site, thereby minimising the need to travel.

Paragraphs 96 and 97 of the Framework deal with decentralised and renewable energy supply. The aim is to secure a proportion of predicted energy requirements for new developments from decentralised and renewable or low carbon sources. This can be dealt with by condition in the interests of sustainable development.

Access to services/ locational accessibility

The site is considered by the SHLAA to be sustainable. To aid assessment of locational accessibility, there is a toolkit which was developed by the former North West Development Agency. The toolkit advises on the desired distances to local amenities which developments should aspire to achieve. The performance against these measures is used as a “Rule of Thumb” as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions.

The accessibility of the site shows that following facilities meet the minimum standard:

- Amenity Open Space (500m) – on site
- Children’s Play Space (500m) – on site
- Supermarket (1000m) – 1000m
- Public House (1000m) – 1000m
- Bus Stop (500m) – 500m
- Pharmacy (1000m) – 1000m

Where the proposal fails to meet the standards, the facilities / amenities in question are still within a reasonable distance of those specified and are therefore accessible to the proposed development. Those amenities are:

The following facilities fail to meet the minimum standard:

Convenience Store (500m) – 1000m

Post Box (500m) – 900m

Significant Failure to meet the minimum standard:

Outdoor Sports Facility (500m) – 1000m

Secondary School (1000m) – 2500m

Primary School (1000m) – 2400m

Child Care Facility (nursery or crèche) (1000m) - 2400m

Medical Centre (1000m) - 3000m

Leisure Facilities (leisure centre or library) (1000m) – 2500m

Railway Station (2000m where geographically possible) – 5400m

Public Right of Way (500m) – 1000m

In summary, whilst the site does not comply with all of the standards advised by the NWDA toolkit, these are guidelines and are not part of the development plan.

Owing to its position on the edge of Middlewich, there are some amenities that are not within the ideal standards set within the toolkit and will not be as close to the development as existing dwellings which are more centrally positioned.

However, this is not untypical for suburban dwellings and will be the same distances for the residential development to the north and the approved developments on Warmingham Lane from the application site. It should also be noted that this site has been considered to be an appropriate housing site in the Local Plan Strategy. In addition, all of the services and amenities listed are accommodated within Middlewich (apart from a train station) and are accessible to the proposed development on foot/bike or via a short bus journey on Warmingham Lane. Accordingly, it is considered that this site is a locationally sustainable site and future residents would be able to avail them services of the services in the area by public transport, bike or on foot.

Highway safety & traffic generation

Policy GR9 states that proposals for development requiring access, servicing or parking facilities will only be permitted where a number of criteria are satisfied. These include adequate and safe provision for suitable access and egress by vehicles, pedestrians and other road users to a public highway.

Paragraph 32 of the National Planning Policy framework states that:-

'All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment and that any plans or decisions should take into account the following;

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.
- Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Access Arrangements

Access from Warmingham Lane is applied for. The plan indicates a speed reduction to 30 MPH and other traffic calming measures which is acceptable to the Strategic Highways Manager (SHM). Traffic Regulation Orders, funded by the developer will be required.

The proposals also include footway creation on Warmingham Lane linking the footways adjacent to the Morris and Bellway developments. This will enable future residents to walk to the local centre (1000m) with the shop/bus stop, pharmacy, ATM, public house.

Travel Planning

The Travel Plan prepared to support this planning application makes reference to existing local facilities and public/sustainable transport options for this development site. The TP sets target vehicle trip rates for the development based upon the TP having a significant effect upon switching residents from anticipated car use to sustainable modes of travel.

The closest bus stop is located in the Local Centre (1000m). The TP adopts an 'outcomes approach' to travel planning. It is suggested that the onus is on the developer to meet targets indicated in the TP and, if those targets are not met, the developer would be required to implement measures to ensure that such targets are met. But the TP provides no such commitment to funding remedial measures should targets not be met.

The TP merely states that car use will be 10% less than the predicted car use on the basis of TRICS trip rates. Highways do not agree that the measures indicated in the TP will result in such trip rate reductions or offer real choice about how journeys can be made in a sustainable manner – the implication of the suggested target in the TP is that the current 82% driving to work will fall by 8.2% in the AM peak hour to travel by other modes; representing a 45.6% increase in existing use of more sustainable modes of transport. Even a strong TP could not easily achieve this outcome in this location.

Other components of the TP are considered likely to have only a marginal impact on travel behaviour which is considered likely to be focussed heavily on the private car without interventions and, although monitoring is proposed, no effective measures or potential effective remedial measures are proposed that are likely to result in encouraging residents away from private car use.

In pre-application discussions the applicant indicated that an existing bus service would be extended towards the development site. It is understood that such a measure is now unlikely to come forward. Following discussions related to travel planning, the Transport Consultant has presented additional information which suggests that the TP adopts an 'outcomes approach' to travel planning.

Given the distance of the site from the closest services/bus stop (1km) the Strategic Highways Manager (SHM) considers the Applicants response to be unacceptable. The SHM is suggested that the onus is put on the developer to meet targets indicated in the TP and, if those targets are not met, the developer should be required to implement measures to ensure that such targets are met. However the TP provides no such commitment to funding remedial measures should targets not be met and, therefore, it will be necessary to condition appropriate measures via the delivery of a detailed travel plan containing specific output measures .

Middlewich Eastern Bypass Proposal (MEBP)

The development proposal is required to effectively mitigate against its traffic impact on the strategic highway network. The Transport Assessment recognises that if the MEBP comes forward that strategic traffic flows will change on the existing highway infrastructure and also recognises the current need for considerable improvement to the local highway infrastructure.

As a result the developer is prepared to offer financial contributions which are targeted at local highway infrastructure improvements identified and costed by the Strategic Highways Manager.

A preferred alignment of the MEBP is being pursued by CEC and a business case has been submitted to DfT requesting a maximum 80% contribution (£46.78m) to the predicted costs of the MEBP which currently stands at £58.5m. Hence a local contribution of £11.7m is required from development identified within Middlewich in the Local Plan on the basis that the full 80% DfT funding is secured.

However, at this time, no confirmation of funding has been received and, in the interests of fairness, it is considered that the per dwelling funding requirement utilised for the Glebe Farm proposal is applied to this development.

In the Glebe Farm agreed Heads of Terms (HOTs) a contribution of £4.78m or £10,662 per dwelling was negotiated. It is understood that the Glebe farm S106 is close to completion.

As the delivery of MEB does not have a completion date at this time it is important to identify alternate mitigation measures which will serve to help mitigate impact should MEB not be delivered. The measures would include local highways improvements in Middlewich and would ensure the delivery of improvements to sustainable modal choice for the development.

In total the contribution from the development towards these measures would be £4.78m which equates to £10,662 per dwelling. This is the same as detailed in the Glebe Farm S106 Agreement yet to be signed.

This contribution will provide the following:

- Completion (with the other sites within the SC55 Allocation of the Local Plan) of funding for Middlewich Eastern By-pass allowing Cheshire East Council to pursue its completion.
- The opportunity to provide the extensive local infrastructure highway improvements if Middlewich Eastern By-pass is not completed.

The Strategic Highways Manager has produced detailed estimates for these improvements and negotiated sums of money against them which will be subject to security under a Section 106 agreement attached to any permission which may be granted for this development proposal. The contributory sum/sums will need to be held for a minimum of ten years from the date of deposit.

The build out of this development as a whole will rely on the completion of the Middlewich Eastern Bypass or the delivery of the alternative complimentary measures which would be necessary as consequence of the traffic generated by this development

Traffic generation has been calculated against the proposed total number of dwellings and is therefore robust.

Therefore the developer is offering a funding package of £4.78m as part of this proposal.

This would effectively mitigate against development impact in highways terms and can be regarded as CIL compliant.

The viability of provision, together with other policy requirements relevant to the application are considered elsewhere in this report.

Landscape and Tree/Hedgerow Impact

One of the Core Planning Principles of the NPPF is to “take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”.

The application site has no landscape designations. The Congleton Borough Local Plan identifies the application site as lying outside the settlement boundary and Policy P8 Open Countryside applies. This policy indicates that *‘Development in the open countryside will normally be unacceptable unless it can be shown to be essential to local needs and the rural economy and cannot be accommodated within existing settlements’*.

The application site is on the southern edge of Middlewich and is located to the west of Warmingham Lane, there is an existing housing development being undertaken by Bellway and Morris Homes to the northern and eastern boundaries of the site and currently forms the settlement edge of Middlewich. The application site is open countryside and rural in character.

As part of the application a Landscape and Visual Impact Assessment has been submitted. The assessment follows the guidelines and methodology outlined in the Guidelines for Landscape and Visual Impact Assessment 3rd Edition 2013. The assessment refers to the National Character Area, Area 61 – Shropshire, Cheshire and Staffordshire Plain/Cheshire Sandstone Ridge. The assessment also refers to the Cheshire Landscape Character Assessment, although it identifies this as being at the local, rather than county level. The Cheshire Landscape Character Assessment 2009 identifies the application as being located within Type 7 East Lowland Plain, specifically ELP5 Wimboldsley Character Area; the application area exhibits many of the characteristics of this landscape type.

The assessment also refers to the Congleton Landscape Character Assessment 1999. The Congleton Landscape Character Assessment identifies this as Middlewich Open Plain, an area that is generally flat and of medium scale with irregular fields, with clipped hedgerows and some post and wire infill fencing.

The appraisal identifies that apart from a short section of hedgerow, that the existing field boundaries and trees will be retained across the application site. The Landscaper broadly agrees that the landscape effects of the development on the site and immediate context will be moderate adverse, this may well reduce to minor adverse, but this will depend on mitigation as well as the quality of mitigation measures. The Landscaper also concurs with the assessment of visual effects as indicated in the appraisal.

Existing current housing development by Bellway and Morris Homes provides enclosure to the majority of the north and eastern boundaries of the site. Field enclosures and a predominantly flat landform limit views of the site from the south, however, the Landscaper is concerned about

landscape impact in the extreme north western corner of the site, where levels fall away and fall further outside the site towards the River Wheelock.

The area to the west of the site surrounding the River Wheelock is considered of medium sensitivity to change and is more rolling and attractive in nature. The Landscape Officer has some concerns in this area of the north west of the site where the topography is steeper. Whilst it is accepted this is an outline application and that the Illustrative Masterplan is indicative; nevertheless the Landscape Officer is not convinced that development, as shown on the Illustrative Masterplan, will be practical, and feel that the situation would worsen if the development shifts to the west at this location.

Clearly, by virtue of the loss of an open field, the proposal will result in the loss of intrinsic countryside character; however, this has to be seen against the existing urban back drop of most viewpoints into the site as a result of the Morris and Bellway developments adjacent. The scheme provides a central area of open space and ecological mitigation area, which; if appropriately landscaped, would minimise the impact. Subject to development respecting the sloping nature of the site in the extreme north west corner of the site, where levels drop towards the River Wheelock, potentially not being developed as indicated in the illustrative plan submitted with this application. This could be ensured through appropriate conditions.

Trees

A tree report has been submitted. The report includes a survey of 58 individual tree, 6 groups of trees and 10 hedgerows. This concludes that most trees are oaks, with one tree classed as Grade A, whilst most are Grade B. The report suggests that nearly all the tree cover would be retained and incorporated into open space and green buffers between residential plots. It suggests new planting to be provided as part of a landscape scheme would mitigate for the tree losses.

The submission does not demonstrate how the varying levels across the site would be accommodated. The levels variation, and in particular the sloping land to the north west of the site may impact on the sites capacity to accommodate the number of dwellings proposed. As this could result in impacts on trees, it will be necessary for full levels information to be provided at reserved matter stage

Hedgerows

Policy NR 3 of the CBC Local Plan refers to Important Hedgerows. Where proposed development is likely to result in the loss of existing agricultural hedgerows which are more than 30 years old, it is considered that they should be assessed against the criteria in the Hedgerow Regulations 1997 in order to ascertain if they qualify as 'Important'. Should any hedgerows be found to be 'Important' under any of the criteria in the Regulations, this would be a significant material consideration in the determination of the application. Hedgerows are also a habitat subject of a Biodiversity Action Plan.

A Historic Hedgerow Assessment dated December 2015 concludes that four hedgerows meet Criterion 4 of the Regulations and hedgerows 1, 2, 8, 9, 10, 11, 12a, 12b, 13, 14, 15, 16, 17 and 18 meet Criterion 5a of the Archaeological and Historical Criteria and are therefore considered 'important' hedgerows, as defined by the Hedgerow Regulations 1997.

Hedgerows also considered but not deemed 'important' are Hedge 3 in the survey which is within the curtilage of dwelling houses under construction, hedges 4 and 5 were not present until the 20th century and hedge 5 is no longer extant with the boundary marked by a hedge.

The presence of a significant number of 'Important' hedgerows on the site is a material consideration. It is considered that a condition is required for the retention and protection of the significant number of Important hedgerows on this site.

Amenity

In terms of the surrounding residential properties, these are mainly to the north and east of the site. Although the application is in outline form, the required separation distances would need to be achieved at the Reserved Matters Stage.

The proposed development would have a density of @ 35 dwellings per hectare which is consistent with the surrounding area and would not be out of character in this area.

In terms of air quality, the Environmental Health Officer has requested a condition regarding an environmental management plan for air quality and travel plan.

The Environmental Health Officer has requested a condition in relation to noise mitigation measures for the future occupiers of the proposed dwellings, external lighting, dust control and contaminated land.

Design

Middlewich is part of a Salt and Engineering Town Character Area as defined in the newly adopted Cheshire East Urban Design Guide. The more recent housing expansions of the town to the north, west and south is referred to as lacking in local identity. The Design cues for Character include:

- The physical environment is heavily influenced by transport infrastructure in larger settlements and the countryside through which they pass
- A wide variety of building styles reflecting different eras of growth
- All eras of architecture found in settlements
- Flashers, rivers, canal and field ponds dominate and influence the countryside and settlements
- Existing landscape features should be retained on site to preserve the landscape character

The Indicative layout indicates blocks of residential development linking into the adjoining Morris and Bellway homes developments and a swathe of green infrastructure running through the site. The layout demonstrates a strong landscape edge to the site periphery and the proposed residential zone to the Warmingham Lane frontage is well set back and sits within green infrastructure. Green infrastructure/newt mitigation/retained water bodies and a proposed GCN pond comply with the landscape features identified in the Urban Design Guide for this area

The indicative layout demonstrates that the site can accommodate 235 units, depending upon their size and the use of smaller units/apartments. The Design and Access Statement indicates a range of units ranging from 1 bedroomed apartments to 5 bedroomed houses, although little information is contained about the distribution of the mix. However, this can be assessed further at reserved matters stage by a residential mix condition.

It should be noted that the north western boundary of the site, has a sizeable slope (levels drop from circa 43m in the central portion of the northern part of the site to @36m/37m. at the boundary, outside of which drops away further towards the river Wheelock) that may require sizeable retaining structures for extensive parts of this site, to which the Landscape Officer is concerned, which in turn could impact upon the distribution of built form, in this area, as indicated on the Applicants indicative layout.

It is important to note that the indicative layout is just that; indicative; and there is no in principal acceptance of the site layout as submitted, particularly in those parts of the site where levels/need for retaining structures are potentially an issue. The design aspects of the rural interface will need careful assessment at reserved matters stage, in keeping with the requirements of the Design Guide

This application is submitted in outline form and the supporting documentation submitted with the application does not provide any detailed information on sustainable design Accordingly a sustainable design code and appropriate residential mix shall be required (by condition). This should set out the approach to delivering sustainable design objectives including:

- passive environmental opportunities,
- performance of fabric and reduction in carbon production and water consumption,
- the use of renewable/low carbon energy,
- the scheme's design response to climate change adaptation
- other soft environmental measures.
- Linkages to neighbouring sites and area beyond site

Ecology

Badgers

The last badger survey of the site appears to be have been undertaken in September 2015. Whilst the site was subject to a further ecological survey in June 2017 the report of this survey does not provide any detail of badger activity on the site.

Hedgehog

Hedgehogs are a biodiversity action plan priority species and hence a material consideration. There are records of hedgehogs in the broad locality of the proposed development and so the species may occur on the site of the proposed development. Conditions should be attached to ensure gaps are left in boundaries for hedgehogs to move around

Hedgerows

Hedgerows are a Priority habitat and hence a material consideration. In addition 2 Hedgerows on site have been identified as being Important under Hedgerow Regulations.

Based upon the submitted indicative layout plan it appears likely that there would be some loss of hedgerow, including a section of Important hedgerow, resulting from the proposed development.

It is therefore necessary to ensure appropriate compensatory native species hedgerow planting needs to be incorporated into any detailed design produced at the reserved matters stage. This can be conditioned.

Roosting Bats and trees

A number of trees have been identified on site that have potential to support roosting bats. Based upon the illustrative master plan it appears feasible for all of these trees to be retained as part of the development of the site. However, if any of the identified trees are to be lost at the detailed design stage then a detailed bat survey will be required.

To avoid any adverse impacts on bats resulting from any lighting associated with the development, any additional lighting to be agreed with the LPA.

Any proposed lighting should be low level and directional and the design of the lighting scheme informed by the advice in Bats and lighting in the UK- bats and the built environment series, (Bat Conservation Trust, 2009).

Nesting Birds

The application site is likely to support nesting birds possible including the more widespread Priority species. A condition should be attached requiring the submission of features for nesting birds as part of any future reserved matters application.

Habitat Management Plan

If planning permission is granted a condition should be attached which requires the submission of a 10 year habitat management plan in support of any future planning application.

SSSI

The application site is approximately 900 metres from the Sandbach Flashes SSSI. In this case Natural England has advised that there is not likely to be an adverse effect on the SSSI and that based on the supplemental information provided to them directly by the applicant's ecologist, they have no objection to the proposal. The impact upon the SSSI is therefore considered to be acceptable.

Great Crested Newts have been recorded at a number of ponds both within and near to the application site. In the absence of mitigation the proposed development would have an adverse impact upon this species through the loss of a significant area of low value terrestrial habitat, the isolation of existing ponds and the risk of any newts present on site being killed or injured during the construction process.

In order to mitigate the potential impacts of the proposed development, it is proposed to remove and exclude newts from the footprint of the proposed development using standard best practise methodologies. The loss of terrestrial habitat will be compensated for through the creation of an area of enhanced terrestrial habitat accessible to newts associated with a number of ponds and the creation of an additional pond on site.

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places

(a) 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, and provided that there is

(b) no satisfactory alternative and

(c) no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK has implemented the Directive in the Conservation (Natural Habitats etc) Regulations 2010 (as amended) which contain two layers of protection (i) a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and (ii) a licensing system administered by Natural England and supported by criminal sanctions.

Local Plan Policy NE.9 states that development will not be permitted which would have an adverse impact upon species specially protected under Schedules 1, 5 or 8 of the Wildlife and Countryside Act 1981 (as amended), or their habitats. Where development is permitted that would affect these species, or their places of shelter or breeding, conditions and/or planning obligations will be used to:

- facilitate the survival of individual Members of the species
- Reduce disturbance to a minimum
- Provide adequate alternative habitats to sustain the current levels of population.

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. "This may potentially justify a refusal of planning permission."

The NPPF advises LPAs to conserve and enhance biodiversity: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) or adequately mitigated, or as a last resort, compensated for, planning permission should be refused.

Natural England's standing advice is that, if a (conditioned) development appears to fail the three tests in the Habitats Directive, then LPAs should consider whether Natural England is likely to grant a licence: if unlikely, then the LPA should refuse permission: if likely, then the LPA can conclude that no impediment to planning permission arises under the Directive and Regulations.

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.

Overriding public Interest

The site is an emerging housing allocation on the edge of the existing built up area. Its planned development will assist in negating development pressure on other sites of ecological significance and will assist in the provision of the Middlewich Eastern by-pass. It is therefore considered that its development is of overriding public interest. With regard to the second test, the choice of alternative sites are not as sustainably located on the edge of the existing town.

The proposed mitigation and compensation is acceptable and is likely to maintain the favourable conservation status of the species, however the new pond indicatively located in the south west corner of the site appears to be directly over the brine pipe easement, which may cause future issues. The ecologist advises that the new pond is relocated to a more suitable location to avoid any conflict with the pipeline. This can be conditioned

A more detailed, mitigation strategy will be required in support of any future reserved matters application and this should include measures such as amphibian tunnels/bridges, to minimise the fragmentary effects of the various access roads around the site.

If planning consent is granted a condition should be attached requiring any future reserved matters application to be supported by an updated protected species assessment and detailed mitigation strategy.

Drainage and flooding

The applicant submitted a detailed Flood Risk Assessment (FRA) with the outline application, and a Drainage Strategy Report with this application.

The site is in Flood Zone 1 as defined in Table 3 in the Technical Guidance to the NPPF. This is the lowest probability flood zone.

Surface water runoff from the site is currently managed through a series of land drains and ponds. Ultimately surface water is discharged from the site into the River Wheelock.

The Flood Risk Manager has been consulted and have raised no objection to the proposed development subject to the imposition of conditions. As a result, the development is considered to be acceptable in terms of its flood risk/drainage implications.

Impact upon the Hazardous Installation

A brine pipeline runs across the application site and concern has been raised about the impact upon this pipeline. In this case the Health and Safety Executive have been consulted and have not replied. A recent similar proposal at Glebe Farm resulted in no objection being raised by the HSE in relation to this hazardous installation or other hazardous installations in the area. The impact is therefore considered to be acceptable and further details of the impact upon the pipeline can be assessed at the reserved matters stage.

Archaeology

The Council's Archaeologist has considered the application and supporting report and considers that the issue of archaeology needs no further assessment.

Agricultural Land Quality

It is noted that Policy NR8 (Agricultural Land) of the Congleton Borough Local Plan has not been saved. However, the National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

An Agricultural Land Survey has not been produced in support of this application. However, sites immediately adjoining are Grade 3b and Grade 4.

It should also be noted that the site has been accepted for development in the Local Plan Strategy. As a result the loss of this land does not raise any issues.

ENVIRONMENTAL ROLE - CONCLUSION

The site is a greenfield site and therefore not the first priority for development. However, the Council's Strategic Housing Land Availability Assessment (SHLAA) recognises that the land is capable of development for housing, and as noted elsewhere in this report, the site is also an allocated site for housing within the Local Plan Strategy.

Paragraph 38 of the Framework states that for larger scale residential developments, policies should promote a mix of uses in order to provide opportunities to undertake day to day activities including work on site, thereby minimising the need to travel.

The site is within walking/cycling distance (1000m) on Warmingham Lane to the local centre. This centre offers a range of essential facilities (ATM, shop, public house, pharmacy, bus stop),

and subject to conditions concerning travel planning is considered that occupiers of the development will not be overly reliant on the private car. The proposal will also provide for pavements on Warmingham Lane to enable foot access to the local centre and Warmingham Lane is a National Bike Route.

The proposal provides for a significant contribution to the Middlewich Eastern By-pass, which upon delivery will ease congestion, improve air quality and add environmental benefits to the area .

Subject to the suggested S106 matters and conditions therefore this proposal is considered to be acceptable.

ECONOMIC SUSTAINABILITY

The Transport Assessment recognises that the delivery of up to 235 new dwellings will have an impact upon highways conditions in the town. As a result the developer is prepared to offer financial contributions which are targeted at local highway infrastructure improvements identified and costed by the Strategic Highways Manager.

This development proposal is required to effectively mitigate against its traffic impact on the strategic highway network. The allocation of the site with the Local Plan Strategy recognises the role that this site plays in the delivery of the Middlewich By-Pass (MEB)

As the delivery of MEB does not have a completion date at this time it is important to identify alternate mitigation measures which will serve to help mitigate impact should MEB not be delivered.

The developer is offering a sizeable mitigation package which could be used as a funding contribution to Middlewich Eastern by-pass. This will enable the total funding package for MEB to be brought together and this would lead to the completion of the by-pass. This would contribute in a meaningful and significant way the local economic conditions by easing congestion/ job creation in Middlewich, notwithstanding the economic benefits generated by the housing development itself.

ECONOMIC ROLE – CONCLUSION

The Framework includes a strong presumption in favour of economic growth. Paragraph 19 states that:

‘The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth’

Given the countryside location of the site, consideration must also be given to one of the core principles of the Framework, which identifies that planning should recognise:

‘the intrinsic character and beauty of the countryside and supporting thriving rural communities within it’.

Specifically, in relation to the rural economy the Framework identifies that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

‘support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings’

The contribution this development makes to the delivery of the by-pass has significant impacts upon both the environmental and economic strands of sustainability. The economic benefits of the development need to be balanced against the impact upon the open countryside and the lack of affordable housing provision and education mitigation.

In economic terms, the financial contribution to the Middlewich Eastern By-pass will provide significant benefit to the town by easing congestion and allowing through traffic to by-pass the town. A by-pass will meet the needs of business by allowing for better movement through the town and potentially encourage employers to locate in Middlewich. The proposed development will help to maintain a flexible and responsive supply of land for housing and community uses as well as bringing direct and indirect economic benefits to the town including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

Similarly, the NPPF makes it clear that:

“the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.”

According to paragraphs 19 to 21:

“Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. Investment in business should not be overburdened by the combined requirements of planning policy expectations.”

It should be noted that the Applicant is arguing that a full package of mitigation requirements including the £4.6m contribution to the MEB and social sustainability requirements (education and social housing provision) is unviable on this site. Accordingly, should it be determined that a lesser contribution to the MEB is justified in this case, this would reduce the contribution of the scheme to the economic strand of sustainability.

SOCIAL SUSTAINABILITY

The final dimension to sustainable development is its social role. A LEAP is proposed within the site, although this needs to be a NEAP to comply with planning policy.

Public Open Space

The indicative layout shows that an area of POS and a LEAP (0.04ha) would be provided centrally within the site. The Open Space Officer has stated that if the development is approved there would be a deficiency in the quantity of provision and the requirement for the site is 13,530sq.m. The area shown on the indicative plan is 23,700sqm this is an over-provision of 10,170sqm (despite the inclusion of a wetland area). Therefore the amount of open space (with the indicative playing pitch utilised as amenity green space) to be provided is acceptable.

In terms of children's play space, the Public Open Space Officer has also advised that the provision of the LEAP is inadequate and is contrary to the Congleton SPG. A NEAP with a minimum of 8 pieces of equipment is required. This would need to be provided centrally and secured as part of a S106 Agreement.

The open space and NEAP on site would be managed by a management company and this would be secured as part of a S106 Agreement.

The indicative layout also indicates a football pitch and an area adjacent identified as being for community facilities (but assumed to be club-house/changing rooms etc for the indicated playing fields). The developer is not proposing as part of this application to provide any of the infrastructure associated with the playing pitch (eg drainage or formation of pitch) or any of the community facility. The Public Open Space Officer has commented that there is no deficiency in playing pitches locally and that the deficiency is in amenity green space. Accordingly the 'football pitch' is treated as amenity green space.

Affordable Housing

The Affordable Housing IPS states that the tenure mix split the Council would expect is 65% rented affordable units (these can be provided as either social rented dwellings let at target rents or affordable rented dwellings let at no more than 80% of market rent) and 35% intermediate affordable units.

This is a proposed development of 235 dwellings therefore in order to meet the Council's Policy on Affordable Housing there is a requirement for 70 dwellings to be provided as affordable dwellings. The SHMA 2013 shows the majority of the demand in Middlewich and Sandbach Rural is for 39x 1 bedroom, 24x 2 Bedroom, 8x 3 Bedroom and 3x 4+ Bedroom dwellings. The SHMA also shows 6x 1Bedroom and 4x 2Bedroom for Older Persons. The majority of the demand on Cheshire Homechoice is for 29x 1 Bedroom, 25x 2 Bedroom, 20x 3 Bedroom and 4x 4 Bedroom dwellings therefore 1 and 2 Bedroom units on this site would be acceptable. 45 units should be provided as Affordable rent and 24 units as Intermediate tenure.

The Affordable Housing Officer has requested a full 30% policy compliant level of affordable housing on this site in the 65 affordable rent :35 intermediate tenure split in line with Policy SC5.

In this case the applicant is advising that a policy compliant level of affordable housing cannot be achieved together with a financial contribution to the Middlewich Eastern Bypass. The limited values that can be achieved in Middlewich will have an impact upon viability of

provision if social housing is to be provided as well as the significant contribution to the Middlewich eastern By-Pass.

Policy SC5 of the Local Plan Strategy allows for viability issues to result in alternative provision of affordable units. This may result in a lesser amount of affordable units or a different distribution of tenure on a site. Likewise, when circumstances change on a site the policy also allows for overage to form part of the S106 Agreement.

Clearly, the lack of a policy compliant level of social housing provision is a social disbenefit of this scheme which will need to be assessed as part of the planning balance.

Education

The development of 235 dwellings is expected to generate:

44 primary children (235 x 0.19) – 1 SEN - £477,237 (primary)
 34 secondary children (235 x 0.15) – 1 SEN £457,595 (secondary)
 3 SEN children (235 x 0.51 x 0.023%) -£136,500 (SEN)

1	Development	warmingham Lane				Number of Dwellings			235					
2	Planning App Number					Primary Yield			45		Less 1 SEN			
3	Date Prepared	revised 20.6.2017				Secondary Yield			35		Less 1 SEN			
4						SEN Yield			3					
5		PAN Sep 16	PAN Sep 17	NET CAP May-16	any Known Changes	PUPIL FORECASTS based on October 2015 School Census								
						2016	2017	2018	2019	2020	Comments			
6	Primary Schools													
7	Cleddford Primary	60	60	420	420	316	326	353	357	361				
8	Middlewich Primary	60	60	420	420	409	416	426	425	422				
9	St Mary's	35	30	240	210	212	218	227	227	226				
10	warmingham	10	10	70	70	74	72	73	72	72				
11														
12	Elworth CE (catchment school but not in 2 miles)	45	45	315	315	327	367	379	389	399				
13														
14														
15														
16														
17														
18	Developments with S106 funded and pupil yield included in the forecasts				80									
19	Developments pupil yield not included in the forecasts									107				
20	Pupil Yield expected from this development									44				
21	OVERALL TOTAL	210	205	1,465	1,515	1,338	1,399	1,458	1,470	1,631				
22	OVERALL SURPLUS PLACES PROJECTIONS based on Revised NET CAP					177	116	57	45	-116				
23														
24		PAN Sep 16	PAN Sep 17	NET CAP May-16	any Known Changes	PUPIL FORECASTS based on October 2015 School Census								
25	Secondary Schools					2016	2017	2018	2019	2020	2021	2022		
26	Middlewich High School	140	140	700	700	683	710	710	722	716	703	691		
27														

The development is forecast to increase an existing shortfall predicted for 2017 and beyond for primary provision and 2016 and beyond for secondary provision, in the immediate locality. Negotiated contributions from other sites which already have permission or have been previously assessed have been factored into forecasts and equations, however the shortfall still remains.

Special Education provision currently has an existing shortfall within the borough with over 47% of pupils currently being educated outside of Cheshire East. The Service acknowledges that

this is an existing concern, however the 3 children expected from the proposal at Land Off Warmingham Lane will exasperate the shortfall.

To alleviate forecast pressures, a total education contribution of £1,071,332 (based on 235 dwellings). Without this financial mitigation, Childrens Services object. This objection is on the grounds that the proposed development would have a detrimental impact upon local education provision as a direct cause from the development. Without the mitigation, 43 primary children, 34 secondary children and 3 SEN children would not have a school place in Middlewich without those places being funded by other sources.

Viability

The NPPF, when considering viability as a material planning issue, states as follows:

'To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable'

As part of this application there have been a number of requests for contributions from the relevant consultees and these are summarised as follows:

- Highway mitigation - Middlewich Eastern Bypass (MEB) - £2.496million or other highway/sustainability measures in Middlewich
- 30% affordable housing (split 65% as rented or 35% as intermediate tenure)
- Primary, Secondary and Special Education needs school contribution of £1,071,332

The developer has offered a £ 2.496 million contribution and a viability appraisal has been provided which has assessed the site against CIL viability appraisal work undertaken on behalf of the Council by Keppie Massey. The crux of appraisal submitted is that this scheme would be unviable with all contributions sought imposed upon the development and that the Council is best placed to consider which mitigation it wishes to seek

The viability information indicates that no social housing and education contribution can be provided if the £10,469 per dwelling (Total £2,496,170) contribution to highways mitigation in the form of a contribution to the Middlewich Eastern By-pass is utilised for the by-pass. Contributions in any form to social housing and/or education would result in a reduction in the mitigation payment for the By-pass since the £2.4m total is all that the site can sustain whilst still being deliverable.

In this case the applicant is advising that the required financial mitigation for education provision cannot be achieved together with a financial contribution to the Middlewich Eastern Bypass. The limited values achieved in Middlewich will have an impact upon viability of provision if financial mitigation for education is to be provided as well as the significant contribution to the Middlewich Eastern By - Pass.

Both the Housing Strategy Manager (30% affordable housing) and the Children's Services Manager (£1,071,322 to education provision) have requested full compliance with their requested mitigation.

It should be noted that the Applicant is arguing that a full package of mitigation requirements including the £4.6m contribution to the MEB and social sustainability requirements (education and social housing provision) is unviable on this site.

Officers recognise that in these circumstances the weight to be attached to the various aspects of the proposal need careful assessment. The table below sets out a number of scenarios for provision of affordable housing and/or a financial contribution to the MEB.

Scenario	No. of Units	Affordable	Contribution	Total
1	235	0% (0)	£10,622 per plot	£2,496,170
2	235	5% (12)	£7,049 per plot	£1,656,515
3	235	10% (24)	£5,207 per plot	£1,223,645
4	235	15%	£0	£0

The following examples also incorporate education payments and the relevant impact on affordable and -

For Scenario 1:

- The education contribution can be paid in full; and
- £1,424,848 is remaining to be spent on the bypass.
- 0% affordable housing

For Scenario 2:

- The education contribution can be paid in full; and
- £585,193 is remaining to be spent on the bypass.
- 5% affordable housing

For Scenario 3:

- The education contribution can be paid in full; and
- £152,323 is remaining to be spent on the bypass.
- 10% affordable housing

Alternatively, if the Council opted not to seek the education contribution in full, there would be additional funds within each scenario which could go towards funding the bypass without adversely impacting upon the viability of the scheme.

Officers have discussed the viability issues arising at great length with the applicant but also have considered this in the light of local priorities. They are of the view that a full contribution to the bypass; without any contribution to affordable housing or education, comprises the most significant contribution that this scheme can make to sustainable development.

Accordingly, should it be determined that a full contribution to the MEB is justified in this case, the regrettable lack of affordable housing and education mitigation would reduce the contribution of the scheme to the social strand of sustainability. This will need to be assessed within the planning balance below.

Planning Balance and Conclusion

At the time of writing this report the proposal is contrary to development plan policy PS8 (Open Countryside) and therefore the statutory presumption is against the proposal unless material considerations indicate otherwise. However the site is a planned allocation for some 235 dwellings within the Cheshire East Local Plan Strategy Proposed Changes Final Version July 2016 as site CS 55 Warmingham Lane. By the date of Strategic Planning Board consideration this is likely to be the Development Plan in force for this site.

The NPPF states at paragraph 49 that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites and that where this is the case housing applications should be considered in the context of the presumption in favour of sustainable development

Although it is anticipated that a 5 year supply will be achieved when the Local Plan is adopted (to which this site makes significant contribution), it is still necessary to consider whether the proposal constitutes sustainable development and 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 up to 235 market housing units only as the viability information provided strongly indicates that the provision of the full contribution to the Middlewich Eastern Relief Road of £10,496 per dwelling (£2.76m total) on this site.

This contribution is all that this site can sustain without adversely affecting the viability of provision to such an extent that any affordable housing and/or education mitigation payment required, in addition to the mitigation in respect of the highways impact of the proposal, would render the scheme unviable.

The proposal would also have additional economic benefits in terms of jobs in construction, spending within the construction industry supply chain and spending by future residents in local shops. However, the significant economic benefit is considered to be the contribution the proposal makes to the By-pass and those knock on benefits that the By-pass would bring to the town and wider area as a whole.

Subject to a Section 106 package and appropriate conditions, the proposed development would provide adequate public open space and the requirement for the future maintenance of the open space and playspace on site.

The proposal is considered to be acceptable in terms of its impact upon residential amenity and drainage/flooding. Conditions could be imposed to ensure this. Subject to reserved matters a scheme could be developed which complies with the relevant local plan policy requirements for residential environments.

The site was fully assessed as a Local Plan Strategy site and considered locationally sustainable to a range of services and facilities in the Strategy. Furthermore, conditions can be imposed aimed towards improving the sustainability of the site, such as travel planning, pavement to be provided to Warmingham Lane.

The proposal would not result in the loss of any best and most versatile agricultural land, and any impacts on ecological assets can be suitably mitigated.

It is also necessary to consider the negative effects of this incursion into the Open Countryside and landscape impact.

Despite the loss of open countryside, on the basis that the site is allocated in the Local Plan process, and the Council cannot yet demonstrate a 5 year supply of housing, it is considered that the proposal represents sustainable development and paragraph 14 is engaged.

The negative impacts to social sustainability in terms of the inability of the site to deliver affordable housing and education contributions and the financial contribution to the Middlewich by-pass is regrettable and these are undoubted costs to the community, however, on balance it is considered that the benefits to the economic and environmental conditions of this area by virtue of a full contribution to the by-pass outweigh that harm.

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 S106 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.

If it is determined that, based on the viability issues arising, that a reduced contribution to the By-pass to facilitate provision of affordable housing and/or education mitigation, such contributions would be directly related to the development and would be CIL compliant.

The development would result in increased vehicular movements to the site and the surrounding road network within Middlewich suffers from serious congestion problems. Due to the increased vehicular movements it is considered that a contribution will be required to mitigate this impact and without this the development would be unacceptable. The contribution to the MEB is considered to be directly related to the development and fair and reasonable.

As explained within the main report, POS and children's play space is a requirement of the Interim Planning Policy. 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.

RECOMMENDATION

APPROVE subject to a Section 106 Legal Agreement to Secure:

- **Management Company to maintain all open space in perpetuity (including, inter alia, the NEAP, woodland, general amenity openspace, village green, nature conservation area, drainage areas, ponds and any other areas of incidental open space not within private gardens or the adopted highway).**
- **Contribution of £2,496,170 towards the provision of the Middlewich Eastern Relief Road with a phased contribution of £743,540 based on 30% (70 dwellings) payable on occupation of the 1st unit, then the next £743,540 payable on occupation of the 75th unit and the balance (£1.01m) payable on occupation of the 150th unit;**

OR alternative measures that offer congestion relief benefits or capacity improvements through Middlewich.

- **Funding for the TRO's necessary on Warmingham Lane/ Travel Plan Co-ordinator (£5000)**

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 travelcards 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. 1279/17 rev C. 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. Travel Information packs to be provided for residents
29. Requirement to inform LPA if unexpected contamination found
30. Development phasing to form part of 1st reserved matters

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.

