



Planning Committee

Date:	Thursday, 13 December 2018
Time:	6.00 p.m.
Venue:	Committee Room 1 - Wallasey Town Hall

This meeting will be webcast at
<https://wirral.public-i.tv/core/portal/home>

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1. MINUTES (Pages 1 - 10)

To approve the accuracy of the minutes of the meeting held on 15th November 2018.

2. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the committee are asked whether they have any personal or prejudicial interests in connection with any application on the agenda and, if so, to declare them and state the nature of the interest.

3. REQUESTS FOR SITE VISITS

Members are asked to request all site visits before any application is considered.

4. APP/18/00550 : 1-7 LEASOWE ROAD, WALLASEY VILLAGE, CH44 2BY - DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF NEW BUILDING CONTAINING 3 NEW RETAIL (A1) UNITS TO THE GROUND FLOOR WITH 9 RESIDENTIAL UNITS ABOVE (Pages 11 - 16)

5. DLS/18/00715 : LAND AT DOCK ROAD, SEACOMBE, CH41 1JW - RESERVED MATTERS APPLICATION PURSUANT TO PLANNING PERMISSION OUT/09/006509 PROVIDING DETAILS OF ACCESS, APPEARANCE, LAYOUT, SCALE AND LANDSCAPING FOR THE CONSTRUCTION OF 500 APARTMENTS (1 AND 2 BEDROOM) (WITH ANCILLARY ACCOMMODATION), ASSOCIATED PARKING, LANDSCAPING AND OTHER ASSOCIATED (Pages 17 - 38)

6. APP/18/00942 : NEW DEVELOPMENT PROVIDING 3 NO. INDUSTRIAL UNITS ON A VACANT SITE IN AN ESTABLISHED EMPLOYMENT AREA, SUITABLE FOR B1, B2 OR B8 CLASS USE, WITH ASSOCIATED OFFICES, PARKING, LANDSCAPING AND INFRASTRUCTURE - RIVERVIEW ROAD, BROMBOROUGH (Pages 39 - 52)
7. APP/18/01085: ERECTION OF NEW DETACHED DWELLING - LAND BETWEEN 36 & 52/54 STANLEY LANE, EASTHAM, CH62 0AG (Pages 53 - 60)
8. APP/18/01147 : CHANGE OF USE FROM A CAFE (A3) AND THE OLD PIER HOTEL TO FIVE APARTMENTS (C3) - BIRCHEN HOUSE, HAMILTON STREET, BIRKENHEAD, CH41 6QS - CROSSFIELD EXCLUSIVE DEVELOPMENTS (Pages 61 - 66)
9. APP/18/01198 : PROPOSED CHANGE OF USE OF VACANT INDUSTRIAL UNIT TO GYMNASIUM (CLASS D2) - UNIT 11, ARROWE COMMERCIAL PARK, ARROWE BROOK ROAD, UPTON, CH49 1AB (Pages 67 - 76)
10. APP/18/01234 : TWO STOREY EXTENSION TO EXISTING PROPERTY AND NEW BUILD PROPERTY AND ASSOCIATED GARAGE WITHIN SAME PLOT - LITTLE MUNDENS, 43 FARR HALL DRIVE, HESWALL, CH60 4SE (Pages 77 - 84)
11. 17_00174ENF : ERECTION OF A REAR DORMER ROOF EXTENSION AT 359 UPTON ROAD, NOCTORUM, WIRRAL, CH43 9RJ (Pages 85 - 88)
12. POTENTIAL REVOCATION OF PLANNING PERMISSION ERECTION OF 2-STOREY REAR EXTENSION, TERRACE AND DETACHED GARAGE AT 13 MOUNT PLEASANT, OXTON, CH43 5SY (Pages 89 - 94)
13. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR

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Public Document Pack Agenda Item 1

PLANNING COMMITTEE

Thursday, 15 November 2018

Present:

Councillor S Foulkes (Chair)

Councillors	P Cleary	AER Jones
	G Davies	T Jones
	D Elderton	M Jordan
	S Frost	S Kelly
	K Hodson	I Lewis

Deputies:

Councillors C Meaden (for B Kenny)
P Stuart (for R Abbey)

1 MINUTES

The Director of Governance and Assurance submitted the minutes of the meeting held 18 October 2018.

Resolved – That the minutes be approved.

2 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Councillor G Davies declared a personal interest in respect of item 9 on the agenda by virtue of his position of Cabinet Member for Housing and Planning.

Councillor S Foulkes declared a personal interest in respect of item 9 by virtue of his position of board member for Magenta Living.

3 REQUESTS FOR SITE VISITS

The following request for site visit was unanimously approved:

APP/18/00550: 1-7 Leasowe Road, Wallasey Village, CH44 2BY – Demolition of existing buildings and erection of new buildings and erection of new building containing 3 new retail (A1) units to the ground floor with 9 residential units above.

4 ORDER OF BUSINESS

The Chair agreed to vary the order of business.

5 ADV/17/00864: PRENTON ROAD WEST, BOROUGH ROAD, PRENTON, CH42 9PY - ERECTION OF TRANMERE ROVERS BANNERS ON LAMP POSTS LOCATED ON PRENTON ROAD WEST AND BOROUGH ROAD

The Corporate Director for Economic and Housing Growth submitted the above application for consideration.

A Petitioner addressed the Committee.

On a motion by Councillor S Frost and seconded by Councillor G Davies it was:

Resolved (13:0) That the application be approved subject to the following conditions:

- 1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.**
- 2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.**
- 3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.**
- 4. No advertisement shall be sited or displayed so as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air, or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).**
- 5. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.**
- 6. This consent shall expire after a period of 5 years from the date of this permission.**
- 7. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 3rd October 2018 and listed as follows: 14_2017_02.**

6 APP/18/00286:ST NICHOLAS VICARAGE, 22 GROVELAND ROAD, WALLASEY VILLAGE, CH45 - THE CONSTRUCTION OF A NEW VICARAGE AND DWELLING ALONGSIDE THE SUB-DIVISION OF THE EXISTING VICARAGE

The Corporate Director for Economic and Housing Growth submitted the above application for consideration.

The Lead Petitioner addressed the Committee.

The Applicant addressed the Committee.

It was moved by Councillor I Lewis and seconded by Councillor D Elderton that the application be refused on the following grounds:

“The close proximity to the south of the Vicarage is unneighbourly to the existing residents of Grove Road.”

The motion was put and lost (4:9).

It was then moved by Councillor S Foulkes and seconded by Councillor G Davies and:

Resolved (9:4) - That the application be approved subject to the following conditions:

- 1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.**
- 2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 3/8/18 and listed as follows: 115568-01, 115568-02, 115568-03, 115568-04 and 115568-05.**
- 3. Details of materials for all external work including samples, shall be submitted to and approved by the Local Planning Authority before any work is commenced.**
- 4. A scheme for the provision of bat boxes on site to mitigate for the potential loss of bat habitat, shall be submitted to and agreed in writing with the Local Planning Authority before development commences. The boxes shall be installed before the first dwelling is occupied.**
- 5. Prior to the first occupation of the dwellings hereby approved, details of the proposed refuse storage, including recycling , shall be submitted to and agreed in writing with the Local Planning Authority. The development shall be carried out in accordance with the approved details.**
- 6. No tree felling, scrub clearance, hedgerow removal, vegetation management, ground clearance and/or building works is to take place during the period 1 March to 31 August inclusive. If it is necessary to undertake works during the bird breeding season then all buildings, trees, scrub, hedgerows and vegetation are to be checked first by an appropriately experienced ecologist to ensure no breeding birds are present. If present, details of how they will be protected are required to be submitted for approval to the Local Planning Authority.**
- 7. Before any equipment, machinery or materials are brought onto site, a 1 metre high fence or other barrier as agreed in writing with the Local Planning Authority, shall be erected around the outer limit of the crown spread of all trees, hedges or woodlands shown to be retained on the approved plan. Such fencing shall be maintained in a satisfactory manner until the development is completed. During the period of construction, no material shall be stored,**

fires started or trenches dug within these enclosed areas without the prior consent in writing of the Local Planning Authority.

8. Prior to the commencement of development, details of a landscaping scheme shall be submitted to and agreed in writing with the Local Planning Authority. The approved landscaping shall be completed before the dwellings hereby approved are occupied. Within 5 years of the implementation of the approved landscaping scheme, any plants or trees which die or become diseased shall be replaced with an equivalent plant or tree.

9. Prior to commencement of development, a method statement relating to the treatment of Japanese Rose shall be submitted to and approved in writing by the Local Planning Authority. The statement shall include ;

- A plan showing the extent of the plant
- what methods will be used to prevent the plant spreading further, including demarcation methods.
- what methods of control will be used including details of monitoring.

Works shall be carried out in accordance with the approved method statement.

- 7 **APP/18/00550: 1-7 LEASOWE ROAD, WALLASEY VILLAGE, CH44 2BY - DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF NEW BUILDING CONTAINING 3 NEW RETAIL (A1) UNITS TO THE GROUND FLOOR WITH 9 RESIDENTIAL UNITS ABOVE**

Resolved – That consideration of this item be deferred for a formal site visit.

- 8 **APP/18/00762: 45 CORPORATION ROAD, BIRKENHEAD - RETROSPECTIVE APPLICATION FOR 12 NO UNITS AT FIRST AND SECOND FLOOR AND ALTERATIONS TO ROOF. CONFIRMATION OF LAYOUT OF GROUND FLOOR.**

The Corporate Director for Economic and Housing Growth submitted the above application for consideration.

On a motion by Councillor S Foulkes and seconded by Councillor D Elderton it was:

Resolved (13:0) That the application be approved subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 11 July 2018 and listed as follows: 2018072/01 Rev A, 2018097/03 Rev A and 2018097/04 Rev A, the approved plans received by the local planning authority on 4 September 2018 and listed as follows: 2018072/06 Rev B and 2018097/05 Rev

B and the approved plans received by the local planning authority on 11 July 2018 and listed as follows: 2018097/04 Rev C.

3. The dwellings hereby permitted shall not be occupied until a scheme of works to provide waiting restrictions at the junction of Corporation Road and Cathcart Road have been submitted to and agreed in writing by the Local Planning Authority. The dwellings shall not be occupied until such works have been completed and laid out in accordance with the approved details.

4. All plastic pipes including but not limited to waste water pipes and soil vent pipes and not including any rainwater goods attached to the exterior of the building shall be permanently removed and the walls made good in accordance with the approved plans (refs: 2018072/05 Rev B and 2018072/06 Rev B) within 6 months of the date of this permission.

5. Prior to the first occupation of the dwellings arrangements for the storage and disposal of refuse including recycling facilities, shall be made within the curtilage of the site, in accordance with the approved details shown on plan reference 2018097/02 Rev C. The approved details shall be implemented in full unless otherwise agreed in writing with the local planning authority.

6. The dwellings hereby permitted shall not be occupied until details of secure covered cycle parking and/or storage facilities have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided in accordance with the approved details and made available for use prior to the first use of the development hereby permitted and shall be retained for use at all times thereafter.

7. The large unauthorised box dormer roof extension shall be permanently removed and the roof made good in accordance with the approved plans (refs: 2018072/05 Rev B and 2018072/06 Rev B) within 6 months of the date of this permission.

9 APP/18/01078:STONEHILL, LOWER GARDEN AT 3 PORTLAND STREET AND PILOTS WAY, NEW BRIGHTON, WIRRAL - PROPOSED SPLIT LEVEL DETACHED DWELLING HOUSE WITH BASEMENT ACCOMMODATION WITHIN THE LOWER GARDEN OF 3 PORTLAND STREET

The Corporate Director for Economic and Housing Growth submitted the above application for consideration.

On a motion by Councillor D Elderton and seconded by Councillor T Jones it was:

Resolved (13:0) - That the application be approved subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 16th August 2018 and listed as follows: 853/05.

3. Before any construction above ground level, samples and details of the roofing, facing materials and rain water goods to be used in the external construction of this development shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be used in the construction of the development and retained as such thereafter.

4. Before any construction above ground level, details of the windows and doors (elevations at a scale 1:20 and vertical and horizontal cross sections at a scale 1:5 or 1:2) shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be used in the construction of the development.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no garages, outbuildings or other extensions to the dwelling shall be erected unless expressly authorised.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) no walls, fences or other means of enclosure shall be erected on any part of the land lying between any main wall of the building fronting a highway and the highway boundary.

7. Prior to first occupation of the development, a full landscaping scheme (including all boundary treatment) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to first occupation and any plants or shrubs which die within the first 5 years of the development shall be replaced.

8. Detailed drawings shall be submitted to and approved by the Local Planning Authority before any work is commenced to indicate the finished site and ground floor levels intended at the completion of the development in relation to the existing site levels and the levels of the adjoining land and the development shall be carried out and completed in accordance with the details so approved.

10 STATUTORY REGISTER OF BROWNFIELD LAND ANNUAL REVIEW

The Corporate Director for Economic and Housing Growth reported upon the statutory requirement to review the entries on the Council's register of brownfield

sites each year under the Town & Country Planning (Brownfield Land Register) Regulations 2017 which was introduced as part of a Government initiative to encourage investment in new housing and as a mechanism for granting permission in principle on suitable sites instead of obtaining planning permission through a formal application.

It was explained how the Council had asked the Planning Committee to consider the Brownfield Register at least every 12 months to decide whether any sites should be added or removed and also whether any sites should be allocated for residential development in Part 2 subject statutory procedures (Council 11 December 2017, minute 96 refers).

It was reported that the review had identified new planning applications at Wirral Waters for Legacy (DLS/18/00715 for 536 apartments) and Belong (APP/18/00470) with 34 independent living apartments). Members were advised that based on the latest information of the schemes provided by the landowner, it was found reasonable to conclude that a minimum number of 1092 residential units could be achieved , representing a reduction of 580 from the number of units proposed in previous outline applications at Northbank East (09/05109 and 09/05110). Members heard how these applications were recommended for approval subject to legal agreements that had never been signed. Therefore the proposal was to add the sites where proposals for Legacy and Urban Splash were being considered at Northbank East and to amend the existing planning information with a revised number that equates to 1,092 dwelling for the available sites on the North Bank of the East Float.

Members were advised that taking account of works already commenced, the register of planning decisions, the latest available Strategic Housing Land Availability Assessment, marketing information and the responses to public consultation on the first Brownfield Register, it was proposed that the Register be amended as follows:

- include the former Pool Inn Public House, Poulton Rd, Seacombe;
- include the former Birch Tree Public House, Prenton Road West;
- include 165 Bedford Rd, Rock Ferry;
- include former high rise flats adj Rock Close, Rock Ferry;
- include builders merchant yard 8 Berwyn Drive, Pensby and Thingwall;
- include Woodville, Raby Rd, Clatterbridge;
- include the former Victoria Lodge Public House , 81-83 Victoria Rd, Birkenhead & Tranmere;
- include Wirral Waters Legacy Site, Dock Road, Seacombe;
- include Wirral Waters Urban Splash 1 site, Dock Rd, Seacombe; and
- remove the Sundial, 61 Caldys Road, Caldys (under construction)
- remove land at Kenilworth Gardens, Overchurch (under construction);
- remove land at the former Millhouse public house, 79 Millhouse Lane, Moreton (under construction);
- remove land at the former Corsair public house, Bidston Village Road, Beechwood (under construction);
- remove Axholme, 76 Thurstaston Rd, Heswall (under construction);
- remove land at Mariners Park, Ismay Drive, Egremont (under construction);
- remove land rear of Whitebridge, Bromborough (under construction);
- remove the former Cole Street Primary School, Birkenhead (under construction); and

- update planning information for Acre Lane Resource Centre, 576-578 New Chester Rd, the former Dell Primary School, 15-25 Field Road, Trafalgar Service Station, 143 Highfield Road, Unused Land at Lees Avenue, 1 Mellor Road, Land adj 36 Patten Street and Wirral Waters Urban Splash 2, Belong and North Bank 1, Dock Road.

The Principal Planning Officer responded to questions by Members and it was agreed that individual sites would not be discussed at this stage of the process.

Attention was drawn to the supplementary agenda with corrections to appendix 2 and additional proposed recommendations.

Councillor I Lewis suggested the following amendment to recommendation 5 -

Replace “increase” to “affect”.

This was agreed unanimously by Members.

In response to a question on what is being done to encourage more housing to come forward, the Principal Planning Officer explained that the register is brought to the attention of prospective developers at national and local level through publication on the Government's national database, the Council's website and during discussions with prospective applicants. The Council also works with registered providers and house builders to help bring sites forward in support of urban regeneration.

On a motion by Councillor S Foulkes and seconded by Councillor G Davies it was:

Resolved (11:3) - That:

- (1) Sites at the Sundial (668600), Kenilworth Gardens (650800), Former Millhouse PH (656800), the former Corsair Public House (655500), Axholme, Whitebridge (676600) and the former Cole Street Primary School (660900), be removed from Part 1 of the Brownfield Register.**
- (2) Sites at the former Pool Inn Public House (0967), Birch Tree Public House (3001), 165 Bedford Rd (0775), Former Car Park adj 1 Rock Close (30035), Builders Merchant 8 Berwyn Drive (0898), Woodville Raby Rd (3047), the former Victoria Lodge Public House (3048), Wirral Waters Legacy (2081) and Wirral Waters Urban Splash 1 (2082) be added to Part 1 of the Brownfield Register.**
- (3) Sites at the former Acre Lane Resource Centre (1666), 576-578 New Chester (570700), the former Dell Primary School (587100), 15-25 Field Road (644400), Trafalgar Service Station (557000), 143 Highfield Road Cleared Site, and Land adj 36 Patten Street (649500), Wirral Waters (2044) and Wirral Waters (2045) be amended to identify updated planning information in Part 1 of the Brownfield Register.**
- (4) The revised register is made available for public inspection on the Council's website and the principal office of the Local Planning Authority.**

- (5) Officers continue to keep the Brownfield Register under review including progress at Wirral Waters and report any significant changes to Planning Committee that would affect the potential capacity for housing development and available brownfield sites.
- (6) Officers make recommendations in future reviews to Planning Committee on whether any sites should be assessed for allocation for residential development before land is entered in Part 2 of the Brownfield Land Register.

11 **PLANNING APPLICATIONS DECIDED UNDER DELEGATED POWERS BETWEEN 08/10/2018 AND 05/11/2018**

The Corporate Director for Economic and Housing Growth submitted a report detailing planning applications decided under delegated powers between 08/10/2018 and 05/11/2018.

Resolved – That the report be noted.

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Planning Committee

13 December 2018

Reference:
APP/18/00550

Area Team:
North Team

Case Officer:
Mr N Williams

Ward:
Wallasey

Location:

1-7 LEASOWE ROAD, WALLASEY VILLAGE, CH44 2BY

Proposal:

Demolition of existing buildings and erection of new building containing 3 new retail (A1) units to the ground floor with 9 residential units above

Applicant:

Sound Leisure Limited

Agent :

NS Architects

Site Plan:



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Development Plan designation:
Traditional Suburban Centre

Planning History:

There is no relevant planning history for this site

Summary Of Representations and Consultations Received:

REPRESENTATIONS

Having regard to the Council's Guidance for Publicity on Planning Applications, 27 notifications were sent to adjoining properties and a site notice was displayed near the site. At the time of writing, there had been a qualifying petition of objection received, containing 41 signatures and 1 individual objection. The objections can be summarised as follows:

1. Loss of light and privacy;
2. No refuse or bin facilities;
3. No parking for residents or customers

CONSULTATIONS

Highways - No objection

Environmental Health - No objection

Director's Comments:

Consideration of this application was deferred from Planning Committee on 15 November 2018 to allow for a formal Members Site Visit to take place.

REASON FOR REFERRAL TO PLANNING COMMITTEE

A qualifying petition of objection was received containing 41 signatures.

INTRODUCTION

The application is for the demolition of the existing buildings at 1 - 7 Leasowe Road and the erection of a new three-storey building containing 3 new retail units on the ground floor with 9 residential units above.

The proposal has been amended from the original submission, with the rear part of the proposed building being reduced in height and width and the design being slightly altered.

SITE AND SURROUNDINGS

The site is located near to the roundabout at the junction of Leasowe Road and Wallasey Village. The site currently contains a brick building and a white-clad building, both of which are approximately two-storeys in height and both of which are in a considerably poor condition which has a negative impact upon the character and appearance of the area. The site was previously used for commercial purposes, but the retail units now appear to be vacant.

The site is designated in Wirra's Unitary Development Plan as part of the Wallasey Village Traditional Suburban Centre, and there are a number of commercial units within the immediate vicinity. There are also residential properties to the rear of the site (on Lycett Road) and opposite the site on Leasowe Road.

POLICY CONTEXT

The residential element of proposed development is subject to Wirral UDP Policy HS7 Upper Floor Uses in Retail Premises and HS4: Criteria for New Housing Development and Supplementary Planning Document 2: Designing for Self Contained Flat Developments and Conversions. These policies state that residential schemes should not result in a detrimental change in the character of the area, should be compatible taking account of access, amenity and shop security and be of a scale which relates well to the surrounding area, and should promote good design and layout.

UDP Policy SH2: Criteria for Development in Traditional Suburban Centres and UDP Policy SH8 are also applicable., Retail uses are permitted provided the scheme does not generate traffic in excess

of that which can be accommodated on the network, does not undermine the vitality or viability of other centres and the siting, scale and design is not detrimental to the character of the area and the shops are fully accessible by people with disabilities.

Policy TR9: Requirements for Off Street Parking, Policy TR12: Requirements for Cycle Parking and Supplementary Planning Document 4: Parking Standards are relevant. Policy WM9: Sustainable Waste Management Design and Layout for New Development in the Joint Waste Local Plan is also relevant.

The National Planning Policy Framework (Revised NPPF July 2018), paragraphs 124, 127, 128 & 130 are also applicable. The creation of high quality building and places is fundamental and decisions should ensure that development will function well, add to the quality of the area, be visually attractive as a result of good architecture, layout and effective landscaping and be sympathetic to local character and history. It is made clear that poor design, which fails to take the opportunities available for improving the character and quality of the area and the way it functions should be refused.

APPEARANCE AND AMENITY ISSUES

Principle

The existing buildings are in an extremely poor condition and detract from the otherwise vibrant surrounding area. The site is within a highly prominent location, adjacent to the junction of Wallasey Village and Leasowe Road. The principle of demolishing these buildings and replacing them with a mixed-use development with commercial use on the ground-floor and residential use above is acceptable under UDP Policies SH2 and SH7, and could help enhance the vitality of this part of Wallasey Village, both by introducing new shop units and also by increasing the population of the area. Paragraph 85 of the revised National Planning Policy Framework (NPPF) states that planning decisions should recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.

Design & Scale

The scale of the proposed buildings reflects the existing adjoining properties at 99 - 105 Wallasey Village, being three-storey buildings albeit with the top floor set largely within the roof space. Given the location of the site in a dense, urban setting within a Traditional Suburban Centre with good transport links and other three-storey buildings, the principle of this is considered to be acceptable. The site is fairly prominent and located in a key location within a Traditional Suburban Centre, and the principle of a higher density, three-storey building can therefore be supported.

The building will project right up to the back of the footpath, and this reflects the existing buildings on the site and the majority of other commercial properties within the area and is therefore considered to be acceptable. The design approach is fairly contemporary in appearance, with the main brick facade complemented with zinc standing seam roof for the top floor and a series of projecting vertical elements in a modern steel material. Amended plans were submitted to enlarge the glazing elements of the shop fronts to ensure they contribute positively, and also to incorporate the zinc roof to the side/west elevation to enhance the appearance of the building when viewed on approach from the west.

Overall, the building is considered to be of a good design and will have a positive impact upon the surrounding area, adding to the variety of the street scene whilst respecting the prevailing scale of the area.

Residential Amenity

The proposed development will consist of a three-storey element towards the front of the site, with the ground-floor commercial units projecting all the way to the rear of the site, with a small first-floor rear projection also included to accommodate one of the residential units.

The existing buildings take up almost the entire site, and the proposed development will also do this. The existing buildings project right up to the rear boundary, close to the rear of the residential properties of 4 - 10 Lycett Road, and the ground-floor commercial units will also do this. There will therefore be no greater impact from the ground-floor part of the proposal.

Negotiations have taken place with the applicant and amended plans have been submitted to reduce the height and width of the first-floor rear element, which ensures that it is no higher or wider than

the part of the existing building which it replaces. This part of the proposed building will also be set away from the rear boundary marginally more than the existing building, by 0.228m. Whilst separation distances between the existing building and the residential properties are substandard (between approximately 6.6m to 8.8m), the proposed development will not exacerbate this situation or result in any further loss of light. The applicant has insisted that the additional unit provided within this part of the building is required to ensure the viability of the scheme, although only minimal weight is given to this. However, on balance, given that this part of the proposed building will be no higher or wider than the building it replaces, and given the negative impact the existing buildings have in this prominent location and the positive impact the new development will have on regenerating this site, it is considered that the proposal can be supported.

The main part of the building will be approximately 3 metres taller than the existing building, but this will be approximately 15 metres from the properties on Lycett Road and given the dense urban grain within the immediate area, it is not considered that this would have such an impact on existing residents as to warrant refusal of the application. There are no habitable windows to the rear of the proposed building, with only windows serving a communal corridor at first and second floor level, together with a hall and bathroom for one of the apartments. A condition has been attached to obscurely glaze these to ensure no overlooking of neighbouring properties will take place. A condition has also been attached to ensure that the flat-roof to the rear, above the retail units, cannot be used by future residential occupiers given that this would result in a loss of amenity to existing residents.

The proposed building will be approximately 30 metres from dwellings on the opposite side of Leasowe Road, which is more than sufficient to ensure it does not impact upon those residents.

SEPARATION DISTANCES

Separation distances are dealt with in more detail above.

HIGHWAY/TRAFFIC IMPLICATIONS

There is no off-street parking for this proposal. However, given that the site is within a sustainable location close to numerous local services and transport links, this is considered to be acceptable. Cycle (and bin) facilities will be located to the rear of the building.

ENVIRONMENTAL/SUSTAINABILITY ISSUES

There are no Environmental/Sustainability issues relating to these proposals.

HEALTH ISSUES

There are no health implications relating to this application.

CONCLUSION

The proposed development will have a positive impact upon the vitality, viability and appearance of the surrounding commercial area and the scheme, as amended, will not have an unacceptable adverse impact on the amenities of neighbouring properties. The proposal is therefore considered to comply with Wirral Unitary Development Plan Policies SH2, SH7, SH8 and HS4, SPD2 and the National Planning Policy Framework.

Summary of Decision:

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposed development will have a positive impact upon the vitality, viability and appearance of the surrounding commercial area and the scheme, as amended, will not have an unacceptable adverse impact on the amenities of neighbouring properties. The proposal is therefore considered to comply with Wirral Unitary Development Plan Policies SH2, SH7, SH8 and HS4, SPD2 and the National Planning Policy Framework.

Recommended Decision: **Approve**

Recommended Conditions and Reasons:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 19th October 2018 and 25th October 2018 and listed as follows: P-AL-00-001 Revision A; P-AS-20-001 Revision D; P-AL-20-001 Revision C; P-AE-20-003; P-AE-20-001 Revision C

Reason: For the avoidance of doubt and to define the permission.

3. Before any construction above ground level, samples of the materials to be used in the external construction of this development shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall then be used in the construction of the development.

Reason: To ensure a satisfactory appearance to the development in the interests of visual amenity and to comply with Policy HS4 of the Wirral Unitary Development Plan.

4. Prior to first occupation of the development, all first and second floor windows in the rear elevation (serving the access corridor for all apartments, and the entrance hall and bathroom for one apartment) shall be obscurely glazed and retained as such thereafter.

Reason: In the interest of residential amenity having regard to Wirral Unitary Development Plan Policy SH2.

5. The retail units hereby permitted shall only be open to the public between the hours of 08:00 and 21:00 hours

Reason: To protect the amenity of nearby residential properties having regard to Wirral Unitary Development Plan Policy SH2

6. Prior to any works above ground level, a full scheme of works for the reinstatement to standard footway levels of any existing vehicle access from the highway that is rendered obsolete by the development shall be submitted and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved works have been completed in accordance with the approved scheme.

Reason: In the interest of amenity and highway safety and to accord with the provisions of the Wirral Unitary Development Plan

7. NO DEVELOPMENT SHALL TAKE PLACE UNTIL a Construction Management Plan or Construction Method Statement for the construction of the development hereby approved has been submitted to, and approved in writing by, the Local Planning Authority. The construction works shall be carried out in accordance with the approved details. Details submitted in respect of the method statement shall provide for routes for construction traffic, the provision of parking facilities for contractors and visitors during all stages of the development, hours of operation, the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials and shall provide for wheel cleaning facilities during the demolition, excavation, site preparation and construction stages of the development and/or method(s) of prevention of mud being carried onto the highway.

Reason: In the interests of the safe operation of the local highway network and having regards to visual and residential amenities of the area.

8. The flat-roof area to the rear of the building hereby permitted shall not be used by occupiers of these apartments other than for maintenance purposes

Reason: For the avoidance of doubt and in the interests of residential amenity, having regard to Wirral Unitary Development Plan Policy SH4

9. Before any construction above ground level, details of secure covered cycle parking and/or storage facilities shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided in accordance with the approved details and made available for use prior to the first use of the development hereby permitted and shall be retained for use at all times thereafter.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car, having regard to Policy TR12 of the Wirral Unitary Development Plan.

Further Notes for Committee:

1. Consent under the Highways Act is required for the construction of a new or the amendment/removal of an existing vehicular access. Such works are undertaken at the developer's expense, including the relocation/replacement and/or removal of street furniture and vegetation as necessary. Submission of a S50 Highway Opening Notice is required prior to commencement of any works on the adopted highway. Please contact the Council Highway Management team area manager via www.wirral.gov.uk prior to the commencement of the works for the approval of the proposed details.

A pre-site inspection is required prior to the development works commencing with the LA- any damage to the existing highway that occurs as a result of the development would require reinstatement, at the developers expense, to the LA specifications and written approval. For further details contact Highway Management, area manager via www.wirral.gov.uk

Last Comments By: 07/08/2018
Expiry Date: 28/08/2018

Planning Committee

13 December 2018

Reference:
DLS/18/00715

Area Team:
North Team

Case Officer:
Ms J Storey

Ward:
Seacombe

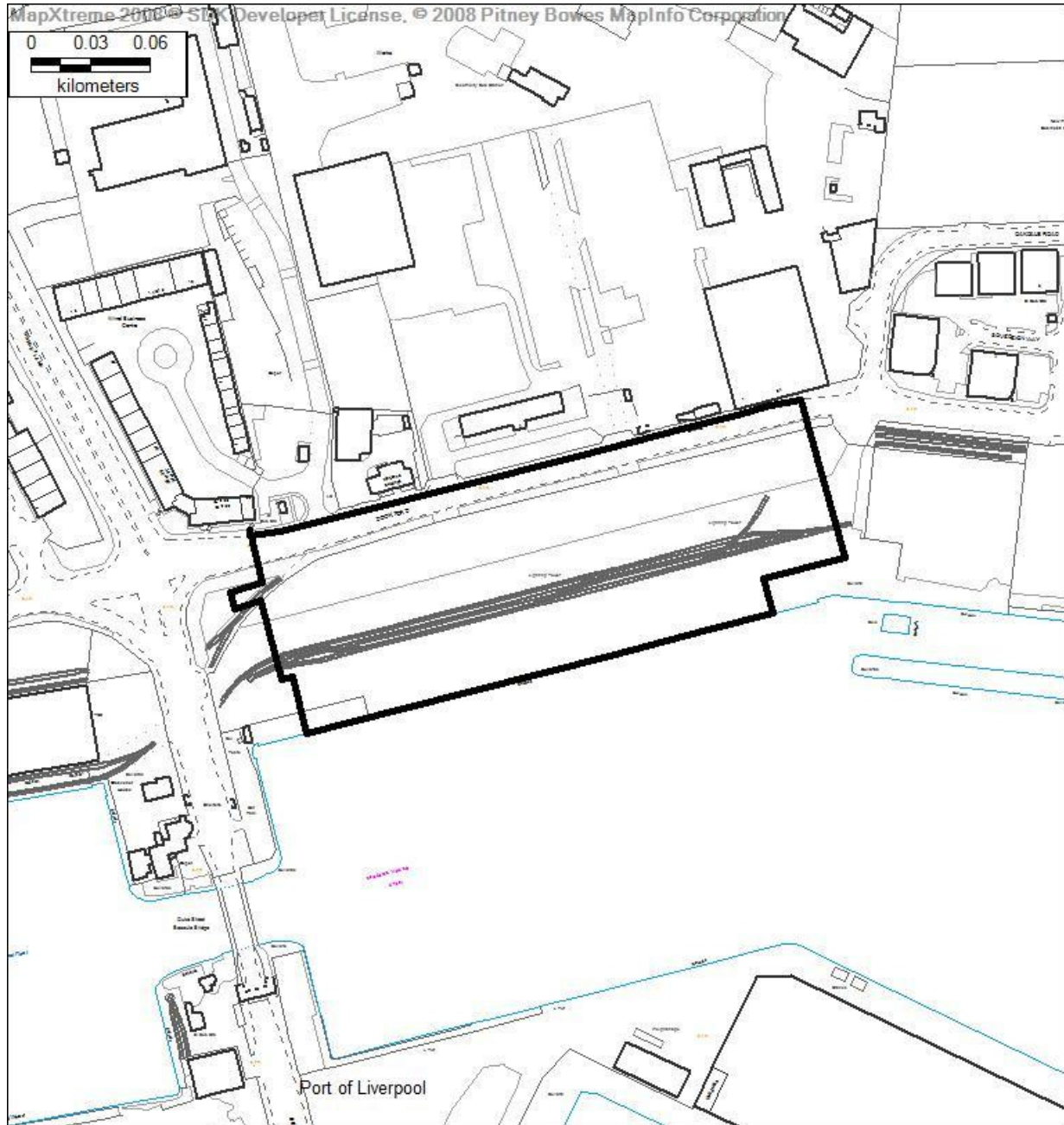
Location:
Proposal:

Land at DOCK ROAD, SEACOMBE, CH41 1JW
Reserved Matters Application pursuant to Planning Permission OUT/09/006509 providing details of access, appearance, layout, scale and landscaping for the construction of 500 apartments (1 and 2 bedroom) (with ancillary accommodation), associated parking, landscaping and other associated works at Northbank West, Dock Road, Wirral Waters, Seacombe.

Applicant:
Agent :

Peel Land and Property
Turley

Site Plan:



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Development Plan designation:

Road Corridor subject to Environmental Improvement
Primarily Industrial Area

Planning History:

- Location: Cleared Site Adjacent East Float Quay, DOCK ROAD, SEACOMBE
Application Type: Outline Planning Permission
Proposal: Demolition of existing buildings and the creation of a new city neighbourhood at East Float, including a series of new urban quarters (Northbank West, Marina View & Four Bridges, Vittoria Studios and SkyCity & The Point), consisting of a maximum of 13,521 residential units (Class C3 Use), a maximum of 422,757sq m office and research and development floorspace (Class B1), a maximum of 60,000sq m retail uses (Classes A1-A5), a maximum of 38,000sq m hotel and conference facilities (Class C1) a maximum of 100,000 sq m of culture, education, leisure, community and amenity floorspace (Classes D1 and D2), together with the provision of car and cycle parking, structural landscaping, formation of public spaces and associated infrastructure and public realm works and including retention of and conversion works to Grade II Listed Hydraulic Tower. Within this overall maxima permission is now sought for flexible use under the GPDO Part 3 Class E for 48,500 sq m of floorspace (reduced from 485,000 sq m) to be used for office and research and development floorspace (Class B1), retail uses (Class A1 retail, Class A2 Financial & Professional Services, Class A3 restaurants and cafes, Class A4 bars and Class A5 hot food takeaways), hotel and conference facilities (Class C1), culture, education, leisure, community and amenity floorspace (Classes D1 and D2). The application remains submitted in outline with all detailed matters reserved for subsequent approval. (amended description).
Application No: OUT/09/06509
Decision Date: 31/05/2012
Decision Type: Approve
- Location: Quayside off the North West , corner of East Float , Duke Street, Birkenhead, Wirral, CH41
Application Type: Full Planning Permission
Proposal: Erection of two storey temporary accommodation for maintenance personnel
Application No: APP/01/06914
Decision Date: 26/11/2001
Decision Type: Approve
- Location: Duke Street, Laird Street, Hoylake Road, Bidston Link Road and Dock Road, Birkenhead, Wirral
Application Type: Advertisement Consent
Proposal: Erection of banner signs suspended from lamp posts
Application No: ADV/97/06453
Decision Date: 16/10/1997
Decision Type: Approve
- Location: Pavement and land to south east of McKenna Buildings, Dock Road, Poulton. L41 1
Application Type: Full Planning Permission
Proposal: Formation of access.
Application No: APP/95/06736
Decision Date: 26/06/1996
Decision Type: Approve
- Location: Land east of Duke Street, south of Dock Road, Poulton. L41 1J
Application Type: Advertisement Consent

Proposal: Erection of four advertising panels on four railway trucks.
Application No: ADV/93/05086
Decision Date: 12/03/1993
Decision Type: Approve

Location: Former canteen opposite SMM, Dock Road, Poulton. L41 1D
Application Type: Full Planning Permission
Proposal: Change of use from dock canteen to taxi office.
Application No: APP/86/05470
Decision Date: 05/06/1986
Decision Type: Approve

Location: N Dock Road, East Gorsey Lane, Poulton, L41 1D
Application Type: Deemed
Proposal: Construction of Advance Factories for small business centre
(alteration to extend site boundary)
Application No: DPP/82/21846
Decision Date: 03/02/1983
Decision Type: Approve

Location: Land to the East of Gorsey Lane and, to the North of Dock Road, Poulton, L41 1D
Application Type: Deemed
Proposal: Erection of advance factories for small business centre.
Application No: DPP/82/21449
Decision Date: 18/11/1982
Decision Type: Approve

Location: E Gorsey Lane/n Dock Road, Poulton L41 1D
Application Type: Deemed
Proposal: Erection of Warehousing (Class X) on land at west of Corporation Yard,
junction of Dock Road/Gorsey Lane
Application No: DPP/82/20734
Decision Date: 22/07/1982
Decision Type: Conditional Approval

Location: E Gorsey Lane/n Dock Road, Poulton L41 1D
Application Type: Deemed
Proposal: Erection of General Industrial Units (Class IV) on land at west of Corporation
Yard, junction of Dock Road/Gorsey Lane
Application No: DPP/82/20737
Decision Date: 22/07/1982
Decision Type: Conditional Approval

Location: E Gorsey Lane/n Dock Road, Poulton L41 1D
Application Type: Deemed
Proposal: Erection of light industrial units (Class III) on land at west of Corporation
Yard, junction of Dock Road/Gorsey Lane, Poulton
Application No: DPP/82/20736
Decision Date: 22/07/1982
Decision Type: Approve

Location: E Pt Trans Shed Dock Rd Pltn Wall L41 1df
Application Type: Full Planning Permission
Proposal: Change of use and conversion to a mineral grinding factory Sections 2 and 3
Transit shed.
Application No: APP/76/04557
Decision Date: 14/06/1976
Decision Type: Conditional Approval

Summary Of Representations and Consultations Received:

REPRESENTATIONS:

Having regard to the Council Guidance on Publicity for Applications, 90 notifications were sent to neighbouring properties. A Site Notice was also displayed. At the time of writing this report 1 representation has been received and is summarised as follows:

1. Can condition 50 in the outline planning permission be adhered to ensure that up to 13521 residential units would be built over the complete project of Wirral Waters.

CONSULTATIONS:

Highways: No objections

Merseyside Environmental Advisory Service: The submitted HRA Appropriate Assessment documents have concluded that the development will have no adverse effects on the integrity of the designated European Sites subject to the implementation of mitigation measures set out in those documents and therefore, MEAS advise that this assessment is acceptable and concur with the conclusions of the Assessments, subject to the mitigation measures outlined being implemented in full. It is advised that Wirral Council (as competent authority) can adopt the HRA documents.

Lead Local Flood Authority: No objections subject to the details contained in the Flood Risk Assessment and the Sustainable Drainage Strategy and Operation and Management Plans submitted being implemented in full.

Environmental Health: No objection subject to the attached conditions.

Housing Strategy: No objection subject to a s106 for affordable housing

United Utilities: No objection subject to the attached conditions

Natural England: Following receipt of further information Natural England is satisfied that the specific issues raised relating to this development have been resolved. It is considered that the impacts on the designated sites can be appropriately mitigated with the measures outlined within the HRA/supporting information and therefore, there are no objections to the proposed development.

Director's Comments:

This application was the subject of a Member's Site Visit on 13th November 2018.

INTRODUCTION

Outline planning permission was granted in May 2012 for the comprehensive mixed use re-development of Birkenhead docks. The outline application, with all matters reserved, established the principle of a phased development for the creation of a new city neighbourhood to be delivered through a series of urban quarters. This reserved matters application is one of five Wirral Waters applications currently being determined by the Local Authority.

The outline Planning Permission required the first reserved matters applications to include

- a minimum quantum of development of 60,000 square metres of floor space, for uses including housing (Use Class C3) (include a minimum of 500 units), office floor space (Use Class B1); or major education, civic, or cultural (Use Class D1) component of development.
- 30,000 square metres of floor space for use as offices and (or) research and development of products and processes.

This application comprises of the residential component containing 500 residential units. A second reserved matters application has also been submitted for approval and comprises of a proposal for 40,000sqm of B1 floor space at Vittoria Studios. These two schemes comprise of the quantum of development required under condition 4 of the outline planning approval.

The submitted applications for residential schemes to date comprise of a specialist dementia care development to be developed and operated by a care provider Belong. This scheme together with this

current application will provide over 600 units of accommodation when completed.

The Legacy project has been the subject of consideration at Wirral Council Cabinet in October this year. The cabinet report considered the key opportunities relating to the social, economic, environment, policy and investment opportunities that the project would deliver.

This development includes:

- 500 units in a mix of 1-bed and 2-bed apartments of varying sizes;
- Up to 47,000 sqm of residential development area;
- Ancillary spaces for Residents;
- On site residents multi-use space / communal facilities;
- On site secure cycle parking;
- New public realm to the Dock Edge;
- New landscape secure courtyard;
- New public Festival Square;
- New public Duke Street Plaza;
- On-site parking; and
- Other supporting infrastructure

This application is referred to the Planning Committee as a Major Development and is required to be considered and determined by the Planning Committee having regards to the Council's approved Scheme of Delegation for the Determination of Planning Applications.

PRINCIPLE OF DEVELOPMENT

The principle of this development is acceptable and has been established during the consideration of the scheme through the outline planning application.

SITE AND SURROUNDINGS

The application site comprises of a cleared site which is bounded by Dock Road to the North, to the south by the dock edge of East Float and to the west by Duke Street. The site is contained by palisade fencing with the occasional tree along the northern boundary. The surrounding area contains a mix of commercial/industrial uses and residential areas beyond.

The converted former grain warehouses (Grade II Listed) are located to the east of the site. The Hydraulic Tower, also listed Grade II lies further south east.

POLICY CONTEXT

Wirral Unitary Development Plan

Policy URN1 Development and Urban Regeneration states that full and effective use should be made of land and focuses on the importance of bringing neglected, unused or derelict land into use.

Policy HS4 - Criteria for New Housing Development, whilst applicable to proposals for new housing development on allocated sites within the Primarily Residential Areas, is considered to be relevant in that it expects the proposed development to:

- be of a scale which relates well to surrounding property, in particular regards to density and form
- not to result in a detrimental change in the character of the area
- provide access and servicing that can be satisfactorily accommodated
- include appropriate landscaping
- have design features to contribute to a secure a safe environment
- make provision for accessible public open space and children's play space
- provide adequate individual private or communal garden space for each dwelling

Policy HSG2 (Affordable Housing) of the UDP states that the Local Planning Authority will negotiate with developers and housing associations the provision of affordable housing where appropriate.

Policy GR5 The Local Planning Authority will require applicants to submit full landscape proposals before planning permission is granted.

Policy GR6 - Greenspace within new family housing development sets out the need to provide adequate public, open greenspace within development sites.

Policy GR7 - Trees and New Development sets out the criteria to assess the need to protect trees by having regard to health and structure of existing trees with a view to provide replacement trees.

UDP Policy TR9 requires off-street parking to be viewed on the context of overall transport policy and particularly, the need to reduce travel by private car, especially within areas that are well served by public transport.

UDP Policy TR12 requires provision of cycle parking where it is considered to be both practicable and desirable.

Policies WAT1, WA, WA2, WA3, WA4, and WA5 only permit development that would not increase the risk of flooding, where drainage and surface water runoff can be controlled with regard to the need for the protection of water resources including groundwater. In addition, Waste Local Plan Policies WM8 and WM9 set out the requirements for waste management, recycling and efficient use of resources.

Policies NCO1 and NC7 only permit proposals that would not adversely affect protected wildlife and habitats.

Policies TRT3, TR11 and TR13 make it clear that regard will be given to minimising vehicular and pedestrian conflict, securing access for disabled people, minimising the need to travel, parking and servicing arrangements and ensuring there is no negative impact on routes used by cyclists when assessing the impacts of the proposed development

Policy CH1 states that development affecting a Listed Building or structure will only be permitted where the proposals are of a nature and scale appropriate to retaining the character and design of the building and its setting and that adequate provision is made for the preservation of the special architectural or historic features of the building or structure.

Policy CH24 Development proposals liable to destroy, damage or otherwise disturb features of archaeological interest in these areas or which would have a detrimental impact on their setting will be refused.

Policy CH25 advises that in assessing development proposals liable to affect areas known or suspected to contain important un-scheduled archaeological remains, consideration will be given to the archaeological interest of the site in terms of the rarity, condition and estimated age of the remains.

Waste Local Plan

Development Management Policies in the Joint Waste Local Plan for Merseyside and Halton are also applicable. Policy WM8 requires development to incorporate measures for achieving efficient use of resources; Policy WM9 also requires development to provide measures for waste collection and recycling, including home composting. This can be addressed through the use of relevant planning conditions.

Other material considerations

Design Issues

Supplementary Planning Document 2 identifies good design practice which sets out fundamental principles including:

- consideration of the design and position of the development in context with neighbouring buildings, the townscape and landscape of the wider locality;
- consideration of the scale, massing and height of the intended development in relation to adjoining buildings, topography, views, vistas and general height patterns in the area; and respect for the character of the area.
- respect for the character of the area.

Successful projects are expected to:

- relate well to the geography and history of the place and the lie of the land;
- sit happily in the pattern of existing development and routes through and around it;
- respect important views (from public vantage points);
- respect the scale of neighbouring buildings;
- use materials and building methods, which are as high or of higher quality as those used in existing buildings; and
- create new views and juxtapositions, which add to the variety and texture of the setting.

Emerging Local Plan

The Spatial Vision in the Proposed Submission Draft Core Strategy Local Plan (2012) indicates that by 2028 a new city neighbourhood will be being established within the Birkenhead Dock Estate to create a sustainable, mixed-use waterside community, where new homes and a wide range of employment, education, leisure, community and cultural uses will create a new impetus for economic growth and regeneration at the heart of the older urban area.

Policy CS2 - Broad Spatial Strategy states that full and effective use should be made of land within urban areas; neglected, unused or derelict land or buildings are brought into use. The first priority will be to focus job, housing and population growth to areas of greatest need of physical, social, economic and environmental regeneration particularly within the older urban areas of east Wirral. Medium to high density development will normally be permitted within these areas and will be expected to make a positive contribution to the local character and amenity; make a positive contribution to local character and amenity; make the most efficient and viable use of land, infrastructure and services and support a greater pace of regeneration.

Policy CS5- Priorities for the Commercial Areas of Birkenhead - states that the overall strategy to promote sustainable development in the commercial core of Birkenhead will be to establish a new city neighbourhood at East Float and around Birkenhead Town Centre, to secure major economic growth, jobs and training alongside investment in significant levels of new high quality housing and employment and the provision of supporting leisure, retail, community, health and education uses.

Policy CS12 – Wirral Waters states that the Council will support the delivery of large-scale, high-density, mixed-use, commercial-led development within the Birkenhead Dock Estate at East Float, West Float and Bidston Dock, to support the economic growth and regeneration of the wider sub-region.

Detailed planning applications for each element of proposed development will be required to:

1. amend and/or update the wider master plan for the area;
2. where relevant, contribute to the provision of affordable housing in line with Policy CS22;
3. develop, update and implement a green infrastructure strategy for the area and secure appropriate provision within and around the site;
4. develop, update and implement a strategy to address flood risk, wastewater network and water supply constraints and secure measures to minimise water demand;
5. incorporate low carbon initiatives to minimise energy demand and maximise the use of low carbon and/or renewable energy where viable;
6. identify and secure appropriate facilities for waste management including waste minimisation and recycling, to serve the development proposed;
7. develop, update and implement the public transport and access strategy for the area and include measures that will ensure full integration with the surrounding areas, including the historic grid-iron street layout and Hamilton Square Conservation Area;
8. ensure that the impact of any tall buildings will not cause unacceptable harm to the setting or views from Hamilton Square Conservation Area;
9. address the need to secure appropriate access to social infrastructure for health, education, recreation and enhanced employment and training opportunities for existing local residents;
10. amend and update the cumulative transport assessment for existing and proposed development within the area;
11. update the environmental information baseline to enable the Council to complete an updated Habitats Regulations Assessment Report;
12. monitor and maintain the structural condition of the dock walls and lock gates; and
13. meet the requirements of Policy CS42.

Policy CS40 - Transport requirements relates to transport requirements in new developments and states that new developments will be permitted where proposals can demonstrate amongst other things that they support the greater use of sustainable transport and travel and promote the use of public

transport, walking and cycling.

CS43- Design, Heritage and Amenity - All new development will be expected to enhance the character, quality and distinctiveness of the area in which it is located and relate well to surrounding property and land uses and the natural and historic environment.

National Planning Policy Framework (NPPF).

NPPF paragraph 11 sets a presumption in favour of sustainable development, which means:

Approving proposals that accord with an up to date development plan without delay; or where there are no relevant update local policies, granting planning permission unless:

- NPPF policies that protect important areas or assets provide a clear reason for refusal; or
- Adverse impacts would significantly outweigh the benefits when assessed against NPPF as a whole.

Chapter 2 defines the role of planning in achieving sustainable development under three objectives – economic, social and environmental, each mutually dependant.

Chapter 5. Delivering a sufficient supply of homes The three key issues are the importance of a sufficient amount and variety of land to come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

Chapter 6. Building a strong, competitive economy advises that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Chapter 8. Promoting healthy and safe communities advocates that Planning policies and decisions should consider the social, economic and environmental benefits of estate regeneration. Local planning authorities should use their planning powers to help deliver estate regeneration to a high standard. An integrated approach to considering the location of housing, economic uses and services should be adopted.

Chapter 9. Promoting sustainable transport - Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system should be balanced in favour of sustainable transport modes. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.

Chapter 10. Supporting high quality communications. Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Policies should set out how high quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded over time; and should priorities full fibre connections to existing and new developments (as these connections will, in almost all cases, provide the optimum solution).

Chapter 11. Making effective use of land. The Framework seeks to promote effective use of land and in particular make more effective use of under-utilised and previously developed land. Paragraph 118 sets out opportunities for previously developed land in urban and rural area, key points include:

- Encouragement will be given to mixed used schemes and net environmental gains;
- Substantial weight should be given to brownfield land within settlements for homes and other identified needs;
- Development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained, and available sites could be used more effectively will be supported and promoted;

Development opportunities to use the airspace above existing residential and commercial premises for new homes will be supported. In addition LPAs should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs.

Chapter 12. Achieving well-designed places. The emphasis is on the importance of managing and promoting high design standards at the earliest opportunity as well as the need to ensure such qualities are delivered on the ground. In doing so, it reiterates the need to ensure design is not an optional add-on to gain an approval, but it is instead a discussion which needs to take place throughout the design evolution process to the point of delivery. This will also include effective engagement with local communities, the use of 'local design standards or style guides', and the refusal of permissions for developments of poor design. achieve this wider objective

Chapter 14. Meeting the challenge of climate change, flooding and coastal change -Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere

Chapter 15. Conserving and enhancing the natural environment states that planning policies and decisions should contribute to and enhance the natural and local environment through a number of means including minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Chapter16. Conserving and enhancing the historic environment. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

APPEARANCE AND AMENITY ISSUES

The National Planning Policy Framework recognises the importance of requiring good design in development. Paragraph 124 states that the creation of high quality buildings and places is fundamental to what planning and development processes must achieve. Good design is the key aspect of sustainable development, creates better places in which to work and live and helps make development acceptable to communities.

Wirral Unitary development plan Policy HS4 and SPD2 outlines the criteria for assessing new residential schemes and advises that proposals for new housing development should be of a scale that relates well to the surrounding area, particularly with regards to existing density and form and will not result in a detrimental change in the character of the area.

The scheme provides for a mix of one and two bedroomed apartments and supporting uses including a crèche, gym and residents lounge. The urban typologies within this scheme comprise of a liner tower block of 13 storeys, four warehouse blocks (7 storeys) and a mansion block (7 storeys).

Two of the proposed buildings at either edge of the site, the tower and mansion, mark the site edge and four pavilion warehouses site in-between them with their distinct pitched saw-tooth roof line that makes reference to the neighbouring wharf architecture.

The approach taken for the buildings at Wirral Waters - East Float - Legacy development is to develop a contemporary interpretation of the warehouses once present on Birkenhead Docks. The use of a strong pitched roof line will create character and provide the scheme with a strong waterside silhouette - giving identity within the wider masterplan. Elevations will to utilise a range of metal cladding textures to

provide further differentiation within the site. Waterside reflection and a strong landscape and public realm proposal will also compliment the approach to the architecture.

A number of residents pocket parks/courtyards and landscaping features are proposed between the buildings alongside a number of public squares surrounding the entire development. The proposed buildings massing rise up at either ends marking the junction between Duke Street and Dock Road and providing a 'book end' to the development. The buildings vary in height to between 6 and 13 storeys to ensure that they don't compete with the scale and dominance of the grain warehouses to the east.

The proposed buildings ground level is set at the above flood defence level of +7.5m AOD with this raising the buildings up to a 500mm plinth providing more privacy and responding to the SUD's strategy for the scheme.

The proposed Ground Floor arrangement for the buildings adjacent Duke Street will mainly consist of service and amenity space with main access to the residential lobby from either the west or the east from each respective building. Vehicular access and parking is also proposed at both the east and west of each respective building in the Neighbourhood Streets and to the northern edge of the courtyard. Cycle parking, refuse and plant areas are set along the northern edge close to Dock Road for easy access and servicing. Direct access is provided to the units from street level allowing residents to access their apartment straight from the street or there is secondary level access from within the building. Within the ground floor of the tower building residents also have access either internally or externally to the residents lounge or the gym as private amenity.

At upper floor levels, the units are arranged around a centralised lift core and consist of a tenure mix of one and two bedroom apartments. This arrangement is configured around a 6-unit core within the tower and around a 12-unit core within the warehouse buildings. Cantilevered balcony amenity is proposed to the south facing façades facing the water front. The corners of the buildings are articulated with two bedroom apartments offering Northeast or Northwest views respectively. There are no single aspect north facing apartments within the scheme.

In terms of the proposed elevations, along the water front the different articulations in massing are read together with the vibrant colour tones reflecting in the water. To the North elevation along Dock Road the tower marks the Junction between Duke Street and Dock Road leading onto the articulated roofs of the warehouses and the end mansion block marker 'finishing' the development. The applicants advise that there is a potential for super graphics to be imprinted onto the louvered facade along Dock Road to add further animation and vibrancy to the ground level.

The proposals have been developed in line with the local authority guidance document Wirral Council Domestic Refuse Collection Policy September 2017 and Approved Document H Section H6 2015. Provisions for residential bins are required to provide containers for separated waste (general separate from recycled) with a combined capacity of 0.24 cubic metres per dwelling with a single collection every week.

Internal streets within the development are identified as having facilities to help cyclists, such as cycle lanes, bus lanes and advanced stop lines at traffic signals. The cycle store will be accessible externally from the street providing convenience and shelter.

The ratio of parking has been assessed against the TR12 Requirements for Cycle Parking which requires one stand for every flat to be provided within the curtilage of the development. To save space within the plot footprint cycle storage is proposed in Josta 2 tier cycle racks.

The principal pedestrian approach is off Duke Street. Access is possible via a level continuous pavement to the western and northern plot boundary. The site's main level access approach route is off Duke Street with bus routes to Hamilton Square and Birkenhead Park Metro Stations for direct links to Liverpool. The proposed site concept defines a clear east / west route through the site which will be for residents and visitors available for both public and private access. Duke Street Plaza is publicly accessible from the west, level and accessible leading to the water front and Festival Square to the east. As part of the landscape proposals throughout the detailed area, suitable seating is proposed. The new paved surfaces will provide some visual contrast to assist in way finding. It is proposed that a distinctive building massing, architectural and landscaping features will create distinctive focal points and landmarks that can be used in way finding throughout the scheme.

The principal public transport links are bus stops along Duke Street and Dock Road with Birkenhead Park railway station approximately 15 minutes' walk and Hamilton Square railway station approximately 30 minutes' walk from the site. Taxi and drop off access is possible to the front door of the development via parking along the neighbourhood streets.

Landscape Zones

Throughout the whole site, there will be several identified landscaped areas to include grass and hard surface recreational space including child interactive play, nature, seating, culture and formal landscape. Among other advantages, this approach provides clear features to assist in way finding and orientation to and around the site. Informal recreational areas will have level or shallow gradient paths through them which will be at least 1800mm wide to allow two wheelchair users to pass. This will comply with the advice set out within UDP Policy SH4 ensuring that appropriate landscaping is proposed and design features should contribute to a secure and safe environment. The proposal includes accessible public open space and children's play space and will provide adequate individual private or communal garden space to each dwelling.

Affordable Housing Provision

The development comprises of 500 apartments of which 20% will be affordable housing. The affordable units will be offered on an affordable private rent basis in accordance with the definition of affordable housing set out in the new National Planning Policy Framework published in July.(NPPF 2018) which changes the definition of affordable housing to include discount market rent (as per Annex 2a) which

- Is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and
- Includes provisions to remain at an affordable price for future eligible households (which we are proposing to do through a variation to the original s106 agreement which will be specific to the Legacy development).

Condition 7ix of the outline planning permission referred to a "target" of 40% Affordable Housing to be delivered. Both the condition itself and the adopted policy leave scope for a different (lower) level of affordable housing to be negotiated based on viability. The SHMA also acknowledges that lower levels of affordable Housing may be appropriate in certain areas for viability reasons. In this instance the site is within an area of greatest need as set out in emerging Policy CS22 of the draft Local Plan and a percentage of 10% of affordable housing has therefore been identified as being appropriate pursuant to the emerging policy. The Legacy scheme is actually providing 20% affordable housing, therefore in excess of the 10% requirement. NPPF guidance states that the definition of affordable means that the rent is set at 20% below the local market rent and that this should include the service charge where applicable. The service charge will be in addition to the rent within this scheme; however both the rent and the service charge will ensure that the affordable rents will be at 80% of the open market rents. The original s106 Agreement entered into at the time of grant of the Outline Permission is to be varied to reflect the provision of 20% affordable housing on the development.

The Council's involvement in the scheme is on the basis of a commercial investment and this is set out in both the Cabinet report of the 1st October and the accompanying business case which states that the Council will be guaranteeing the base rental income for the 500 units for a period of 50 years. Viability issues were considered and reflected in an independent MEOP report on the basis of the rental levels being inclusive of the service charge. The context of the development is that it is coming forward to establish a new market for residential provision and will be followed by two further housing developments adjacent to the site and to reflect this Peel have agreed to guarantee the affordable housing provision for the first 10 years. After that the Council will have the right to be able to vary this, should they so wish, to less than 20% but no less than the statutory minimum of 10%...

The 100 affordable units will be spread across the different blocks and will be an even mix of one and two bedroomed properties in accordance with a plan to be submitted for approval by the local Planning Authority.

Residential unit size

The response from the housing officer identifies that the development includes apartments which are below the Nationally Described Space Standards (NDSS) and states:

Although NDSS has not yet been adopted by Wirral Council, this has been given consideration by a Planning Inspector when dismissing an appeal in Wirral when considering the standard of amenity for future occupiers. The shortfalls arise in relation to two person occupation of one-bedroom units and four-person occupation of two-bedroom units (with shortfalls of 5 sqm for both apartment types). In the Build to Rent market, which targets young professionals, this typology could be occupied by up to two people sharing an apartment and two or three people occupying a two bedroom apartment. In these scenarios the scheme would comply with the NDSS.

NPPF paragraph 129 indicates that Local Planning Authorities should make appropriate use of tools such as Building for Life for assessing and improving the design of development. National Planning Policy Guidance is clear that where a local authority wishes to apply space standards to new dwellings 'they should only do so by reference in their Local Plan to the nationally described space standard'.

Wirral does not yet have a local plan policy which refers to the NDSS, but Policy CS21 (4) and Policy C43 (12) in the emerging Local Plan refer to providing for flexibility, adaptability and sufficient space for every activities and lifetime needs to enable people of different ages and abilities to move around with difficulty. The Council will be consulting on additional modifications to the policies for housing as part of the emerging Local Plan.

The Legacy scheme comprises a good quality new-build residential development, which has been designed to provide high standards of living accommodation for residents in terms of the type of accommodation, outlook and access to high quality external areas (the extent of which will expand as further public realm enhancements along Northbank will form an important part of the wider Wirral Waters regeneration development). It must be recognised that the scheme is pioneering in terms of its scale and ambition in this part of Wirral; it is the first residential scheme to be delivered as part of the Wirral Waters scheme. It must be treated as such, recognising that it is seeking to deliver large-scale build to rent development in a part of Wirral with no existing build to rent or apartment-led housing market of note.

Taking the factors set out above, and forming a view based on a planning judgement, the scheme can be considered to be acceptable in relation to internal living conditions.

Heritage

The application was accompanied by a Heritage Statement. The application Site is not within a conservation area and there are no designated or non-designated heritage assets within the application site. There are however listed buildings within the surrounding area and under the Planning (Listed Buildings and Conservation Areas) Act 1990 Wirral Metropolitan Borough Council, in determining the submitted full planning application, has a statutory duty to pay special attention to the desirability of preserving listed buildings, their setting, or any features of special interest they may possess.

The application site was previously developed in association with dockyard use and was cleared of development in the late 20th century and is currently vacant. Having assessed the designated heritage assets near the application site and the elements of setting that contribute to their significance, it is considered that the development as proposed would not diminish or harm their significance. It is considered that the proposed buildings have been designed to respect and reflect the historic and maritime buildings at the docks and will reinstate a historic form of built development, reinvigorating a vacant and disused site.

It is therefore considered that the proposed development accords with the relevant heritage policy requirements of the NPPF and the requirement of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Proposals also accord with Policies CHO1 and CH1 of the Wirral Council Unitary Development Plan.

HIGHWAY/TRAFFIC IMPLICATIONS

The applicant has submitted a Transport Assessment in support of the application which calculates the likely vehicle movements associated with a development of this scale based on TRICS, which is a national recognised database. The Council's Highway Engineer has considered the Assessment and concludes that the submitted figures for traffic generation to be a robust assessment.

Junction modelling has been undertaken for the Duke Street / Dock Road / Gorsey Lane traffic signal

junction immediately to the west of the proposed site. The results of that modelling indicate that the junction would operate within capacity. It is also noted that it is proposed to improve the pedestrian and cycle facilities at this junction as part of the wider Duke Street STEP Phase 2 works, which is a committed scheme.

The TA also considers the future capacity requirements at Dock Road / Duke Street / Gorsey Lane signal junction, which acts as a key gateway junction into Birkenhead Docks from the M53, as a result of the development proposals associated with the residential development project at Northbank West. This assessment demonstrates that the development traffic does not have a severe highway impact on the operation of the signal junction. The assessment has also considered the future traffic flows and associated capacity requirements at the Duke Street / Dock Road / Gorsey Lane junction to accommodate the wider development of East Float at Wirral Waters. The results of this assessment are accepted and suitable land provision has been safeguarded to the west of the site for future highway improvements.

The proposal provides 300 parking spaces representing a ratio of 0.6 spaces per dwelling. In accordance with SPD 4, there is no minimum requirement for car parking. The property management company for the Legacy development, Regenda Group, have advised that the overall parking ratio is acceptable for a Private Rental Sector residential development at this location.

It should be noted that it is highly likely that before moving in future residents with cars will inquire whether a car parking space will be available for them on site. It is considered that the parking provision will be adequate without creating overspill problems within the adjacent area. However, in order to reduce the risk of any on street parking occurring on Dock Road new parking restrictions on this section of Dock Road should be considered as a monitoring related planning condition to any permission granted.

As each phase of development comes forward and each of the proposed residential buildings are constructed and occupied a minimum car parking provision of 0.6 parking spaces per dwelling should be maintained on site at all times in the context of the current sustainable transport provision that serves the development site.

The TA demonstrates that a service vehicle can turn safely within the site and illustrates that adequate visibility splays can be provided at the site access junctions.

It is considered that this location is sustainable in terms of access to public transport services, providing good opportunities for those residents who may wish to live in a more sustainable manner. In addition, there are a number of planned sustainable transport schemes to come forward in the area in the coming years, including the Northbank West footway / cycleway scheme on Dock Road which has committed funding.

In conclusion, it is considered that there are no sustainable reasons to refuse this application or on the grounds of highway safety and congestion, subject to the S106 requirement mentioned below and the recommended conditions.

The proposed sustainable transport mitigation within the transport assessment composes of a new bus stop on Dock Road and off-site pedestrian crossing facilities to connect the site to the surrounding footway and bus stops. The future agreed transport mitigation package associated with this scheme will be considered against the requirements set out in the s106 Agreement for the Wirral Waters Outline Permission. That legal agreement includes a Sustainable Transport contribution Tariff of £1000 per residential unit to go towards a Sustainable Transport Fund, together with £1000 per residential unit for Green Infrastructure contribution to go towards a Green Infrastructure account.

ENVIRONMENTAL/SUSTAINABILITY ISSUES

Environmental Impact Assessment

WSP undertook the Environmental Impact Assessment (EIA) for the East Float, Wirral Waters development in 2009 in support of the outline planning application for the overall development proposal comprising four main components, as listed below:

- Northbank West;
- Marina View & Four Bridges;

- Vittoria Studios; and
- SkyCity & The Point.

The Environmental Statement (ES) that accompanied the outline planning application for the proposed East Float development was prepared under the Town and Country Planning (EIA) (England and Wales) Regulations 1999 (as amended). Following the submission of the East Float, Wirral Waters ES in December 2009, some supplementary environmental assessments were submitted during 2010 in response to post application comments by Wirral Council (WC) and their consultees. Outline planning permission was granted by WC on 31st May 2012.

The outline permission related to the full proposed East Float, Wirral Waters scheme comprising over 1,395,757m² of floor space including residential, commercial, retail and leisure uses together with public realm. Within this was provision for circa 423,000m² of office, workshop and Research and Development (B1) floorspace. It is intended that the full scheme will be delivered over a long-term timeframe (30+ years).

Conditions 6 and 7 of Outline Planning Application Notice of Decision letter, dated 31/05/2012, include for the need for various EIA, environmental, ecological and sustainability inputs into the reserved matters application including Conditions 6.ii which requires an updated Environmental Impact Assessment Scoping Report.

On 24th August 2011, new statutory provisions on EIA came into force, The Town and Country Planning (Environmental Impact Assessment) Regulations 2011, in England. These Regulations consolidated and replaced the provisions of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and subsequent amending legislation. A number of significant amendments were introduced, including the following of relevance to this application

- Clarification on the handling of subsequent applications in relation to EIA development; and
- Changes to the screening of modifications or extensions to projects.

Other changes to the EIA regulations introduced since 2011 have included changes to the screening thresholds; this would not however affect the application since the development would still exceed the screening threshold for EIA under the 2015 Regulations. The latest update to the regulations, which took effect on 17th May 2017, introduced further new topics for consideration during EIA, however, these regulations will not apply to the project as its EIA was commenced before their introduction.

SUMMARY OF SCREENING REVIEW

It is considered that the conclusions reached within the 2010 Cumulative Impact Assessment are still valid for the following reasons:

- Construction of the North Bank East development and the East Float development as a whole has yet to start and the Liverpool Waters development is still on-going until 2036, therefore the conclusions reached within the 2010 CIA with respect to the potential interaction of these developments is still considered relevant.
- Of the additional developments identified to WSP in the course of the review three of the four have already been constructed and are operational and are thus to be considered as part of the baseline rather than in respect of CIA.
- The Northbank West development is considerably smaller in footprint as well as building heights to the East Float development proposal as a whole as considered within the 2010 CIA, therefore the associated impacts are much reduced.
- The potential for disturbance of contaminated land was identified as the primary environmental impact of each of the developments considered in the CIA. Assuming the stated mitigation measures are implemented during construction, the potential for cumulative contaminated land effects from these developments have been managed. The current Northbank West development will implement a contaminated land strategy as part of the planning conditions to ensure risks are appropriately managed and controlled.
- Due to the size and location of the proposed Northbank West development, the Townscape and Visual cumulative impacts identified within the 2010 CIA will be decreased since the current development proposal does not include the taller Sky City development.

- In-combination effects of the proposed Northbank West development with the Gas engines, Dock Road facility are not considered to increase significantly the cumulative impacts on biodiversity already identified within the 2010 CIA.
- Providing appropriate drainage systems are installed, it is not considered that the proposed development will increase the cumulative impacts on the water environment identified within the 2010 CIA.

Based on a simple size comparison between the 2009 East Float masterplan compared with the much reduced floor area of the 2018 Northbank West development proposal, we would anticipate the development to generate significantly less traffic movements

- No significant increases in operational noise and vibration, or significant contributions to decreases in air quality, have been identified during the review of the 2009 ES.
- Lighting, which was scoped out of the 2010 CIA, is recognised as having a potential environmental impact in relation to the Dong Energy offshore facility. However mitigation measures have been included within the Planning Conditions to manage these effects.

Biodiversity

UDP Policy NC7 states that development which would have an adverse effect on wildlife species protected by law will not be permitted unless the Local Planning Authority is satisfied that the protection of the species can be secured through the use of planning conditions and/ or planning obligations.

Section 15 of the NPPF states that decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. It advises that if significant harm to biodiversity is identified as a result of a development that cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

The applicants have submitted a number of reports including a Habitats Regs Assessment which has been assessed by Natural England and Merseyside Environment Advisory Service (MEAS) on behalf of the Local Authority.

Habitats Regulation Assessment

The site is close to European Designated Sites and as such Policy NC1 of the Unitary Development Plan applies. These designated sites include the Mersey Narrows and North Wirral Foreshore SPA and Ramsar, the Liverpool Bay SPA, the Mersey Estuary SPA and Ramsar, the Dee Estuary SPA and Ramsar and the Dee Estuary SAC. Wirral Waters provides functionality linked habitat to these designated sites and is of particular importance for Common Tern, Cormorant and Great Crested Grebe. The development has potential to have direct effects on the features for which the sites have been designated both alone and in combination with other developments. The submitted Habitats Regulation Assessment (HRA) identifies and addresses to main issues, as follows:

1. Disturbance of qualifying bird species of the European Sites within Wirral Waters. There are 3 specific species which have been considered and these are breeding Common Tern and non-breeding Cormorant and Great Crested Grebe; and
2. Diffuse recreational pressure effects on European Sites and their qualifying species from the future residents of this development. This impact has been identified both alone at a project specific level but also in combination with other Wirral Waters developments and in combination with the quantum of residential developments within Wirral.

The HRA assesses site remediation and construction disturbance impacts on qualifying species, in combination with other Wirral Waters applications and considers the operational disturbance impacts on these species also together with the diffuse recreational pressure effects from future residents of these developments. Mitigation measures are required to mitigate the likely significant effects of the Legacy proposals and these measures have been set out in two documents: SPA Bird Mitigation Strategy, Wirral Waters by TEP (Version 4.0) and Framework for Addressing Diffuse Recreational Pressure on Coastal Natura 2000 Sites, Wirral Waters - Habitats Regulations Assessment by TEP (November 2018; Version 4.0).

The submitted HRA Appropriate Assessment (Wirral Waters - Legacy Project Habitats Assessment Regulations Assessment by TEP (November 2018 Version 7.0) has concluded that the development will have no adverse effects on the integrity of the European Sites subject to the mitigation measures set

out within the documents outlined in the paragraph above.

An assessment of these conclusions on behalf of the Council by Merseyside Environmental Advisory Service finds these assessments to be acceptable and concurs with the conclusions in the documents, subject to the mitigation measures set out being implemented in full and that the development will have no adverse effects on the integrity of the European Sites. As such, Wirral Council as competent authority can adopt the Habitats Regulations Assessment document.

Natural England have also reviewed the documents and are satisfied that specific issues have now been satisfactorily resolved and consider that the identified impacts on the designated sites can be appropriately mitigated with the measures outlined within the HRA information.

Framework for Addressing Diffuse Recreational Pressures on Coastal Natura 200 Sites

The Liverpool Bay Special Protection Area includes several Special Protection Areas which are important for internationally important numbers of migratory, over-wintering and breeding birds. These species are vulnerable to disturbance arising from recreation, including shoreline activity, dog-walking, especially dogs running off the lead, and human disturbance. Liverpool Bay also has coastal Special Areas of Conservation, whose habitats are vulnerable to trampling and nutrient enrichment arising from increased visits by people and dogs.

The submitted document provides a framework for developments applying for planning permission in Wirral Waters in the period 2018 to 2022 inclusive to identify the mitigation measures and estimate the financial contribution they should make towards addressing the adverse effects arising from recreational pressures on internationally-important coastal nature conservation sites fronting Liverpool Bay (Natura 2000 N2K sites). This

The Habitat Regulations Assessment process for the East Float Outline Permission (EFOP), through which the majority of the Wirral Waters development will be delivered, identified this as a concern, especially for residential schemes which would increase the numbers of people visiting the Wirral coastline. The EFOP addressed this through a proposed contribution for "coastline and recreation management", as part of a "Green Infrastructure contribution" to be levied on each development as it comes forward, taking account of the specific impact expected to arise from the development. This GI contribution (which includes a range of other landscape and public realm enhancements) is detailed at Schedule 4: Green Infrastructure and Public Realm; in the Wirral Waters s106 agreement, dated April 2012. However, the element of the GI contribution that delivers coastline and recreational management to offset adverse effects on N2K sites is a requirement for Habitats Regulations and so cannot be avoided.

The coastline and recreation management requirement arising from EFOP was estimated at £500,000, and was reported to the Planning Committee that determined the planning application in 2010 (outline planning permission was formally granted in May 2012 following completion of the S106 agreement). It was noted that this was subject to findings from a citywide recreational impact study, which has not yet been published.

This document proposes a framework of mitigation measures and contributions to be made for Wirral Waters developments, whether or not covered by the EFOP, in order to address diffuse recreational pressures. It is based on evidence from the original Habitats Regulations Assessment, additional findings about recreational pressures on the Liverpool Bay Coast, further Wirral Waters design development, knowledge of other initiatives in the Liverpool City Region and Peel's ambitions to create a world-class residential location with good links to green infrastructure in Birkenhead and Wallasey, away from the coast.

This framework includes the following:

1. An up-front contribution of £163.40 per residential unit towards the Wirral Ranger Service to address anti-social behaviour and promote use of Bidston Moss and Bidston Hill and nearby greenspaces, and to manage coastal Natura 2000 sites; OR
2. Restrictions on the numbers of dogs that will be allowed in each residential development, with dog-ownership dependent on compliance with an owner's code of conduct and payment of a small fee which will be directed towards shoreline wardening via the Wirral Ranger Service;
3. Preparation of a home-owners and commercial occupiers information pack about the international

importance of the Wirral coast, promoting sensitive recreation on the coast, engagement with nature conservation organisations and promoting non-coastal outdoor destinations such as Birkenhead Park, Bidston Hill and Moss.

4. The Wirral Waters website to have a section devoted to the natural environment
5. Bespoke mitigation or contributions applicable to the specific development. Framework for addressing Diffuse Recreational Pressure on Natura 2000 sites.

The conclusion is that the S106 agreement accompanying the Outline permission secured both the financial contribution and the points set out in the framework above towards addressing Diffuse Recreational Pressure on Natura 2000 sites. The Section 106 for the Outline Planning Permission required a Payment Schedule to be agreed with the developer for the payment of the Sustainable Transport Contribution Tariff and the Green Infrastructure Contribution Tariff. The Payment Schedule will identify the payments applied to the framework mitigation measures 1 -4 above as forming part of the Green Infrastructure Tariffs.

The Outline S106 Agreement required that the Developer pay a contribution of £1000 per unit for both the Green Infrastructure Tariff and the Sustainable Transport tariff. It should be noted that the Council are aware that Peel are currently in the process of reviewing the viability of paying the full amount of £2000 per unit for both the GICT and the STCT. If any alteration to this tariff payment is requested subsequent to the determination of this reserved matters application any requested alteration would be the subject to a viability assessment and the applicant would have to make an application to vary the Outline s106 to reflect any amendments to the contributions.

In this event, the payments for the mitigation measures set out at 1-4 above would still be required under any agreement to vary the Outline106. Any request to vary the original 106 agreement will be reported to the Planning Committee.

The applicants have confirmed in a written statement that *“until such time that any formal request is made to Wirral Council to seek agreement that the terms of the East Float Section 106 Agreement should be altered as they relate to the Legacy project, the existing S106 as written applies to the proposed development. Should the applicant make a submission pursuant to Section 106a of the Town and Country Planning Act 1990 to vary the terms of the Section 106 Agreement as it relates to Legacy, I can confirm that any amendment sought would exclude the payment of any financial contribution needed to address the requirements of the Habitat Regulations Assessment process, the value of which is to be agreed with the Local Authority. Any such contributions will be fully protected in this regard and will be made by the applicant at the appropriate time as agreed with the Local Authority”*

Ground Conditions

UDP Policy PO5 states that development on land that may be contaminated will require a detailed ground survey that identifies: the nature, level and extent of contamination; the implications of any identified contamination for the proposed development; and the remediation required.

Section 15 of the NPPF requires decisions to ensure that sites are suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.

A combined Phase 1 and Preliminary Phase 2 Geo-Environmental & Geotechnical Site Assessment has been submitted which identified the presence of low level soil contaminants in the shallow soils at the site, but pose no risk to any receptors identified (if they remain present beneath the site following development).

Environmental Protection have raised no objection to the proposal, recommending that further site survey work is undertaken and submitted for agreement prior to the commencement of development. Subject to such a condition, the development would comply with the above policy and the NPPF.

Drainage

UDP Policy WA2 states that the storage of surface water may be required where a development is of such a size and nature that would necessitate. Policy WA5 states that development will only be permitted which include satisfactory arrangements for the disposal of foul sewage, trade effluent or contaminated surface water; and does not exacerbate existing problems with the storm water or sewerage system.

Section 14 of the NPPF states that development should not increase the risk of flooding elsewhere and that Major developments should incorporate sustainable drainage systems (SUDS) unless there is clear evidence that this would be inappropriate. Such systems should: have appropriate proposed minimum operational standards; have arrangements in place to ensure an acceptable standard of operation for the lifetime of development; and where possible, provide multifunctional benefits.

A Flood Risk Assessment and a Proposed Drainage Strategy together with an Operation & Maintenance Plan with supporting modelling outputs (meeting the relevant conditions 7 and 46 on the original outline planning permission) have been submitted and assessed by the Lead Local Flood Authority who have confirmed that these details meet the requirements of the conditions on the outline consent and raises no objections to the proposals subject to the development being carried out in accordance with these documents.

Waste Management

Policy WM8 of the Development Management Policies in the Joint Waste Local Plan for Merseyside and Halton requires development to incorporate measures for achieving efficient use of resources. Policy WM9 also requires development to provide measures for waste collection and recycling, including home composting.

The National Policy for Waste states that proposals should make sufficient provision for waste management and promote good design to secure the integration of waste management facilities with the rest of the development. It suggests that this should provide for the discrete provision of bins.

The proposal includes dedicated areas for the storage of waste and recycling located to enable easy movement and collection. Therefore, the proposal would comply with the above policies and the National Planning Policy for Waste.

Variation to the original S106 Agreement

A Variation Agreement is to be entered into with the applicant to reflect the following amendments to the S106:

- changes to the definition of affordable housing to reflect the new definition in the NPPF and an amendment to the original requirement to provide 40% affordable housing to the proposal to provide 20% affordable housing at an affordable private rent (which exceeds the current of 10% requirement)
- confirmation of the need for Peel to commence a report on the current condition of the Dock Walls and Gates from Egerton Dock to Duke Street Prior to the commencement of development.

As stated above the original S106 agreement relates to the provision of a tariff for Green Infrastructure and Public Realm and Sustainable Transport Tariff fund which requires the applicant to submit an assessment of the contribution that is to be paid in the respect of the development proposed within each reserved matters application.

The applicants have submitted a payment schedule which states that part of the tariff for the Green infrastructure contribution will be paid towards "Diffusing the Recreational Pressure". This was outlined in the submitted Habitat Regulation Assessment and is discussed in more detail in the report above.

CONCLUSION

The proposal forms part of the Wirral Waters regeneration projects and will provide 500 new residential units with 20% affordable housing units within the first 10 yrs. It is considered that the development will deliver significant long term regeneration and economic benefits. This is one of a number of projects for residential development coming forward across Northbank which will make a significant contribution to the delivery of new housing through the re-use of vacant brownfield land.

The development, together with additional submitted schemes will establish a new city neighbourhood at East Float and around Birkenhead Town Centre to secure major economic growth, jobs and training alongside investment in high levels of housing and employment and the provision of supporting leisure, retail, community, health and education uses.

The proposal is therefore recommended for approval subject to the attached conditions and a Variation

Agreement to the original Section 106 agreement to include the following variations

- Preparation of a report on the current condition of the Dock Walls and Gates from Egerton Dock to Duke Street
- The Wirral Waters Programme Group (“WWPG”) be established to be comprised of relevant officers of the Council and of Peel Land and Property (Ports) Limited according to the issues to be considered by the Group
- 20% Affordable Housing, being a total number of 100 Affordable Housing Units, to be provided as part of the Development on a Build to Rent basis

Summary of Decision:

Having regards to the individual merits of this application the decision to grant Reserved Matters Approval has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposal forms part of the Wirral Waters regeneration projects and will provide 500 new residential units of which 20% will be affordable housing units. It is considered that the development will deliver significant long term regeneration and economic benefits. The development, together with the additional submitted schemes, would help to establish a new city neighbourhood at East Float and around Birkenhead Town Centre to secure major economic growth, jobs and training alongside investment in high levels of housing and employment and the provision of supporting leisure, retail, community, health and education uses.

Recommended Decision: **Approve subject to a variation of the existing Section 106 Legal Agreement**

Recommended Conditions and Reasons:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. Before any construction commences, samples of the facing and window materials to be used in the external construction of this development shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall then be used in the construction of the development.

Reason: To ensure a satisfactory appearance to the development in the interests of visual amenity and to comply with PolicyHS4 of the Wirral Unitary Development Plan.

3. No development shall be occupied until a full scheme of works and timetable for the construction of the new highways and/or amendment of the existing highway made necessary by this development, including new carriageways, footways, cycle ways, street lighting, surface water drainage, traffic signs, road markings, controlled pedestrian crossings, street furniture, access onto the adjacent highway, amendments to existing bus stop arrangement, road safety audit and monitoring has been submitted to and agreed in writing with the Local Planning Department. The approved works shall be completed in accordance with the LPA written approval prior to occupation of the development.

Reason: In the interest of highway safety and to comply with UDP Policy TRT3 Transport & the Environment and Policy TR8 –Criteria for the Design of Highway Schemes

4. No development shall be occupied until a full scheme of works and a timetable for the construction of the new highway and/or amendments to the existing highway made necessary by this development, including alterations to the existing traffic signal junction,

footways, street lighting, surface water drainage, traffic signs, road markings, traffic regulation orders, tactile paved pedestrian crossings, street furniture, access onto the adjacent highway and road safety audit has been submitted to and agreed in writing with the Local Planning Department. The approved works shall be completed in accordance with the LPA written approval prior to occupation of the development.

Reason: In the interest of highway safety and to comply with UDP Policy TRT3 Transport & the Environment and Policy TR8 –Criteria for the Design of Highway Schemes

5. NO DEVELOPMENT SHALL TAKE PLACE until details of secure covered cycle parking and/or storage facilities have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided in accordance with the approved details and made available for use prior to the first use of the development hereby permitted and shall be retained for use at all times thereafter.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car, having regard to Policy TR12 of the Wirral Unitary Development Plan.

6. No development shall take place until a Site Waste Management Plan, confirming how demolition and construction waste will be recovered and re-used on the site or at other sites, has been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be implemented in full unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the proposed development would include the re-use of limited resources, and to ensure that the amount of waste for landfill is reduced to accord with Policy WM8 of the Joint Waste Local Plan.

7. Development shall not be commenced until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The provisions of the Travel Plan shall be implemented and operated in accordance with the timetable contained therein unless otherwise agreed in writing with the Local Planning Authority.

Reason: To promote sustainable ways of travelling and in the interests of highway safety and to accord with Policy TRT3 Transport & the Environment in the Wirral Unitary Development Plan and Part 9 of the National Planning Policy Framework.

8. Prior to the commencement of development a detailed report on the current condition of the Dock Wall and Dock shall be submitted to and approved in writing by the Local Planning Authority and any work required to be undertaken as a result of the commissioned report shall be completed to the satisfaction of the Local Planning Authority prior to the occupation of any of the proposed units.

Reason: To ensure the maintenance of the Dock Walls and Dock Gates

9. Following the commencement of development and for the lifetime of the development the owners shall monitor the structural condition of the dock walls and Lock Gates and issue a revised and updated report into the condition of the Dock Wall and Dock Gates to the Local Planning Authority not less than once every five years.

Reason: To ensure the maintenance of the Dock Walls and Dock Gates

10. PRIOR TO THE COMMENCEMENT OF DEVELOPMENT details of the allocations policy with regards to the affordable housing units shall be submitted to and agreed in writing by the Local Planning Authority. The Approved scheme shall be implemented in full.

Reason: For the avoidance of doubt and to ensure that the affordable housing units are delivered to the satisfaction of the Local Planning Authority and to comply with UDP Policy HSG2 and Policy HS6.

11. The units of accommodation hereby permitted shall not be occupied until arrangements for the storage and disposal of refuse, and vehicle access thereto, shall be made within the curtilage of the site, in accordance with details to be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented in full unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure a satisfactory appearance and adequate standards of hygiene and refuse collection, having regard to Policy WM9 of the Waste Local Plan.

12. PRIOR TO THE COMMENCEMENT OF DEVELOPMENT an assessment shall be carried out in accordance with authoritative technical guidance (CLR11), shall be submitted to and approved in writing by the Local Planning Authority. If any contamination posing unacceptable risks is then found, a report specifying the measures to be taken to remediate the site to render it suitable for the approved use shall be submitted to and approved in writing by the Local Planning Authority. The end use of this site is considered residential for the purpose of land contamination risk assessment and management. The site shall be remediated in accordance with the approved measures and a verification report shall be submitted to and approved by the Local Planning Authority. If, during the course of development, any contamination posing unacceptable risks is found, which has not been previously identified, additional measures for the remediation of the land shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures and a verification report shall be submitted to and approved by the Local Planning Authority.

Reason: To ensure a satisfactory form of development.

13. Prior to the commencement of development a plan indicating how the 100 affordable units will be spread across the different blocks and will be an even mix of one and two bedroomed properties shall be submitted to and approved by the local planning Authority. The approved plan shall be implemented in full.

Reason: To ensure an even distribution of affordable units across the development and to comply with Policy HSG2 and Policy HS6 within Wirral's Unitary Development Plan.

14. The mitigation measures set out within the submitted SPA Bird Mitigation Strategy, Wirral Waters, by TEP (Version 4.0) shall be implemented in full unless otherwise agreed in writing with the Local Planning Authority. Prior to the commencement of any remediation or construction works on site, a Construction Environmental Management Plan which incorporates remediation and construction phase mitigation measures set out within the SPA Bird Mitigation Strategy (Version 4.0) shall be submitted to and agreed in writing with the Local Planning Authority in accordance with Condition 9 of OUT/09/06509). All monitoring shall be undertaken in line with the monitoring schedule set out within Section 4 of the SPA Bird Mitigation Strategy and Monitoring Reports will be provided to the Council for review as per the schedule set out within Section 4 of the Strategy.

Reason: To ensure satisfactory bird mitigation measures are implemented in full and to ensure no adverse effects on the integrity of designated European Sites, having regard to Policy NC1 of the adopted Wirral Unitary Development Plan.

15. The framework of measures (including the index linked contributions per residential unit towards Wirral Rangers Service, restrictions on dog ownership, home owners packs and Natural Environment Section on the Wirral Waters Website) together with the schedule of payment instalments set out within the Framework for Addressing Diffuse Recreational Pressure on Coastal Natural 2000 sites, Wirral Waters - Habitats Regulations Assessment (by TEP, November 2018, Version 4.0) shall be implemented in full unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure compliance with the Habitats Regulations and to ensure no adverse effects on the integrity of the designated European Sites, having regards to Policy NC1 of the Wirral Unitary Development Plan.

16. No tree felling, scrub clearance, vegetation management, ground clearance and/or building works is to take place during the period 1 March to 31 August inclusive. If it is necessary to undertake works during the bird breeding season then all trees, scrub, hedgerows and vegetation shall be checked first by an appropriately experienced and qualified ecologist to ensure no breeding birds are present. If any breeding birds are found to be present, details of how they will be protected shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect birds during their breeding season and to comply with Policy NC1 of the Wirral Unitary Development Plan.

Further Notes for Committee:

1. In order to fulfil the highway condition, it will be necessary to enter into a legal agreement with the Council to secure the works under the Highways Act and the New Roads and Streetworks Act. The agreements would include details of the works to be carried out including all necessary new carriageways, footways, cycle ways, street lighting, surface water drainage, traffic signs, road markings, controlled pedestrian crossings, street furniture, access onto the adjacent highway to Dock Road and Duke Street, alterations to the existing bus stop facilities in Dock Road, Road Safety Audit and Road Safety Audit monitoring.

Last Comments By: 29/06/2018

Expiry Date: 28/08/2018

Planning Committee

13th December 2018

REPORT OF THE DIRECTOR

Reference: **APP/18/00942**

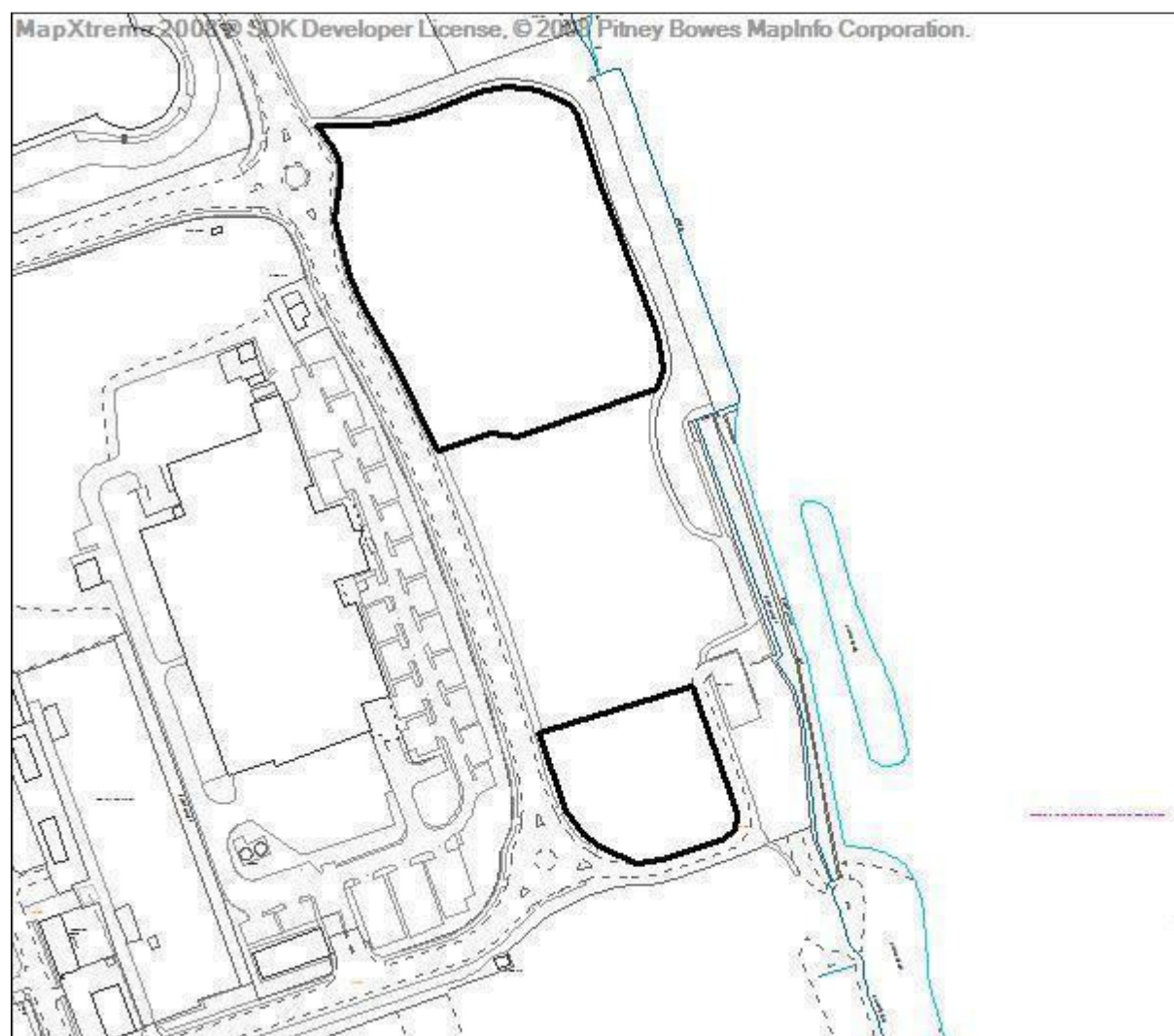
Proposed development: New development providing 3no. industrial units on a vacant site in an established employment area, suitable for B1, B2 or B8 class use, with associated offices, parking, landscaping and infrastructure

Site Address: RIVERVIEW ROAD, BROMBOROUGH

Applicant: Redsun Developments

Agent : C4 Consulting

Ward: **Bromborough**



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1.0 RECOMMENDATION

1.1 Approve - subject to conditions detailed in paragraph 4.1

2.0 KEY ISSUES/SUMMARY OF RECOMMENDATION

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following:-

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. The proposed development would possess an appropriate level of design quality and visual interest, and would be of a layout, scale and mass that would respect the existing built environment, can deliver biodiversity enhancements without adverse impacts in relation to highway safety, flood risk and drainage, ground conditions or waste management. The proposed development would bring economic benefits by delivering employment development. There are no material considerations which would significantly and demonstrably outweigh the benefits of the scheme. The application is considered to be acceptable with the terms of local and national policy. Therefore, in accordance with the Section 38(6) of the Planning and Compulsory Purchase Act, the proposal therefore merits approval.

3.0 RATIONALE

3.1 Reason for referral to Planning Committee

3.1.1 The proposal is for a major development of over 5000 square metres, thus exceeding the threshold in the Council's Delegation Scheme.

3.2 Site and Surroundings

3.2.1 The application relates to two separate parcels of land that equate to 2 hectares of land located around 1.1km east of Bromborough at the eastern periphery of Wirral International Business Park. The parcels are separated by other land in the ownership of the applicant that has planning permission for two associated industrial units (Noted as Units 3 and 4) approved under planning permission APP/17/01049. The site is bounded by a shared pedestrian and cycleway to the north and east (part of the Wirral Circular Trail), separating it from the River Mersey, whilst a road serving a riverside car park separates the southern parcel from woodland forming the northern extent of Eastham Country Park. New industrial units oppose the site to the west of Riverview Road. Whilst the site constitutes two separate parcels (three with the intervening parcel) the site itself is one continuous and unseparated site in reality with self-seeded trees across it. The site is allocated as an Employment Development Site where provision is made for businesses within Uses Classes B1, B2 and B8 under Proposal EM3 in the Wirral Unitary Development Plan (UDP).

3.3 Proposed Development

3.3.1 The proposal is for the erection of 3no. industrial units, two on the northern parcel and one on the southern parcel. That would provide a total of 7,142 square metres (sqm) of floor space, broken down as follows:

- Units 1 & 2 - 2,921 sqm each including first floor mezzanine offices (northern parcel);
- Unit 5 - 1300 sqm (southern parcel).

3.3.2 Units 1 and 2 would be identical in terms of scale, proportions and the layout of architectural features and all units would be clad in the same finishing materials of composite cladding to

walls and roofs with aluminium framed windows. Each unit would have dedicated service yards and car parking areas (including disabled spaces), cycle storage and bin storage areas and would be accessed by vehicles from new accesses from Riverview Road. The sites are proposed to be enclosed by 2.4m high paladin fencing. The proposal includes small areas of landscaping around the perimeter and car parks.

- 3.3.3 The range of use proposed at all units would encompass the full range of business/industrial uses (Use Classes B1, B2 and B8).

3.4 Development Plan

3.4.1 Wirral Unitary Development Plan (UDP) Policies

Proposal EM3: Land for General Employment Use
 Policy EM6: General Criteria for New Employment Development
 Policy EM7: Environmental Criteria for New Employment Development
 Policy CO1: Development within the Developed Coastal Zone
 Policy CO3: Tourism and Leisure in Coastal Zone
 Policy PO9: Criteria for Development Near Notifiable Hazards
 Policy GR7: Trees and New Development
 Policy NC1: The Protection of Sites of International Importance for Nature Conservation
 Policy NC4: Sites of National Importance for Nature Conservation
 Policy NC7: Species Protection Policy
 Policy PO5: Criteria for the Development of Contaminated Land
 Policy TR9: Requirements for Off Street Parking
 Policy TR12: Requirements for Cycle Parking
 Policy WA2: Development and Land Drainage
 Policy WA5: Protecting Surface Waters
 Policy PO5: Criteria for the Development of Contaminated Land

3.4.2 Joint Waste Local Plan for Merseyside and Halton

Policy WM8: Waste Prevention and Resource Management
 Policy WM9: Sustainable Waste Management Design and Layout for New Development

3.5 Other Material Considerations

3.5.1 The National Planning Policy Framework 2018 (NPPF)

Section 2: Achieving sustainable development
 Section 4: Decision Making
 Section 6: Building a strong, competitive economy
 Section 9: Promoting sustainable transport
 Section 11: Making effective use of land
 Section 12: Achieving well-designed places
 Section 14: Meeting the challenge of climate change, flooding and coastal change
 Section 15: Conserving and enhancing the natural environment

3.5.2 Wirral Supplementary Planning Guidance and Documents

Supplementary Planning Document 4 (Parking Standards) provides advice on the maximum levels of parking provision for motor vehicles necessary to serve new development including residential uses

3.5.3 Core Strategy for Wirral - Proposed Submission Draft (December 2012)

Policy CS2: Broad Spatial Strategy
 Policy CS7: Priorities for Bebington, Bromborough and Eastham
 Policy CS15: Criteria for Employment Development
 Policy CS35: Drainage Management
 Policy CS42: Development Management

3.5.4 The National Policy for Waste

3.5.5 The Conservation of Habitats and Species Regulations 2017

3.6 Assessment

3.6.1 The main issues pertinent in the assessment of the proposal are;

- Principle of development;
- Layout, scale, design and landscaping;
- Amenity;
- Access and Traffic;
- Environmental;
- Biodiversity;
- Other matters.

3.7 Principle of Development

3.7.1 The site is allocated as an Employment Development Site where provision is made for businesses within Uses Classes B1, B2 and B8 under Proposal EM3 in the Wirral Unitary Development Plan (UDP). The proposed development is therefore acceptable in principle subject to compliance with UDP Policies EM6, EM7, and CO1, CO2 and PO9. Additionally, the proposal is associated with the adjacent related development for similar units for the same range of uses approved by planning permission APP/17/01049. Consideration of the proposal against the detailed criteria of Policy EM6, EM7 and other relevant policies is assessed in the following paragraphs.

3.8 Layout, scale, design and landscaping

3.8.2 Policy EM6 states that the siting, scale, design, choice of materials, boundary treatment and landscaping should be of a satisfactory standard and in keeping with neighbouring use. Section 12 of the NPPF makes it clear that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

In terms of scale, form and proportions, the proposed buildings would be utilitarian, reflecting the units in the immediate vicinity and previously approved at the intervening related site. Proposed architectural detailing and external finishes and cladding would result in employment development of a quality that would appropriately reflect the high quality of development exhibited in the area. The proposed paladin fencing, whilst industrial in character would be set back from the frontage to Riverview Road such that intervening landscaping could be introduced to soften the appearance of the surface car parking and servicing areas. Similarly, the fencing would be set back from the shared cycle and pedestrian path to the east of the northern site such that landscaping could intervene. Subject to a condition requiring the agreement of landscaping, the proposed development would satisfy the requirements the above policy and the NPPF.

3.8.3 In terms of scale, form and proportions, the proposed buildings would be utilitarian, reflecting the units in the immediate vicinity and previously approved at the intervening related site. Proposed architectural detailing and external finishes and cladding would result in employment development of a quality that would appropriately reflect the high quality of development exhibited in the area. The proposed paladin fencing, whilst industrial in character would be set back from the frontage to Riverview Road such that intervening landscaping could be introduced to soften the appearance of the surface car parking and servicing areas. Similarly, the fencing would be set back from the shared cycle and pedestrian path to the east of the northern site such that landscaping could intervene. Subject to a condition requiring the agreement of landscaping, the proposed development would satisfy the requirements the above policy and the NPPF.

3.9 Amenity

3.9.1 UDP Policy EM6 requires that proposals do not lead to an unacceptable loss of amenity, have an adverse effect on the operations of neighbouring uses or compromise the future development of land in the vicinity for employment or other uses. Section 12 of the NPPF states that development should create places with a high quality of amenity for existing and future users. The proposed development is to be sited within a Primarily Industrial Area, adjacent to existing similar employment units, remote from housing and other sensitive uses

and immediately associated with similar units for the same range as uses approved under APP/17/01049. The proposal would 'round off' the redevelopment of the site bounded by Riverview Road and the Wirral Circular Trail. Thus, the proposed development would not have any unacceptable impacts upon amenity and would comply with the relevant requirement of the stated policy and the NPPF.

3.10 Access and Traffic

3.10.1 UDP Policy EM6 requires that satisfactory access to the development can be provided, that the proposal does not generate traffic in excess of that which can be accommodated by the existing or proposed highway network and that adequate off-street car and cycle parking is provided. SPD4 states a maximum parking rate of 1 space per 35 - 45 square metres of floor space (depending on use between B1, B2 or B8) and one disabled space per 25no. spaces. Section 9 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. Development should give priority first to pedestrian and cycle movement, address the needs of people with disabilities and reduced mobility, create safe, secure and attractive places whilst minimising the scope for conflict between different users and allowing for the efficient delivery of goods and emergency access.

3.10.2 The proposal would make provision for 81no. car parking spaces, with 10no. of those spaces being allocated for people with disabilities , and 18no. cycle stands are would be provided (for secure parking of 36 no. cycles).

3.10.3 Based on the requirements of SPD4, a maximum of 159no. car parking spaces may be provided, a minimum of 10no. of which should be accessible for people with disabilities, and a minimum of 8no. cycle parking spaces. The supporting Traffic Assessment (TA) demonstrates that at the proposed level of provision there would be sufficient parking within the site to accommodate the likely demand. The supporting TA concludes that the development traffic would be distributed between three main access junctions with the A41. The Highway Authority has expressed satisfaction with the access, traffic and parking and confirm that the development would not have a material impact on the operation of the local road network including the three access junctions with the A41. Thus, the proposed development would not have any unacceptable impacts upon highway safety and would comply with the relevant requirement of the stated policy and the NPPF.

3.11 Environmental

3.11.1 UDP Policy PO5 states that development on land that may be contaminated will require a detailed ground survey that identifies: the nature, level and extent of contamination; the implications of any identified contamination for the proposed development; and the remediation required. Section 15 of the NPPF requires decisions to ensure that sites are suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.

3.11.2 The application is supported by a Contamination Risk Assessment dating from October 1995, which was undertaken on behalf of the Council in order to provide an assessment of the risk associated with contamination of the site in respect of the then planned redevelopment for an industrial/warehouse end-use. Environmental Protection have raised no objection to the proposal, recommending that further site survey work is undertaken and the results and any identified mitigation requirements submitted for agreement prior to the commencement of development. Subject to such a condition, the development would comply with the above policy and the NPPF.

3.11.3 UDP Policy WA2 states that the storage of surface water may be required where a development is of such a size and nature that would necessitate. Policy WA5 states that development will only be permitted which include satisfactory arrangements for the disposal of foul sewage, trade effluent or contaminated surface water; and does not exacerbate existing problems with the storm water or sewerage system. Section 14 of the NPPF states that development should not increase the risk of flooding elsewhere and that Major developments

should incorporate sustainable drainage systems (SUDS) unless there is clear evidence that this would be inappropriate. Such systems should: have appropriate proposed minimum operational standards; have arrangements in place to ensure an acceptable standard of operation for the lifetime of development; and where possible, provide multifunctional benefits.

- 3.1.4 The proposal is supported by a Drainage Strategy and Flood Risk Assessment and associated drainage and attenuation drawings, which set out the proposed treatment of surface and foul drainage. The Lead Local Flood Authority (LLFA) has not objected to the proposal, subject to conditions relating to agreement of detailed SUDS design and the construction, operation and maintenance of approved scheme thereafter. Subject to these requirements, the proposal would comply with the above policies and the NPPF.

3.12 Biodiversity

- 3.12.1 UDP policies NC1, NC4 and NC7 afford protection to international and national sites and species. Section 15 of the NPPF states that decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. It advises that if significant harm to biodiversity is identified as a result of a development that cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused

- 3.12.2 The proposed development falls in close proximity to the Mersey Estuary SPA and Mersey Estuary Ramsar (European sites which are protected under the Habitats Regulations 2017) and Mersey Estuary and New Ferry SSSI's and the Eastham Woods LWS. Furthermore, the application site falls within the Natural England SSSI Impact Risk Zone (IRZ). The application is supported by an Ecological Survey and Assessment and an Arboricultural Report. The Merseyside Environmental Advisory Service advised that due to the development's potential pathways and impacts on protected sites, the proposal requires Habitats Regulations Assessment ('Appropriate Assessment') which has been undertaken by MEAS. The 'Appropriate Assessment' finds that the proposed development would not have adverse impacts on the integrity of European sites and both Natural England and MEAS do not object to the proposed development subject to the conditions requiring an instruction Environmental Management Plan, agreement of external lighting so as to avoid spillage onto the designated sites and to protect species, avoidance of vegetation clearance during bird nesting season, the provision of bird nesting boxes and agreement of a site waste management plan. With such conditions, the proposal would not have any unacceptable impacts upon protected sites or species and would deliver biodiversity enhancements in accordance with the above local policy and the NPPF.

3.13 Other matters

- 3.13.1 Policy WM8 requires development to incorporate measures for achieving efficient use of resources and Policy WM9 also requires development to provide measures for waste collection and recycling, including home composting. Whilst the application does not detail specifically how waste and recycling would be dealt with, the site includes significant areas for the servicing of the proposed units which could adequately accommodate facilities for the storage of waste and recycling. Subject to these requirements, the proposal would comply with the above policies and the National Policy for Waste.

3.14 Conclusion

- 3.14.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. The proposed development would possess an appropriate level of design quality and visual interest, and would be of a layout, scale and mass that would respect the existing built environment, can deliver biodiversity enhancements without adverse impacts in relation to highway safety, flood risk and drainage, ground conditions or waste management. The proposed development would bring economic benefits by delivering employment development. There are no material considerations which would significantly

and demonstrably outweigh the benefits of the scheme. The application is considered to be acceptable with the terms of local and national policy. Therefore, in accordance with the Section 38(6) of the Planning and Compulsory Purchase Act, the proposal therefore merits approval.

4.0 RECOMMENDATION

4.1 Approve - subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following plans:

Site Location Plan - Zone 2 (Drawing no. C4C-B0-ZZ-00-DR-A-(00)000 Rev.A);
Proposed Site Plan - Zone 2 (Drawing no. C4C-B0-ZZ-00-DR-A-(01)002 Rev.D);
Proposed Site Plan - Unit 1 (Drawing no. 15029-C4C-B1-ZZ-DR-A-(20)001 Rev. A);
Proposed Layout Plans - Unit 1 (Drawing no. 15029-C4C-B1-ZZ-DR-A-(20)002 Rev. A);
Proposed Elevations - Unit 1 (Drawing no. 15029-C4C-B1-ZZ-DR-A-(20)003 Rev. A);
Proposed Site Plan - Unit 2 (Drawing no. 15029-C4C-B2-ZZ-DR-A-(20)001 Rev. A);
Proposed Layout Plans - Unit 2 (Drawing no. 15029-C4C-B2-ZZ-DR-A-(20)002);
Proposed Elevations - Unit 2 (Drawing no. 15029-C4C-B2-ZZ-DR-A-(20)003 Rev. A);
Proposed Site Plan - Unit 5 (Drawing no. 15029-C4C-B4-LL-DR-A-(20)001 Rev. A);
Proposed Layout Plans - Unit 5 (Drawing no. 15029-C4C-B4-LL-DR-A-(20)002 Rev. A);
Proposed Elevations - Unit 5 (Drawing no. 15029-C4C-B4-LL-DR-A-(20)003 Rev. A);

Reason: For the avoidance of doubt and to define the permission.

3. Before the development hereby approved is completed or occupied, whichever is the soonest, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority and shall include the following:

- a) a scheme of landscaping, which shall include indications of existing trees to be retained, together with measures for their protection during the course of development;
- b) a schedule of proposed native tree species, plant species, size and density and planting locations; and
- c) an implementation programme.

All planting, seeding or turfing comprised in the approved landscaping details shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the soonest. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased 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: In order that landscaping works contribute to a satisfactory standard of completed development and its long term appearance harmonises with surrounding development in accordance with Policy EM6 and GR7 of the Wirral Unitary Development Plan and Section 12 of the National Planning Policy Framework.

4. Before the development hereby approved is first commenced, a scheme for the protection and enhancement of biodiversity within the development site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following elements:

- Bird nesting boxes (indicating the number, type and location on an appropriately scaled plan);
- Details of any external lighting scheme, which shall be designed so as to avoid unacceptable impacts on bats and their insect food, the River Mersey and the landscape buffer along the eastern site boundary, Eastham Woods/Country Park; and;
- A timetable for the implementation of the biodiversity protection and enhancement.

The scheme shall thereafter be implemented in full accordance with the approved details and timetable and maintained as such thereafter.

Reason: This information is required prior to the commencement of development to ensure that biodiversity protection and enhancements are secured as required by Wirral Unitary Development Plan Policy NC7 and Section 15 of the National Planning Policy Framework

5. No tree felling, scrub clearance or hedgerow removal is to take place during the period 1 March to 31 August inclusive. If it is necessary to undertake works during the bird breeding season then all trees, scrub and hedgerows are to be checked first by an appropriately experienced ecologist to ensure no breeding birds are present. If present, details of how they will be protected are required to be submitted and approved prior to the commencement of such works.

Reason: To protect birds during their breeding season and to comply with Policy NC7 of the Wirral Unitary Development Plan and Section 15 of the National Planning Policy Framework.

6. Before the development hereby approved is first commenced, a Construction and Environmental Management Plan (CEMP), which shall also include a Site Waste Management Plan, shall be submitted to and approved in writing by the Local Planning Authority. The approved CEMP shall be adhered to for the duration of the construction of the development.

Reason: This information is required prior to the commencement of development to ensure that species are protected and that limited resources are re-used and waste is reduced during the course of construction in accordance with Policy NC7 of the Wirral Unitary Development Plan, policies WM8 of the Joint Waste Local Plan for Merseyside and Halton and Sections 12 and 15 of the National Planning Policy Framework.

7. No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors;
 - potentially unacceptable risks arising from contamination at the site.

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the

remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: This information is required prior to the commencement of development in order to identify all potentially contaminative former site uses, adequately characterise potential contaminants that might reasonably be expected given those uses, identify significant contaminant linkages (sources, pathways and receptors) and develop a conceptual model of the site. To enable a risk assessment to be undertaken, including refinement of the conceptual model to enable the development of a suitable Remediation/Risk Management Strategy to ensure that the site is suitable for its intended end use in accordance with Section 14 of the National Planning Policy Framework.

8. No occupation of any part of the development hereby approved shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To ensure the site does not pose any further risk to the water environment by demonstrating the requirements of the approved verification plan have been met and that remediation of the site is complete in accordance with Section 14 of the National Planning Policy Framework.

9. No drainage systems for the infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: To ensure a safe form of development that poses no unacceptable risk of pollution to the water environment in accordance with Section 14 of the National Planning Policy Framework.

10. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To ensure that any proposed piling activity is protective of controlled waters in accordance with Section 14 of the National Planning Policy Framework.

11. Foul and surface water shall be drained on separate systems.

Reason: To secure appropriate drainage and to manage the risk of flooding and pollution in accordance with Policy WA5 of the Wirral Unitary Development Plan and Section 14 of the National Planning Policy Framework

12. Before the development hereby approved is first commenced, the final detailed sustainable drainage design¹ for the management and disposal of surface water from the site, based on the principles and details identified in the following submissions, has been submitted to and approved in writing by the Local Planning Authority:

- Proposed Drainage Strategy Document (August 18/Riverview Phase 3/Proposed Drainage Strategy/Drawing No. RED030-250 Rev. P3/Muir Associates UK (Ltd)).

Reason: This information is required prior to the commencement of development to ensure that satisfactory sustainable drainage facilities are provided to serve the site in accordance with Policy WA5 of the Wirral Unitary Development Plan, Paragraph 165 of the National Planning Policy Framework, House of Commons Written Statement 161 for Sustainable Drainage Systems and Policy CS35 of the Core Strategy Proposed Submission Draft.

13. The development hereby approved, including all components of the sustainable drainage system, shall be carried out in accordance with the approved final Sustainable Drainage Strategy and maintained in perpetuity in accordance with an Operation and Maintenance Plan approved by the Local Planning Authority.

The approved scheme shall be fully constructed prior to the first occupation of any part of the development in accordance with the approved details and timetable embodied within the approved Sustainable Drainage Strategy, or within any other period as may subsequently be agreed in writing by the Local Planning Authority.

Prior to the first occupation of any part of the development an 'as built' drainage design/layout drawings and an Operation and Maintenance Plan detailing how any elements of the sustainable drainage system not adopted by the Water and Sewerage Company will be maintained in perpetuity.

Reason: To ensure that satisfactory sustainable drainage facilities are provided to serve the site in accordance with Policy WA5 of the Wirral Unitary Development Plan, Paragraph 165 of the National Planning Policy Framework, House of Commons Written Statement 161 for Sustainable Drainage Systems and Policy CS35 of the Core Strategy Proposed Submission Draft.

14. Before the development hereby approved is first commenced, details of the facing/roofing/windows and door materials to be used in the external construction of this development shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall then be used in the construction of the development.

Reason: This information is required prior to the commencement of development to ensure that the development achieves a satisfactory appearance in the interests of visual amenity and to comply with Policy EM6 of the Wirral Unitary Development Plan and Section 12 of the National Planning Policy Framework.

15. Before the development hereby approved is first commenced, a full scheme of works for the construction of the new vehicle accesses from the highway and amendments to the existing highway made necessary by this development shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the approved works shall be completed in accordance with the approved scheme prior to the first occupation of any part of the development.

Reason: This information is required before the commencement of development to ensure that there is safe access and egress to/from the site from/to the public road, in the interest of highway safety and to comply with Policy EM6 of the Wirral Unitary Development Plan and the National Planning Policy Framework.

16. No part of the development shall be occupied until secure covered cycle parking and/or storage facilities have been installed in accordance with details that shall be approved in writing by the Local Planning Authority. These facilities shall be retained for use at all times thereafter.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car, having regard to Policy TR12 of the Wirral Unitary Development Plan and Section 9 of the National Planning Policy Framework.

Further Notes for Applicant:

1. In relation to Condition 6 the Merseyside Environmental Advisory Service advise the following:
- The full and detailed CEMP should also include details of dust abatement measures and how best practice will be used to minimise pollution risks (emissions, runoff, lighting, noise);
 - A waste audit or similar mechanism (e.g. a site waste management plan) provides a mechanism for managing and monitoring construction, demolition and excavation waste. The following information could be included within the site waste management plan as stated in the Planning Practice Guidance for Waste:
- the anticipated nature and volumes of waste that the development will generate;
 - where appropriate, the steps to be taken to ensure the maximum amount of waste arising from development on previously developed land is incorporated within the new development;
 - the steps to be taken to ensure effective segregation of wastes at source including, as appropriate, the provision of waste sorting, storage, recovery and recycling facilities, and;
 - any other steps to be taken to manage the waste that cannot be incorporated within the new development or that arises once development is complete.

Guidance and templates are available at:

- www.meas.org.uk/1090;
- www.gov.uk/guidance/waste;
- www.wrap.org.uk

2. **In relation to condition 12 the Lead Local Flood Authority (LLFA) advises the following:**

Final Detailed Sustainable Drainage Design to comply with DEFRA's technical standards for sustainable drainage systems and include:

Drawings to include:

- Final layout of roads and properties including plot numbers, finished floor levels and boundaries
- Final layout of sewers; outfalls; SuDS; flow control details (must match flow control in calculations)
- Overland flow paths designed for exceedance of the 1 in 100 plus climate change event, system blockages, etc. An impermeability of 100% for the whole site area (including soft landscaped areas) should be used in all cases when determining exceedance flows
- Invert levels (to OS datum), manhole and pipe sizes; pipe gradients; SuDS; emergency overflows and annotation that correlates to the hydraulic calculations

Hydraulic modelling for final drainage strategy to include:

- System performance for following return periods; 1, 30, 100, 100 plus appropriate climate change allowance
- Demonstration of sufficient storage for the 1 in 100 year (plus climate change) critical rainfall event with a limiting discharge rate as stated in the above referenced drainage strategy

- Design criteria summary, Full network details table, pipe and manhole schedules, contributing area summary, control/storage structure details, results summary print outs
- Flow control device design calculations demonstrating compliance with limiting discharge rate as stated in the above referenced drainage strategy at the correct design head
- Volumetric runoff co-efficient (Cv) should be set to '1'
- Urban creep allowance of 10% should be applied in the design criteria
- Sensitivity checking for climate change at 40% if lower allowance used and climate change allowance to be applied in simulation criteria
- Timetable demonstrating completed SuDS construction prior to occupation

LLFA general comments

You should forecast replacement of any SuDS features which have a life expectancy of less than the development they serve, e.g. geocellular storage, within the operation and maintenance plan. In accordance with S10 and S11 DEFRA's technical standards all components of the sustainable drainage system must be designed to ensure structural integrity of the drainage system and to withstand the anticipated loads over the design life of the development. Reasonable levels of maintenance can be taken into account, but materials must be fit for purpose and you must give consideration as to whether components which will foreseeably require replacement during the design life of the development meet the requirements of S10 and S11.

The House of Commons: Written Statement (HCWS161) on Sustainable Drainage Systems states that the SuDS should be designed to ensure that the maintenance and operation requirements are economically proportionate. Economic proportionality may need careful consideration where SuDS requiring replacement during the lifetime of the development (e.g. geocellular storage) are proposed and the occupier will also be paying the WaSC surface water drainage charges. This is especially important where inclusion of such a component introduces the necessity for a maintenance charge which would not otherwise have been required. The projected costs for replacing components of the SuDS should be included when completing the Operation and Maintenance Plan.

3. In relation to condition 15, the Highway Authority advises the following:

In order to fulfil the highway condition, it will be necessary to enter into a legal agreement with the Council to secure the works under the Highways Act and the New Roads and Streetworks Act. The agreements would include details of the works to be carried out including all necessary new carriageways, footways, vehicle accesses, street lighting, surface water drainage, traffic signs, road markings, tactile pedestrian paved crossings, street furniture, Road Safety Audit and Road Safety Audit monitoring.

5.0 PLANNING HISTORY

Location: LAND OFF RIVERVIEW ROAD, BROMBOROUGH, CH62
 Application Type: Full Planning Permission
 Proposal: Erection of a large industrial unit (Use Class B1, B2 or B8) with associated offices, parking, landscaping and infrastructure.
 Application No: APP/17/01049
 Decision Date: 02/02/2018
 Decision Type: Approve

Location: Land off, RIVERVIEW ROAD, BROMBOROUGH
 Application Type: Screening for EIA
 Proposal: Screening Opinion
 Application No: SCR/17/01257

Decision Date: 01/11/2017
Decision Type: Screening Reply

Location: Site of former Bromborough Power Station, Power Road, Bromborough.
L62 3NW

Application Type: Work for Council by outside body

Proposal: Outline application to use the site for business, General Industrial and storage distribution. (Use Classes B1,B2,B3).

Application No: OUT/89/07225

Decision Date: 14/12/1989

Decision Type: Approve

Location: Bromborough Power Station ,Power Rd ,Bromborough ,L62 0DG

Application Type: Deemed

Proposal: Filling of disused tanks and pits

Application No: DPP/83/22899

Decision Date: 26/07/1983

Decision Type: Conditional Approval

6.0 WARD MEMBER COMMENTS

No comments received.

7.0 SUMMARY OF REPRESENTATIONS

REPRESENTATIONS:

Having regard to the Council Guidance on Publicity for Applications notifications were issued to neighbouring properties and a site notice and press notice posted. No objections have been received.

CONSULTATIONS:

Highway Authority: No objection, subject to condition.

Environmental Protection: No objection, subject to conditions.

Merseyside Environmental Advisory Service: No objection, subject to conditions.

Natural England: No objection, subject to conditions.

Lead Local Flood Authority: No objection, subject to conditions.

Environment Agency: No objection.

Health and Safety Executive: No objection.

8.0 CASE OFFICER: Mr D Clapworthy Senior Planning Officer

9.0 DATE PREPARED: November 22, 2018

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Planning Committee

13th December 2018

REPORT OF THE DIRECTOR

Reference: APP/18/01085

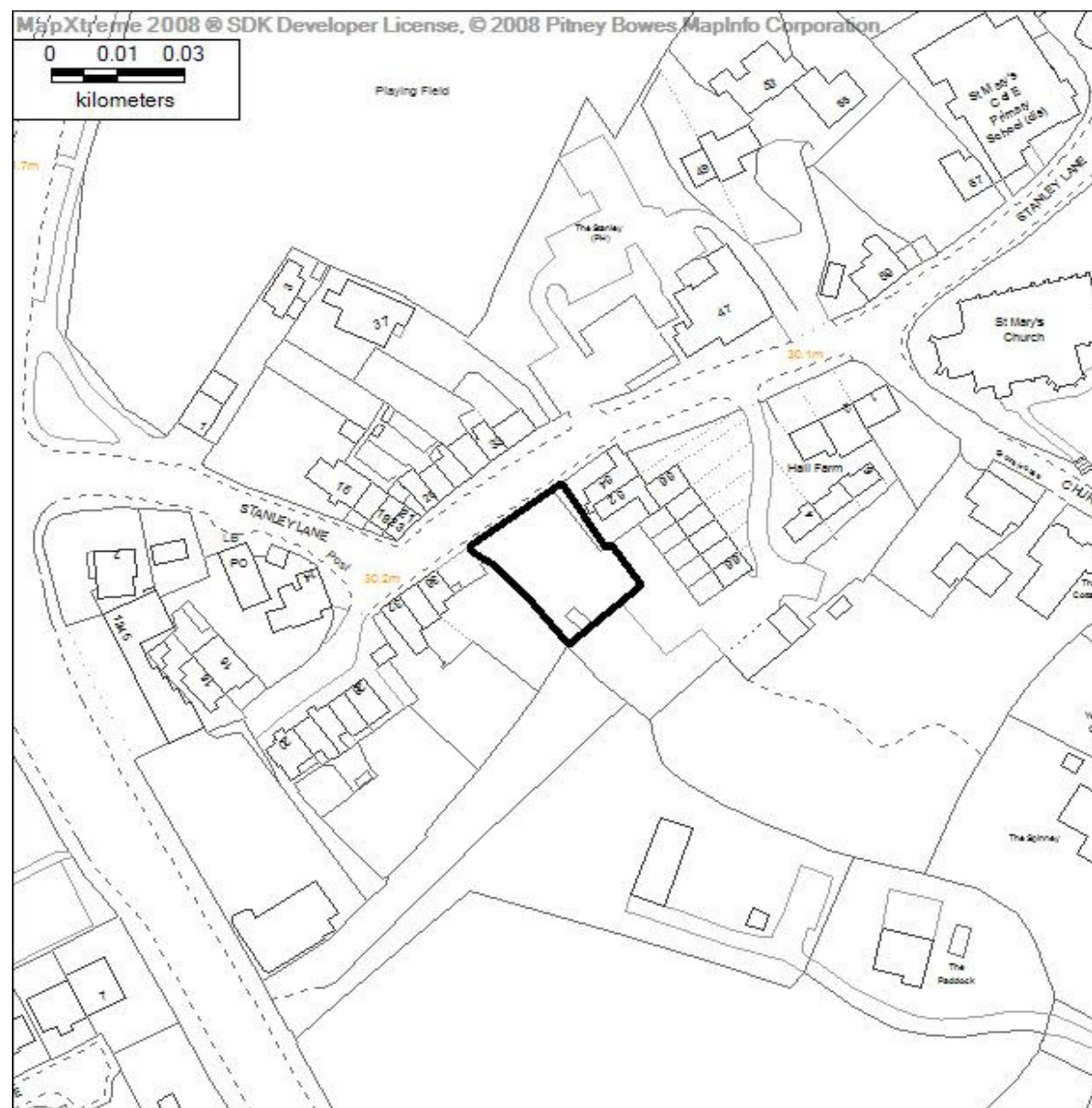
Proposed development: Erection of new detached dwelling

Site Address: Land between 36 & 52/54 Stanley Lane, Eastham, CH62 0AG

Applicant: Mr Evans

Agent : PWE Design

Ward: **Eastham**



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1.0 RECOMMENDATION

1.1 Approve - subject to conditions detailed in paragraph 4.1

2.0 KEY ISSUES/SUMMARY OF RECOMMENDATION

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposed development will not harm the character or integrity of the Eastham Village Conservation Area, or have an unacceptable adverse impact upon the amenities of neighbouring dwellings. The proposal is therefore considered to comply with Wirral Unitary Development Plan Policy HS4, CH1, CH2 and CH10 and the National Planning Policy Framework

3.0 RATIONALE

3.1 Reason for referral to Planning Committee

3.1.1 The application has been referred to Committee due to it being a departure from the Unitary Development Plan.

3.2 Site and Surroundings

3.2.1 The application site is an area of undeveloped land located between the residential properties of 36 and 52/54 Stanley Lane. It is currently overgrown, with a small stone wall and dense tree screening to the front and is within the Green Belt. The site is within the Eastham Village Conservation Area and is directly opposite three Grade II Listed Buildings.

3.3 Proposed Development

3.3.1 The application is for the erection of a new detached dwelling on land between 36 and 52/54 Stanley Lane.

3.3.2 The application follows the refusal of a previous application (APP/16/01237), which was refused for the following reasons:

- The site lies within the Green Belt, where the National Planning Policy Framework and Policy GB2 in the Wirral Unitary Development Plan make it clear that there is a general presumption against inappropriate development and substantial weight must be given to the harm arising from inappropriate development. It is not considered that very special circumstances have been demonstrated that would outweigh such harm and the proposal is therefore contrary to UDP Policy GB2 and the National Planning Policy Framework
- The proposed development of this site, including the loss of trees, would not preserve or enhance the character of Eastham Village Conservation Area and the proposal is therefore contrary to Wirral Unitary Development Plan Policy CH2 and CH10 and the National Planning Policy Framework.

3.3.3 This was subsequently dismissed at appeal (Ref: 3180111), although the Inspector dismissed the appeal on conservation grounds only. The Inspectors report is a material consideration and has resulted in this revised application being submitted. This is dealt with in more detail below.

3.4 Development Plan

3.4.1 The application is subject to Wirral Unitary Development Plan (UDP) Policy GB2: Guidelines for

Development in the Green Belt, Policy HS4: Criteria for New Housing Development, Policy CH1: Development Affecting Listed Buildings and Structures, Policy CH2: Development Affecting Conservation Areas and Policy CH10: Eastham Village Conservation Area.

- 3.4.2 UDP Policy HS4 states that proposals for new housing development on allocated sites and within the Primarily Residential Areas shown on the Proposals Map will be permitted subject to the proposal fulfilling all the following criteria: (i) the proposal being of a scale which relates well to surrounding property, in particular with regard to existing densities and form of development; (ii) the proposal not resulting in a detrimental change in the character of the area; (iii) access and services being capable of satisfactory provision, particularly for off-street car parking areas and garages, and adequate vehicular access; (iv) the provision of appropriate landscaping and boundary treatment which relates the proposed development to its surroundings, paying particular attention to the maintenance of existing natural features and vegetation in accordance with Policy GR5; (v) the appropriate provision of design features which contribute to a secure environment and reduce the likelihood of crime; (vi) incorporating provision for accessible public open space and children's play areas in accordance with Policy GR6; and (vii) the provision of adequate individual private or communal garden space to each dwelling. For all proposals whose main elevations are parallel, or nearly so, an adequate distance should be kept between habitable rooms in separate dwellings. In addition, where the gable end of one property fronts onto the rear elevation of another, then an adequate separation should be achieved.
- 3.4.3 UDP Policy GB2 states that there is a general presumption against inappropriate development within the Green Belt and such development will not be approved except in very special circumstances. It states that planning permission will not be granted for development in the Green Belt unless it is for the purposes of: (i) agriculture and forestry; (ii) essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it; (iii) the limited extension, alteration or replacement of existing dwellings, subject to Policy GB4 and Policy GB5; (iv) the limited infilling in existing villages, subject to Policy GB6, including limited affordable housing subject to local community needs; (v) the limited infilling or redevelopment of major existing developed sites identified under Proposal GB9; Such appropriate development shall not damage the visual amenities of the Green Belt by virtue of its siting, materials or design.
- 3.4.4 The proposed site is within the Eastham Village Conservation Area, and therefore outside of the Eastham Infill Village (as defined in Policy GB6). The proposal does not fall under any of the types of development considered suitable and is therefore classed as inappropriate development, and a departure from the UDP.
- 3.4.5 UDP Policy CH2 states that development located within, adjacent to, or otherwise affecting the setting or special character of a Conservation Area, will be permitted where the visual and operational impact of the proposals can be demonstrated to preserve or enhance: (i) the distinctive characteristics of the Area, including important views into and out of the designated Area; (ii) the general design and layout of the Area, including the relationship between its buildings, structures, trees and characteristic open spaces; and (iii) the character and setting of period buildings and other elements which make a positive contribution to the appearance and special character of the Area.
- 3.4.6 UDP Policy CH10: Eastham Village Conservation Area is also directly relevant. This states that the principal planning objectives for the area will be to: (i) maintain a sense of separation from the surrounding built-up area through the retention of open spaces around the village core; (ii) preserve the setting and sense of enclosure afforded by boundary walls, hedges and mature landscaping; and (iii) preserve the visual setting of the village cross and war memorial and the Church of St. Mary, with its yard and lych-gate. In considering new proposals within the Area, special attention will be given to preserving the group value of period buildings, the irregular development pattern, and the relationship between the design, scale and setting of property and the use of building materials.

3.5 Other Material Planning Considerations

- 3.5.1 The National Planning Policy Framework (NPPF, Revised July 2018) is also relevant. Paragraph 145 states that the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include limited infilling in villages.
- 3.5.2 Paragraph 184 states that the historic environment and its heritage assets should be conserved in a manner appropriate to their significance so they can be enjoyed for their contribution to the quality of life of existing and future generations.

3.6 Assessment

- 3.6.1 The main issues pertinent in the assessment of the proposal are;

- Principle of development;
- Heritage;
- Design;
- Highways; and
- Amenity

3.7 Principle of Development:

- 3.7.1 Wirral UDP Policy GB7 explicitly excludes the conservation area (and therefore the application site) from being part of the 'infill village' and on this basis the previous application was considered to be inappropriate development as it would not constitute limited infilling within a village. However, within the appeal to this refusal the Inspector found that as these UDP policies pre-date the NPPF, then the appeal should be determined in accordance with national policy, which was the original National Planning Policy Framework (2012).
- 3.7.2 The Inspector subsequently concluded that *"by reason of its setting and context, the location of the proposal is quite clearly within a village, bounded on either side by dwellings, with dwellings opposite, and a church and public house in close proximity. The site has all the characteristics of an infill plot, being on a built up road frontage between properties. The curtilage proposed is not dissimilar to that of No 36 and the proposal would fill a clear gap between dwellings. It would also be for one dwelling, which I consider to be limited. Thus, the proposal would fall within the exceptions set out in Paragraph 88 of the Framework, and would not be inappropriate development. Since there is no Green Belt harm, there is no need to identify very special circumstances or assess the effect of the development upon openness."*
- 3.7.3 On this basis, it is considered that the requirement to demonstrate very special circumstances through UDP Policy GB2 is overtaken by NPPF paragraph 145 (e) which makes an exception for limited infilling within a village.

3.8 Heritage:

- 3.8.1 As noted, the previous appeal was dismissed on the grounds that it would harm the significance of the Eastham Village Conservation Area.
- 3.8.2 This part of the Conservation Area is distinctive, with a haphazard relationship between groups of buildings, interspersed with open spaces and woodland. There is little distinct grain, with both small terraces and larger detached houses on almost all roads within the village. UDP Policy CH10 identifies this irregular development pattern within the village as a feature worth preserving.
- 3.8.3 The Inspector found that the previous proposal would *"ultimately develop the majority of the site's width and consequently remove the open space. Furthermore, the building's footprint is substantial when compared to the modest scale buildings in the immediate*

area. As a result, it would appear out of keeping in this location. The development of the open space with the scale of dwelling proposed would harmfully affect a distinctive characteristic of the EVCA, and thus its significance. In this setting, it would introduce an incongruously modern and large built form that would fail to preserve or enhance the character and the appearance of the Eastham Village Conservation Area."

- 3.8.4 To overcome this, the revised proposal reduces the footprint of the dwelling significantly. The width of the dwelling has been reduced from 13.4 metres to 11.9 metres and the shape of the building has also changed, from an 'L' shape building with a depth of 12.4 metres to a more traditional linear form with a depth of 6.6 metres.
- 3.8.5 The proposed dwelling is also set much further back on the site, being 13 metres back from the front boundary of the site, compared to the previous proposal of approximately 8 metres. In addition, the proposed area of hardstanding to the front has been significantly reduced. Whereas the previous proposal would have effectively taken up the whole of this area with hardstanding, the current proposal will result in hardstanding taking up less than half the width of the site, allowing for the retention of a significant area of green landscaping. The reduction in the width of the dwelling also allows for a greater area of landscaping to be retained to the side of the building.
- 3.8.6 These amendments result in reducing the visual bulk of the proposed building and the impact it will have on the conservation area, whilst also allowing for a greater area of the existing green space to be retained. The reduction in footprint also results in it being much more in keeping with other properties within the area, and it is considered that the design and scale harmonises with this part of Stanley Lane, with the linear form, small casement timber windows, chimney and gable link dormers. Given the changes to the scheme, it is considered that the previous concerns have been overcome and the proposed development will preserve the character and integrity of the Eastham Village Conservation Area.
- 3.8.7 Although the site is opposite listed buildings, the Inspector was satisfied that the original proposal would have no significant effect upon their setting. The same conclusion is considered to apply to this revised application.

3.9 Design:

- 3.9.1 The design of the proposed dwelling will be of a 'cottage' appearance, with the upper-floor within the roof and two front-facing gables. The incorporation of a chimney and window cills will give some interest, whilst the brickwork finish will match other properties within the immediate area. Overall, the low-scale of the proposed dwelling and the simple design is considered to be suitable for this sensitive location and sufficiently in-keeping with existing properties.

3.10 Highways:

- 3.10.1 Off-street parking will be provided within the site, via an existing access onto Stanley Road. Given that there have been no reported collisions along Stanley Lane in the last 5 years which have resulted in injuries, it is considered that there are no traffic or transport issues which would warrant refusal of the application.

3.11 Amenity:

- 3.11.1 The blank side elevation of the proposed dwelling would be a distance of approximately 21 metres from the main rear elevation of 56 - 60 Stanley Lane. There will be a distance of approximately 10 metres from 52 Stanley Lane, which is considered acceptable given that the proposed dwelling will not be directly opposite this property and given the small scale of the new dwelling. The proposed dwelling will be over 25 metres from properties opposite the site on Stanley Lane, whilst the substantial distance between the proposed dwelling and 36 Stanley Lane will ensure that the difference in building lines does not harm residential amenity. Overall, it is considered that the proposal will not have an unacceptable adverse impact upon the amenities of neighbouring properties.

- 3.11.2 The future occupiers of the proposed dwelling will benefit from sufficient amenity space and outlook and the living standards provided are therefore considered to be acceptable.

4.0 RECOMMENDATION

4.1 Approve - subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 12th November 2018 and listed as follows: EVA650-0316-R Revision 2

Reason: For the avoidance of doubt and to define the permission.

3. Prior to the commencement of any building works above ground level, samples of the materials to be used in the external construction of this development shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall then be used in the construction of the development.

Reason: To ensure a satisfactory appearance to the development in the interests of visual amenity and to comply with Policy HS4 of the Wirral Unitary Development Plan

4. Prior to the commencement of any building works above ground level, full details of the hard and soft landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to first occupation of the proposal and shall be retained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of amenity having regard to Wirral Unitary Development Plan Policy CH2

5. Prior to the commencement of any building works above ground level, full details of all proposed boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. Any boundary treatment shall subsequently be in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority

Reason: In the interests of amenity having regard to Wirral Unitary Development Plan Policy CH2

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no garages, outbuildings or other extensions to the dwelling shall be erected unless expressly authorised.

Reason: In order to protect the character of the area and to accord with Policy CH2 of the Wirral Unitary Development Plan.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) no new walls, fences or other means of enclosure shall be erected on any part of the land lying between any main wall of the building fronting a highway and the highway boundary.

Reason: To preserve the visual amenities of the area and to accord with Policy CH2 of the Wirral Unitary Development Plan.

8. Prior to the commencement of any building works above ground level, details of the timber windows and doors (including elevation drawings at a scale of 1:20 and vertical and horizontal cross sections at a scale 1:5 or 1:2 to indicate their profile) shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be used in the construction of the development

Reason: To ensure a satisfactory appearance having regard to Wirral Unitary Development Plan Policy CH2

9. All rooflights within the development hereby permitted shall be conservation rooflights unless otherwise agreed in writing by the Local Planning Authority

Reason: To ensure a satisfactory appearance having regard to Wirral Unitary Development Plan Policy CH2

Further Notes for Applicant:

1. Consent under the Highways Act is required for the construction of a new or the amendment/removal of an existing vehicular access. Such works are undertaken at the developer's expense, including the relocation/replacement and/or removal of street furniture and vegetation as necessary. Submission of a S50 Highway Opening Notice is required prior to commencement of any works on the adopted highway. Please contact the Council Highway Management team area manager via www.wirral.gov.uk prior to the commencement of the works for the approval of the proposed details

5.0 PLANNING HISTORY

Location: Land south west of (adjacent) 52, and 54, Stanley Lane, Eastham. L62 0AG
Application Type: Outline Planning Permission

Proposal: Erection of 3 terraced houses with rear parking, (outline).
Application No: OUT/91/06095
Decision Date: 11/07/1991
Decision Type: Withdrawn

Location: Land south west of (adjacent) 52 and 54, Stanley Lane, Eastham. L62 0AG
Application Type: Outline Planning Permission

Proposal: Erection of one pair semi-detached houses with parking and access plus parking for existing house, (outline).
Application No: OUT/91/06398
Decision Date: 15/11/1991
Decision Type: Refuse - APPEAL DISMISSED 19/03/1992

Location: Gardens south west of (adjacent) 52/54, Stanley Lane, Eastham. L62 0AG
Application Type: Outline Planning Permission

Proposal: Erection of one pair of semi-detached houses, (outline).
Application No: OUT/92/06317
Decision Date: 10/09/1992
Decision Type: Withdrawn

Location: Land south west of (adjacent) 52-54, Stanley Lane, Eastham. L62 0AG
Application Type: Full Planning Permission

Proposal: Erection of a detached house.
Application No: APP/94/06083
Decision Date: 14/10/1994
Decision Type: Refuse

Location: Land south west of (adj) 52-54, Stanley Lane, Eastham. L62 0AG (amended location)
Application Type: Full Planning Permission
Proposal: Erection of a detached house.
Application No: APP/95/06408
Decision Date: 24/11/1995
Decision Type: Refuse

Location: land between , 34-54 Stanley Lane, Eastham, Wirral, CH62 0AG
Application Type: Full Planning Permission
Proposal: Erection of detached dormer dwelling with parking and provision of gardens to Numbers 52 & 54 Stanley Lane.
Application No: APP/05/06514
Decision Date: 25/07/2005
Decision Type: Withdrawn

Location: Land between , 36 and 54 Stanley Lane, Eastham, Wirral, CH62 0AG
Application Type: Full Planning Permission
Proposal: Erection of detached dormer dwelling with parking and provision of gardens to 52 & 54 Stanley Lane.
Application No: APP/05/07264
Decision Date: 30/11/2005
Decision Type: Withdrawn

Location: Land between 36 and 52/54 STANLEY LANE, EASTHAM, CH62 0AG
Application Type: Full Planning Permission
Proposal: Detached new dwelling
Application No: APP/16/01237
Decision Date: 17/01/2017
Decision Type: Refuse - APPEAL DISMISSED 13/12/2017

6.0 WARD MEMBER COMMENTS

No comments received.

7.0 SUMMARY OF REPRESENTATIONS

REPRESENTATIONS

Having regard to the Council's Guidance for Publicity on Planning Applications, 15 notifications were sent to adjoining properties and a site notice was displayed near the site. At the time of writing, there had been 2 objections received, which can be summarised as:

1. Highways concerns;
2. Drainage Issues;
3. Land ownership issues (subsequently resolved through a slight change to the location and site plans)

One letter in support of the application was also received.

CONSULTATIONS

Highways - No objection

Environmental Health - No objection

8.0 CASE OFFICER: Mr N Williams

Principal Planning Officer

9.0 DATE PREPARED: November 27, 2018

Planning Committee

13th December 2018

REPORT OF THE DIRECTOR

Reference: **APP/18/01147**

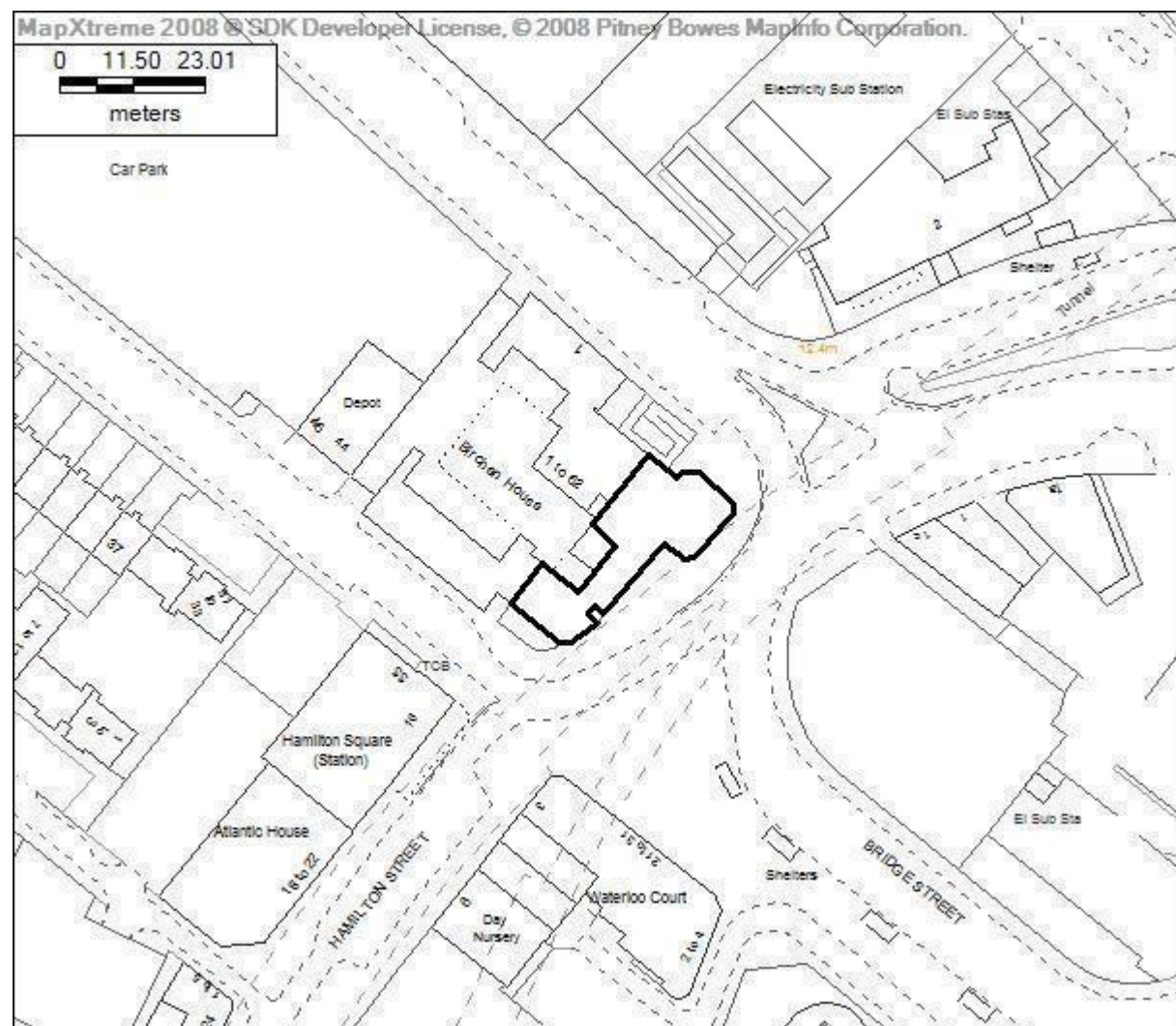
Proposed development: Change of use from a cafe (A3) and the old Pier Hotel to five apartments (C3).

Site Address: Birchen House, Hamilton Street, Birkenhead, CH41 6QS

Applicant: Crossfield Exclusive Developments

Agent : Garry Usherwood Associates Limited

Ward: **Birkenhead and Tranmere**



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1.0 RECOMMENDATION

1.1 Approve - subject to conditions detailed in paragraph 4.1

2.0 KEY ISSUES/SUMMARY OF RECOMMENDATION

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following:-

Although the site is designated as part of Primarily Commercial Area in the Wirral Unitary Development Plan, the applicant has demonstrated, to the satisfaction of the Local Planning Authority, that there is no reasonable prospect of development site to attracting commercial uses that are permitted under UDP Policy SH6. The proposal is therefore considered acceptable having regard to the National Planning Policy Framework in. The design of the development is appropriate within its context and the dwellings will provide a reasonable living environment for future occupiers. The proposal is otherwise considered to be compliant with UDP Policies, HS4 and HS13 of the adopted Wirral Unitary Development Plan, Supplementary Planning Document SPD2 and the provisions of the National Planning Policy Framework.

3.0 RATIONALE

3.1 Reason for referral to Planning Committee

3.1.1 The proposal represents a departure from the Wirral Unitary Development Plan.

3.2 Site and Surroundings

3.2.1 The property is located on the corner of Bridge Street, Hamilton Street and Canning Street on the far side of the road from Hamilton Square Station. Permission has been granted for Birchen House to be converted to residential at first floor and above through the prior approval process. The majority of the ground floor is vacant at present.

3.2.2 The site is located within a Primarily Commercial Area and the Hamilton Square Conservation Area. The surrounding area comprises a mix of commercial and employment uses.

3.3 Proposed Development

3.3.1 The proposal involves the change of use of the ground floor café and public house into five flats (three x one bedroom and two x two bedroom). Pedestrian and vehicular access to the units will be from Bridge Street. Parking will be provided to the rear of the site.

3.4 Development Plan

3.4.1 Policy SH6 – Development Within Primarily Commercial Areas

This policy states that uses falling within (Class A1/Class A2/Class A3/Class B1/Class D1) will be permitted subject to the proposal fulfilling a number of criteria. These include the proposal not undermining the vitality or viability of any Key Town Centre or Traditional Suburban Centre, meeting access and servicing requirements, the visual impact being acceptable, and the proposal not causing a nuisance.

3.4.2 HS4 Criteria for New Housing Development Policy

Proposals for new housing development on allocated sites and within the Primarily Residential Areas shown on the Proposals Map will be permitted subject to the proposal fulfilling all the following criteria:

(i) the proposal being of a scale which relates well to surrounding property, in particular with regard to existing densities and form of development;

(ii) the proposal not resulting in a detrimental change in the character of the area;

- (iii) access and services being capable of satisfactory provision, particularly for off-street car parking areas and garages, and adequate vehicular access;
- (iv) the provision of appropriate landscaping and boundary treatment which relates the proposed development to its surroundings, paying particular attention to the maintenance of existing natural features and vegetation in accordance with Policy GR5;
- (v) the appropriate provision of design features which contribute to a secure environment and reduce the likelihood of crime;
- (vi) incorporating provision for accessible public open space and children's play areas in accordance with Policy GR6; and
- (vii) the provision of adequate individual private or communal garden space to each dwelling.

For all proposals whose main elevations are parallel, or nearly so, an adequate distance should be kept between habitable rooms in separate dwellings. In addition, where the gable end of one property fronts onto the rear elevation of another, then an adequate separation should be achieved.

3.4.3 HS13 Self-Contained Flat Conversions Policy

Proposals for the conversion of existing buildings into self-contained flats will be permitted subject to:

- (i) the conversion ensuring the privacy of neighbours and occupants including the layout of car parking areas to prevent overlooking of habitable room windows;
- (ii) access normally being provided to individual flats within the main structure of the building. If external staircases have to be provided they must not result in significant overlooking of neighbours' windows or private amenity space;
- (iii) any extensions required complying with Policy HS11;
- (iv) any new windows required to serve habitable rooms, such as living rooms, kitchens or bedrooms, not overlooking adjoining properties to an unacceptable degree;
- (v) any interior vertical partitions not cutting across windows and ceiling height reductions not being visible externally;
- (vi) adequate sound proofing between flats;
- (vii) any basement flat having windows with two-thirds of their height above the existing outside ground level giving sufficient daylight penetration, a reasonable outlook and not immediately adjacent to parking bays and vehicle access ways;
- (viii) main living rooms having a reasonable outlook and not lit solely by roof lights, nor in close proximity to high boundary or gable walls;
- (ix) access to rear yards/ gardens being provided from each flat;
- (x) adequate visibility at entrance and exit points and turning space for vehicles; and
- (xi) the proposal otherwise complying with Policy HS4 and Policy HS5.

3.4.4 Supplementary Planning Document 2 states;

A successful project should:

- relate well to the geography and history of the place and the lie of the land;
- sit happily in the pattern of existing development and routes through and around it;
- respect important views (from public vantage points);
- respect the scale of neighbouring buildings;

- use materials and building methods, which are as high or of higher quality as those used in existing buildings; and
- create new views and juxtapositions, which add to the variety and texture of the setting.

Unless it can be demonstrated that privacy would not be unduly affected, habitable room windows directly facing each other should be at least 21 metres apart. Main habitable room windows should be at least 14 metres from any blank gable. If there are differences in land levels or where development adjoins that of different ridge height, such as three storey development adjacent to two storey property, a greater separation should be provided. For every metre difference in ridge height (or part thereof) the above distances should be increased by 2 metres.

3.5 Other Material Planning Considerations

- 3.5.1 Under NPPF paragraph 120, the Local Planning Authority would need to be satisfied that there is no reasonable prospect of the site being used for commercial purposes (Use Classes A1, A2, A3, B1 and D1) under UDP Policy SH6 and be prepared to reallocate the land for a more deliverable use through the Local Plan; and in the interim support planning applications on the basis that they would contribute to meeting an unmet need (NPPF paragraph 120 refers).

The site is adjacent the Woodside Regeneration Area which is recommended for potential allocation for mixed uses that could include residential development through the Development Options Review for the emerging Local Plan. However, this is subject to further assessment following public consultation should not be afforded significant weight at the stage.

There is a presumption in favour of sustainable development through the National Planning Framework (NPPF paragraph 11) and it is considered that the proposal in this case would not cause harm.

3.6 Assessment

- 3.6.1 The main issues pertinent in the assessment of the proposal are;

- Principle of development;
- Design;
- Highways; and
- Amenity

3.7 Principle of Development:

- 3.7.1 The proposed development is a departure from the Wirral Unitary development plan, as the site is identified as a Primarily Commercial Area on the UDP Proposals map and UDP Policy SH6 only makes provision for development within Use Classes A1, A2, A3, B1, and D1. Material considerations must be identified to outweigh the provisions of the statutory development plan in favour of the application before planning permission can be granted.

- 3.7.2 Application 16/01087, for the change of use of a part of the ground floor area to residential was refused for the following reason:

Insufficient evidence has been submitted to justify the development of a residential dwelling within a primarily commercial area and as such the proposal is considered contrary to the principles set out in policy SH6 of the Wirral UDP and the National Planning Policy Framework.

- 3.7.3 Following this refusal, the present application has been submitted with additional information. A letter has been submitted by a Chartered Surveyor/Commercial Agent stating that;

We have always concluded that due to its peripheral position, located on a busy vehicle thoroughfare as well as minimal passenger footfall that there never has been a viable market for retail space in this location. This has been substantiated by the fact that the accommodation has remained vacant for over ten years.

- 3.7.4 The applicant has been unable to state when or where the property has been marketed for commercial use. Nonetheless, there have been large banners on the exterior of the building advertising it for sale or let since at least June 2012. It is therefore clear that the building has been vacant for a considerable period of time.
- 3.7.5 Given the points raised above it is apparent that the ground floor elements of this building are unlikely to attract commercial occupants. Furthermore, given the conversion of the upper floors to residential, the conversion of the ground floor to residential would be beneficial to residential amenity. On balance, it is considered that the benefits of converting the ground floor of the building to five residential units is preferable to the retention of the ground floor in its present empty state.
- 3.8 Design:
- 3.8.1 The application site consists effectively of three very different building facades; the traditional stone façade on the corner of Hamilton Street and Bridge Street, the late twentieth century office element, and the ornate tiled former Pier Hotel. The proposal involves very few changes to the exterior, the principle change being the insertion of windows in the modern part of the building. This area will also be provided with a 1.3 metre high picket style fence, which will provide some defensible space for the occupants of this flat. The design aspects of the proposal are considered to be acceptable.
- 3.9 Highways:
- 3.9.1 The applicant has confirmed that 2 parking spaces will be allocated to the new dwellings, with 19 spaces retained for the dwellings on the upper floors. Bin storage and collections will take place within the rear service yard, making use of the existing vehicular access off Bridge Street and Canning Street.
- 3.10 Ecology:
- 3.10.1 There are no Environmental/Sustainability issues relating to these proposals.
- 3.11 Amenity:
- 3.11.1 There are no residential dwellings nearby that will suffer from loss of privacy as a result of the conversion of the ground floor of Birchen House to residential use. The proposed flats will all have generous room sizes and good quality outlook. The new picket style fence will enhance the privacy of the occupants of flats 2 and 3. The amenity of future occupants will be of a good quality.

4.0 RECOMMENDATION

4.1 Approve - subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 5 October 2018 and listed as follows: 433/C101 Rev C, 433/C102, 433/C103, 433/C104, 433/C105, 433/C106 and with the approved plans received by the local planning authority on 15 November 2018 and listed as follows: 433/C107.

Reason: For the avoidance of doubt and to define the permission.
3. The dwellings hereby approved shall not be occupied until vehicle parking spaces 9 and 10 have been demarcated in accordance with approved plan 433/C107 and these areas shall be retained thereafter for that specific use.

Reason: In the interests of highway safety and to accord with Policy TR9 in the Wirral Unitary Development Plan

5.0 PLANNING HISTORY

Location: Birchen House, 1 CANNING STREET, BIRKENHEAD
Application Type: Prior Approval Commercial PD
Proposal: Prior approval of a proposed change of use of a building from office use (Use Class B1) Use to a use falling within Use Class C3 (Dwellinghouse) for 62 apartments
Application No: COMX/14/01604
Decision Date: 16/03/2015
Decision Type: Prior approval is not required

Location: Birchen House, 8 HAMILTON STREET, BIRKENHEAD, CH41 6DN
Application Type: Full Planning Permission
Proposal: Change of use for a cafe (A3) to an apartment (C3).
Application No: APP/16/01087
Decision Date: 04/01/2017
Decision Type: Refuse

6.0 WARD MEMBER COMMENTS

No comments received.

7.0 SUMMARY OF REPRESENTATIONS

REPRESENTATIONS

Having regard to the Council Guidance on Publicity for Applications no notifications were sent to adjoining properties. This is because the dwellings on the upper floor of the building are still under construction, and the other nearby building is Hamilton Square Station. A site notice was displayed. At the time of writing this report no objections have been received.

CONSULTATIONS

Highways – No objections

Environmental Health – No objections received

8.0 CASE OFFICER: Mr B Pratley Planning Officer

9.0 DATE PREPARED: November 22, 2018

Planning Committee

13th December 2018

REPORT OF THE DIRECTOR

Reference: **APP/18/01198**

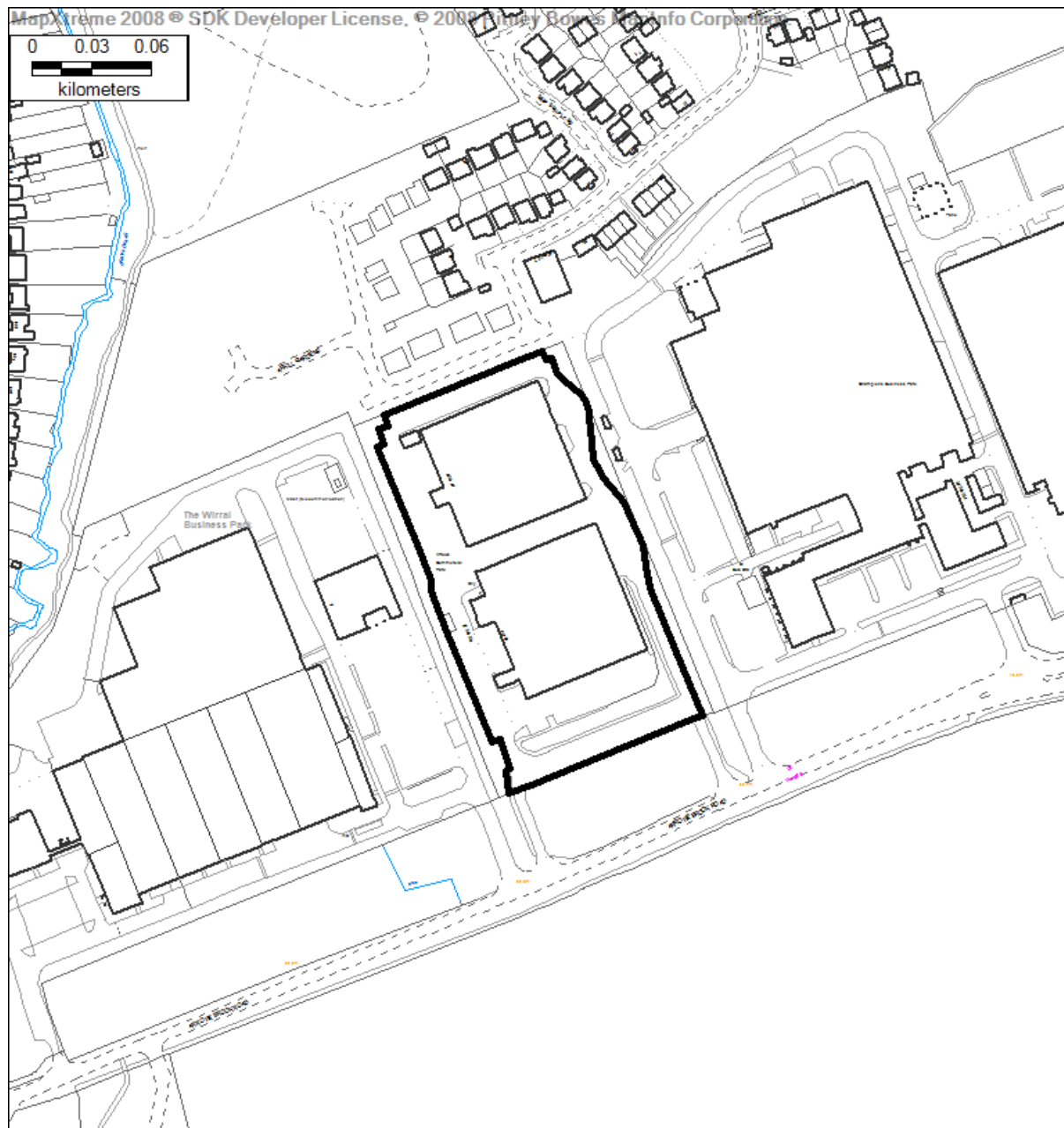
Proposed development: Proposed change of use of vacant Industrial unit to Gymnasium (Class D2) use

Site Address: Unit 11, Arrowe Commercial Park, ARROWE BROOK ROAD, UPTON, CH49 1AB

Applicant: Empowered Fit

Agent : Mr McHugh

Ward: **Greasby Frankby and Irby**



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1.0 RECOMMENDATION

1.1 Approve - subject to conditions detailed in paragraph 4.1

2.0 KEY ISSUES/SUMMARY OF RECOMMENDATION

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The application is contrary to UDP Policy EM8, there being no provision for gymnasiums which are identified as a town centre use in NPPF. Evidence of unsuccessful marketing over the past few years and the unavailability of grant funding in this particular case can be accepted as material considerations that indicate there is currently no reasonable prospect of a site being used for the designated employment purposes in the near to medium term. The applicant has also demonstrated there are currently no other sequentially preferable sites for accommodating the proposed gymnasium in the locality. Having regard to the town centre sequential test set out in the NPPF and the evidence on the prospects of securing the employment uses for the site, it is considered that the proposal would be acceptable on a temporary basis in this particular case as the proposed use of this building is unlikely to result in harm to neighbouring businesses or the viability of nearby retail centres.

3.0 RATIONALE

3.1 Reason for referral to Planning Committee

3.1.1 The proposed development is a departure from the development plan (Policy EM8)

3.2 Site and Surroundings

3.2.1 The proposal relates to Unit 11 which is a vacant industrial unit within a large industrial building located within Arrowe Commercial Park, on the north side of Arrowe Brook Road.

3.2.2 Arrowe Commercial Park is an industrial site containing two separate large 'hangar' type modern industrial single storey sheds which are subdivided into commercial units of varying sizes. Unit 11 sits on the east elevation side of the southern block. It is adjacent to Units 1 and 2 which lie on the southern elevation of this same block, facing the road, and which are already occupied and used by 'Empowered Fit' gymnasium, the applicants for this Unit 11 proposal.

3.2.3 The Commercial Park site as a whole is well screened by mature trees and landscaping, and is set back behind a large grassed verge and tree belt along the Arrowe Brook Road frontage. The whole site is lower down and sunken compared to the main road, and the visual impact of the site as a whole is minimal to the character of the surrounding area. It has 2 south side vehicular access points on to this road, and the buildings within the site are surrounded by large open areas and recessed areas around the edges that provide ample opportunities for on site parking, some of which have parking bays marked out in white.

3.2.4 This industrial site in Upton/Greasby area is bordered by further industrial land to the east Champions Business Park; and further industrial land to the west - The Wirral Business Park; all designated Primarily Industrial Area land under the adopted Wirral UDP (Policy EM8). There are new residential dwellings to the north (Atholl Duncan Drive). To the south of the site are the open fields, playing fields and woodlands of Arrowe Park, which is both designated Green Belt land (Policy GB2) and designated Countryside Recreation Site land (Policy TL11/1).

3.2.5 The premises are located approximately 800 metres from the nearest designated town centre, which is Upton Village Traditional Suburban Centre (Policy SH2/2) to the north-east of the premises. There is also a small retail development consisting of a number of large A1 retailers (Sainsburys, Argos, Homebase), designated as an Out of Centre Retail Development, which lies approximately 350 metres north of the premises, south of the Upton By Pass road.

3.3 Proposed Development

3.3.1 The proposal is for change of use of vacant industrial Unit 11 on the east side of the southern

building block to a Gymnasium use (within Class D2 (Assembly and Leisure) of the Use Classes Order).

- 3.3.2 The proposal will provide an extension to the existing neighbouring functioning Gymnasium use currently operated by the applicant 'Empowered Fit' that occupies the adjacent Units 1 and 2 to the south, a gymnasium use (Class D2) which was granted planning permission on 16 November 2017 (Ref: APP/17/0899). The gymnasium is popular and the applicants wish to provide additional space for a modern style gymnasium featuring state of the art exercise equipment and further facilities such as a dedicated weights area and a separate circuit training, in a single storey building.
- 3.3.3 The applicants agents have provided two detailed reports in support of their case for location here. This includes a Planning Statement – which contains details their property search requirements and the sequential test site search they have undertaken on potential alternative sites in town centre areas before selecting this site. They have also included a Justification for Loss of Employment Land statement, which includes estate agents marketing details and information to demonstrate that this vacant Unit has been continually marketed for over 18 months for industrial uses.

3.4 Development Plan

Adopted Wirral Unitary Development Plan (UDP) 2000

- 3.4.1 Policy EM8 Development within Primarily Industrial Areas: This states, that within the Primarily Industrial Areas indicated on the Proposals Map, proposals for the following uses will be permitted, uses falling within Classes B1, B2 or B8 of the Town and Country Planning (Use Classes) Order 1987 and proposals for the reconstruction, extension or expansion of existing businesses, including those involving the introduction of a notifiable hazardous substance above its controlled quantity subject to Policy PO8.
- 3.4.1
- 3.4.2 Policy TR9- Requirements for Off Street Parking : This states that in assessing any off-street provision associated with development proposals, that the LPA will be guided by a number of considerations, including: the operational minimum and maximum level of car parking associated with the proposed development; road safety and traffic management issues in the locality of the proposal; and the likelihood of cars being parked on roads. Further supplementary guidance is given in adopted Supplementary Planning Document SPD4 on Parking Standards
- 3.4.3 Adopted Wirral SPD4 – Parking Standards (June 2007): Within this, the general parking standards set out in its tables show a maximum number of off street parking spaces that should be provided alongside new development and changes of use at existing premises like this. Spaces for vehicles carrying disabled people, service vehicles, taxis and motor cycles are the minimum required. The table for Use Class D2 (Assembly and Leisure) leisure facility uses like this proposed gymnasium requires a Maximum 1 space per 25 square metres of area, for staff and operational parking.
- Emerging Wirral Core Strategy Local Plan
- 3.4.4 Relevant policies in emerging Local Plan may be given weight according to the degree of consistency with to national policies in the revised National Planning Policy Framework (July 2018).
- 3.4.5 Emerging Draft Policy CS17 (as amended) - Protection of Employment Land (July 2013)
Draft Policy CS17 (as amended) is relevant, as it seeks to safeguard employment land within designated employment areas such as the Primarily Industrial Area in which the application site lies, as designated under in the adopted Wirral UDP (Policy EM8) for B1, B2, and B8 uses. It also provides a method of considering potential losses of employment land on Primarily Industrial Area sites when changing to non compliant town centre uses such as this proposed D2 leisure use.
- 3.4.6 On Marketing, Policy CS17 on Protection of Employment Land states:
"Alternative uses will only be acceptable on land designated for B1,B2, B8 or other similar employment uses where:

2. The site has been continuously marketed for employment uses at realistic prices for a period of at least 12 months and there is no reasonable prospect of the site being re-used for employment uses; "

- 3.4.7 On a Sequential Test search for alternative sites, Policy CS17 on Protection of Employment Land states:
"Alternative uses will only be acceptable on land designated for B1, B2, B8 or other similar employment uses where:
6. In the case of main town centres uses, that the proposal has been subject to an impact and sequential test under national policy and meets the requirements of Policy CS29;"
- 3.4.8 Emerging Core Strategy Policy CS29 - Criteria for Edge-of-Centre and Out-of-Centre Facilities (July 2013) includes the statements that:
" New floorspace for Use Classes.....D2 and other main town centre uses outside the centres listed in Policy CS25, including changes of use,will be permitted where it can be demonstrated that:
1. No alternative, suitable sites are available, first within, and then at the edge of a centre listed in Policy CS25"
(Note: Policy CS25 = Hierarchy of Retail Centres (town centres locations))
- 3.4.8 Emerging Core Strategy Policy CS29 - Criteria for Edge-of-Centre and Out-of-Centre Facilities (July 2013) includes the statements that:
" New floorspace for Use Classes.....D2 and other main town centre uses outside the centres listed in Policy CS25, including changes of use,will be permitted where it can be demonstrated that:
1. No alternative, suitable sites are available, first within, and then at the edge of a centre listed in Policy CS25"
(Note: Policy CS25 = Hierarchy of Retail Centres (town centres locations))
- 3.4.9 It is noted that the list of current adopted and designated Town Centre areas can be found under Policy SH1 - Key Town Centres and Policy SH2 - Traditional Suburban Centres in the UDP, and they are also shown on the UDP Proposals Map.

3.5 Other Material Planning Considerations

The National Planning Policy Framework (July 2018)

- 3.5.1 On "*Building a strong, competitive economy*" (Chapter 6), and helping businesses, the NPPF, at paragraph 80 states:
" Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development."
- 3.5.2 Under NPPF paragraph 120, the Local Planning Authority would need to be satisfied that there is no reasonable prospect of the site being used for business purposes (Use Classes B1, B2 and B8 under UDP Policy EM8 and be prepared to reallocate the land for a more deliverable use through the Local Plan; and in the interim support planning applications on the basis that they would contribute to meeting an unmet need.
- The site has not been identified for deallocation in the current Development Options Review for the emerging Local Plan or in the Wirral Employment Land & Premises Study (EPLS), which indicates that the industrial estate is an important source of local employment and is of good quality albeit with some vacant units.
- 3.5.3 Main Town Centre Uses: - The definition of these, in the NPPFs Annex 2: Glossary includes:"more intensive sport and recreation uses (including.....health and fitness centres...)"
The proposed gymnasium D2 use here is therefore a town centre use under the NPPF.
- 3.5.4 On "*Ensuring the vitality of town centres*" (Chapter 7) the NPPF, with regard to a sequential

test site search, states at paragraph 86 that:

"Local authorities apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan.

Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered."

- 3.5.5 Also on supporting the role town centres play, the NPPF states, on impact assessments, at paragraph 89, that:
"When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq.m of gross floorspace)"
This should include an assessment of impact of proposal on investment in a centre, and impact on town centre vitality and viability.
- 3.5.6 Under NPPF paragraph 89, as the area (549 sq metres) of this proposed town centre use proposal (outside of a centre) falls below the national default threshold of 2,500 sq metres gross floor space, an Impact assessment is not required, but a Sequential test is required.
- 3.5.7 National policy in the NPPF and emerging Policy CS17 and therefore require information on a sequential test be submitted with the application, showing that developers have looked at sites in designated town centres first.

3.6 Assessment

3.6.1 The main issues pertinent in the assessment of the proposal are;

- Principle of development
- Assessment of Proposed Use against Adopted Wirral Policy, Emerging Wirral Policy, and the revised National Planning Policy Framework (NPPF), with regard to Site marketing and Sequential Test Search
- Highways and Traffic Implications

Main Issues

3.7 Principle of Development:

3.7.1 The proposal is a departure from the adopted development plan the site being designated as part of a Primarily Industrial Area subject to UDP Policy EM8. The application must be determined in accordance with the statutory development plan unless material considerations indicate otherwise.

3.8 Assessment of Proposed Use against Adopted Wirral Policy, Emerging Wirral Policy, and the revised National Planning Policy Framework (NPPF), with regard to Site marketing and Sequential Test Search

3.8.1 Wirral UDP Policy EM8 on Development within Primarily Industrial Areas: As within the Primarily Industrial Areas indicated on the Proposals Map only proposals for the uses falling within Classes B1, B2 or B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended) will be permitted, the proposed D2 use is therefore not in accordance with the UDP and is a departure from the development plan.

3.8.2 Emerging Wirral Policy and NPPF and Site Marketing
On marketing, the Justification For Loss of Employment Land Statement contains appropriate evidence of and agents brochures and information and marketing activity that has taken place over quite a period of time for this Unit 11 and Park site as whole.

3.8.3 To check the prospects of the industrial units attracting employment uses, the applicants had previously contacted Wirral Chamber of Commerce regarding current financial support for industrial businesses, and the Wirral Chamber of Commerce had confirmed that there are no

start up loans on offer or grants available, a regional growth fund was available to existing businesses however this fund has now come to an end with no planned replacement.

- 3.8.4 In accordance with Wirral Policy CS17, the site (including Unit 11) has been continuously marketed for employment (B1, B2, B8) uses at realistic prices for at least the past 12 months up to the submission of this current planning application (i.e. at least from August 2017 to September 2018, and before that and is still being marketed today. This meets the marketing requirements of emerging Policy CS17. The statement and evidence show there has been little interest in re-using the site in this time, and there is no reasonable prospect of the site being re-used for employment purposes.
- 3.8.5 Emerging Wirral Policy and NPPF and Sequential Test Search for Sites
In their Planning Statement the applicant has given the following information regarding their search for alternative sites:
- 3.8.6 They set out their search parameters for the type of sites and floorspace they were looking for, including preferably vacant D2 use sites. They state that the gymnasiums existing catchment area and proposed catchment area including additional space is the whole Wirral peninsula. A sequential test search for alternative D2 use sites in town centre locations within this catchment area was carried out and researched and results are contained within Appendix 1 of their Planning Statement
- 3.8.7 For suitable sites they first searched within the designated town centres listed under adopted Wirral UDP Policies SH1 and SH2 (Key Town Centres and Traditional Suburban Centre locations) They then searched for sites at the edge of these centres for potential suitable locations. Only then did they search for suitable sites in out of town centre locations in the Wirral area which included business parks and employment areas. They conducted this sequential site search in accordance with the sequential test search requirements of the revised NPPF (Paragraph 86) and emerging Wirral Core Strategy Policy CS17.
- 3.8.8 In their Planning Statement Conclusion they include the following statements:
- “The sequential test search for alternative D2 use sites in Wirral UDP designated town centre locations has concluded that there are no other suitable buildings available for this proposal in the local town centre. Furthermore there are no suitable units on the edge of the centres or in other out of town centre locations that will suit the business model of the proposed gym that are more suitably located.” And:
- 3.8.9 “To leave the Units at Arrowe Commercial Park and look for a larger unit elsewhere would economically not be viable and would most definitely lose members, staff and would therefore destroy the success the gym has built of the past years. It has therefore been concluded that all available properties on the Wirral aren’t suitable for this business. The current business needs to remain in its current location and make use of the vacant unit to strengthen the business further.
- We would put forward and as demonstrated by the accompanying Justification for Loss of Employment Land that the units can be difficult to let to industrial and employment uses, which is demonstrated by the occupancy figures at the site over the last number of years.” And:
- 3.8.10 “The building instead would be perfect for the existing gymnasium to extend providing an enlarged modern gym environment which would continue to energise the site and create much needed income to reinvest in the site. There are no alterations proposed to the building which means there would be no effect to the character of the industrial area. The extended gymnasium will continue to improve the health and well-being of the local community.” And
- 3.8.11 “The Gym would provide additional employment. Currently the gym employees the equivalent of 20 full time employees. With the additional area the Gym anticipates a staff growth employing the equivalent of 25-30 full time employees in total.” And

- 3.8.12 “We would therefore propose that the use is viable, will bring a vacant building back into use and provide social and economic benefits to the area and should be considered an acceptable use of the building, which would not materially harm the character of the industrial area and meets the criteria of the NPPF.” And
- 3.8.13 “We also confirm we have undertaken the required sequential test site search within designated town centres and edge of town centre locations as required by the NPPF and emerging Wirral Core Strategy Policy CS17 indicating no alternative suitable sites are available”
- 3.8.14 Therefore it is considered that the applicant has provided sufficient evidence of available but unsuitable sites across the Wirral that they have discounted for the proposed use. Marketing evidence has also been provided from the current agents along with information on vacancy rates within the industrial area.

3.9 Highways and Traffic Implications:

- 3.9.1 SPD4 states maximum parking standards for D2 uses (1 space per 25m² for D2 uses). The Arrow Commercial Park has many open areas where parking can take place. The agent has stated that parking arrangements within the site are on an informal basis with the land owner. Discussions have taken place with the Highway Authority, who wish to prevent any overspill parking on Arrowe Brook Road, for highway safety reasons. The applicants Block Plan shows a maximum 40 additional spaces for the gymnasium use shall be provided, when adding Unit 11, so that a maximum of 80 spaces in total for the gymnasium users (based on max SPD parking standard). The applicants Block Plan has also included a supplementary note, as parking is informally arranged in this site, stating that: “*If all above car parking spaces are full at any one time, any excess parking requirements will be accommodated by use of other vacant parking spaces within Arrowe Commercial Park, on an informal basis*”.
- 3.9.2 The Highway Authority have raised no objection to the proposal and this parking arrangement, subject to use of a condition limiting potential car parking overspill to other spaces within the site, at a busy time on the informal basis the applicants have suggested.

Other Issues

3.10 Design/Appearance Issues:

- 3.10.1 There is no material change to the external appearance of the Unit, the change of use will take place within the existing building and have no external impact. The conversion of this unit would have a limited impact on the visual character of the industrial area. The proposal would bring back into use one of the vacant units out of 9 currently vacant units, which would be a positive contribution to maintaining active uses in the surrounding area.

3.11 Environmental/Sustainability/Ecology Issues:

- 3.11.1 There are no Environmental/Sustainability issues relating to these proposals.

3.12 Amenity:

- 3.12.1 There are no residential properties nearby that will be adversely affected by this development, and separation distances do not apply in this instance.

3.13 Health Issues:

- 3.13.1 There are no health issues relating to this proposal. The proposal will provide extra gymnasium space for people to undertake fitness and health giving activities.

3.14 Conclusion

- 3.14.1 The application is contrary to UDP Policy EM8, there being no provision for gymnasiums which are identified as a town centre use in NPPF. The site has not been identified for deallocation in the current Development Options Review for the emerging Local Plan or in the

Wirral Employment Land & Premises Study (EPLS), which indicates that the industrial estate is an important source of local employment and is of good quality albeit with some vacant units. However, evidence of unsuccessful marketing over the past 18 months and the unavailability of grant funding in this particular case suggests there is currently no reasonable prospect of a site being used for the designated employment purposes in the near to medium term. The applicant has also demonstrated there are currently no other sequentially preferable sites for accommodating the proposed gymnasium in the locality. In which case, a temporary permission could be justified and enable for further assessment in the light of future economic condition.

- 3.14.2 Having regard to the sequential test set out in the NPPF and the evidence on the prospects of securing the employment uses for the site it is considered that the proposal would be acceptable on a temporary basis in this particular case as the proposed use of this building is unlikely to result in harm to neighbouring businesses or the viability of nearby retail centres.

4.0 RECOMMENDATION

4.1 Approve - subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority and listed as follows: Drawings and reports numbered: 2018 017 300 001 Revision 01 (Existing and Proposed Unit Plans), received on 4 October 2018; 2018 017 000 LP01 Revision 01 dated 21.11.18 (1:1250 Location Plan), received on 21 November 2018; 2018 017 000 LP02 Revision 01 dated 21.11.18 (1:500 Block Plan), received on 21 November 2018; Justification for Loss of Employment Land Statement, Sept 2018 – Rev A, received on 4 October 2018; Planning Statement, November 2018 – Rev B, received on 22 November 2018.

Reason: For the avoidance of doubt and to define the permission.

3. The Unit 11 at Arrowe Commercial Park shall be used as a gymnasium and for no other purpose (including any other purpose in Class D2 of the schedule to the Town and Country Planning (Use Classes) Order 1987 as amended, or any subsequent Order or statutory provision revoking or re-enacting that Order.

Reason: In order to protect the character of the area and amenities of nearby occupants and to accord with the National Planning Policy Framework.

4. The use hereby permitted shall be discontinued and the building and land restored to its former condition on or before 16 November 2027 in accordance with a scheme of work(s) to be submitted to and approved in writing by the Local Planning Authority.

Reason: To enable an assessment of the effect(s) of the development on the amenities and character of the area, having regard to Policy EM8 of the Wirral Unitary Development Plan, and to accord with Condition 6 (10 years) of the gymnasium use permission granted to adjoining Units 1 and 2 on 16 November 2017 (Reference: APP/17/0899).

5. All vehicle parking for gymnasium users and staff shall take place within the Arrowe Commercial Park site area on the car parking space areas for gymnasium use shown on the 1:500 Block Plan; unless these spaces are completely full at any one time, when excess parking shall be accommodated on other available spaces within the site, on an informal

basis.

Reason: In the interests of highway safety.

6. NO DEVELOPMENT SHALL TAKE PLACE until details of secure covered cycle parking and/or storage facilities have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided in accordance with the approved details and made available for use prior to the first use of the development hereby permitted and shall be retained for use at all times thereafter.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car, having regard to Policy TR12 of the Wirral Unitary Development Plan.

5.0 PLANNING HISTORY

Location: Vacant Factory, 1 Arrowe Brook Road, Upton, Wirral, CH49 1SX
Application Type: Full Planning Permission
Proposal: Recladding of elevations, new openings and infrastructure
Application No: APP/07/07011
Decision Date: 05/12/2007
Decision Type: Approve

Location: Vacant Factory, 1 Arrowe Brook Road, Upton, Wirral, CH49 1SX
Application Type: Full Planning Permission
Proposal: Demolition of existing single storey structures and recladding of elevations to form additional openings
Application No: APP/07/07206
Decision Date: 10/01/2008
Decision Type: Approve

Location: Micropore ,1 Arrowe Brook Road ,Upton ,L49 1SX
Application Type: Full Planning Permission
Proposal: Erection of canteen and alterations to elevations
Application No: APP/82/20498
Decision Date: 18/06/1982
Decision Type: Approve

Location: Micropore 1, Arrowe Brook Road, Upton. L49 1SX
Application Type: Full Planning Permission
Proposal: New Windows.
Application No: APP/85/05451
Decision Date: 09/04/1985
Decision Type: Approve

Location: Micropore Insulation, 1, Arrowe Brook Road, Upton. L49 1SX
Application Type: Full Planning Permission
Proposal: Erection of a single storey extension for canteen.
Application No: APP/90/05154
Decision Date: 22/03/1990
Decision Type: Approve

Location: Micropore Insulation, 1, Arrowe Brook Road, Upton. L49 1SX
Application Type: Full Planning Permission
Proposal: Erection of a first floor extension to offices and an external fire escape.
Application No: APP/90/06569
Decision Date: 10/09/1990
Decision Type: Approve

Location: Micropore Insulation, 1, Arrowe Brook Road, Upton. L49 1SX

Application Type: Full Planning Permission
Proposal: Erection of a first floor extension.
Application No: APP/93/06023
Decision Date: 03/09/1993
Decision Type: Approve

Location: Unit 1&2, Arrowe Commercial Park, ARROWE BROOK ROAD, UPTON,
CH49 1AB
Application Type: Full Planning Permission
Proposal: Proposed change of use from vacant Industrial unit to D2 Use - Gymnasium
Application No: APP/17/00899
Decision Date: 17/11/2017
Decision Type: Approve

Location: Unit 1 And 2 Wirral Business Park, Arrowe Brook Road, Upton, Wirral, CH49
1SX
Application Type: Full Planning Permission
Proposal: Change of use to leisure (for soft play based family entertainment centre)
Application No: APP/07/07077
Decision Date: 30/05/2008
Decision Type: Refuse

Location: Insulation Factory ,1 Arrowe Brook Road ,Upton ,L49 1SX
Application Type: Full Planning Permission
Proposal: Construction of an office extension.
Application No: APP/84/25942
Decision Date: 30/11/1984
Decision Type: Conditional Approval

Location: Micropore International Ltd.,1 Arrowe Brook Road,Upton,L49 1SX
Application Type: Full Planning Permission
Proposal: Erection of factory extension for storage and production.
Application No: APP/80/14696
Decision Date: 14/02/1980
Decision Type: Conditional Approval

6.0 WARD MEMBER COMMENTS

6.1 No comments received.

7.0 SUMMARY OF REPRESENTATIONS

7.1 REPRESENTATIONS

Having regard to the Council's Guidance for Publicity on Planning Applications, 7 notifications were sent to adjoining properties; and a site notice was displayed near the site, in 3 different locations. At the time of writing this report no objections have been received

7.2 CONSULTATIONS

Environmental Health - No objection

Highways - No objection

8.0 CASE OFFICER: Mr B Smith

Senior Planning Officer

9.0 DATE PREPARED: November 28, 2018

Planning Committee

13th December 2018

REPORT OF THE DIRECTOR

Reference: **APP/18/01234**

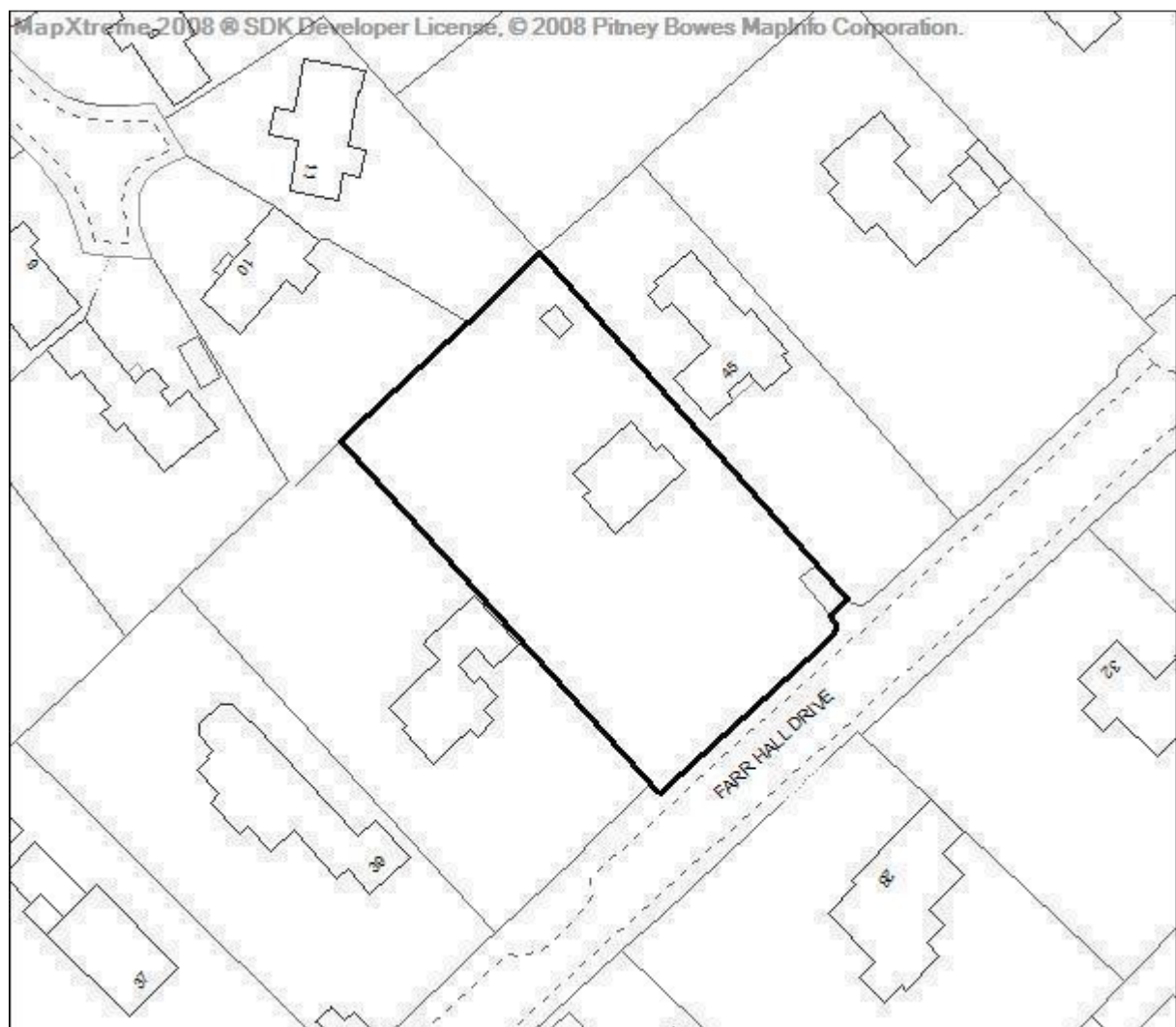
Proposed development: Two storey extension to existing property and new build property and associated garage within same plot.

Site Address: Little Mundens, 43 FARR HALL DRIVE, HESWALL, CH60 4SE

Applicant: Mr Moores

Agent : Garry Usherwood Associates Limited

Ward: **Heswall**



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1.0 RECOMMENDATION

1.1 Approve - subject to conditions detailed in paragraph 4.1

2.0 KEY ISSUES/SUMMARY OF RECOMMENDATION

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposal is considered acceptable in principle and, under the provisions the National Planning Policy Framework, the application is, on balance, not considered to result in any significant detrimental change to the character of the area or the amenity of the adjacent dwellings. The proposal is acceptable under Policies HS4, HS11, NC7, GR5 and GR7 of the Wirral UDP and all other Supplementary Planning Guidance and therefore recommended for approval subject to conditions.

3.0 RATIONALE

3.1 Reason for referral to Planning Committee

- 3.1.1 The application has been referred to Committee due to a qualifying petition comprising of 100 signatures and 22 individual letters of objection. Councillor Rowlands has also requested that the application be taken out of delegation.

3.2 Site and Surroundings

- 3.2.1 The proposed development site comprises of No. 43 Farr Hall Drive and its domestic curtilage. No. 43 is a traditionally constructed dwelling which is orientated to maximise views over towards the Dee Estuary. No. 43 is set behind Farr Hall Drive by a landscaped front garden which features a number of lower grade shrubs and trees which filter views into the site.
- 3.2.2 Farr Hall Drive is a roughly made un-adopted road which is enclosed by dense vegetation. There is no prescribed architectural style within Farr Hall Drive. Dwellings are constructed towards the apex of their individual plots and benefit from large private garden areas.

3.3 Proposed Development

- 3.3.1 The application proposes to extend No. 43 Farr Hall Drive and erect a new two storey dwelling within the plot.

3.4 Development Plan

- 3.4.1 The Wirral Unitary Development Plan 2000
- HS4 Criteria for New Housing Development
 - HS11 House Extensions
 - GR5 Landscaping and New Development
 - GR7 Trees and New Development

3.5 Other Material Planning Considerations

- 3.5.1 The National Planning Policy Framework (2018)
- Achieving sustainable development
 - Delivering a sufficient supply of homes
 - Achieving well-designed places

3.6 Assessment

- 3.6.1 The main issues pertinent in the assessment of the proposal are;

- Principle of development;
- Design;
- Highways;
- Ecology; and
- Amenity

3.7 Principle of Development:

3.7.1 The application proposes the extension of an existing residential dwelling and erection of an additional residential dwelling within a Primarily Residential Area under the current Wirral Unitary Development Plan 2000 which is considered acceptable in principle subject to all other material planning considerations.

3.8 Design:

3.8.1 The application proposes to extend No. 43 Farr Hall Drive. Policy HS11 of the Wirral UDP requires house extensions to be of a scale appropriate to the size of the plot. Materials should match or complement those of the existing building as should design features lintels, sills eaves and roof form and line.

3.8.2 The proposed extension would extend out approximately 5.1 metres from the main rear face of the host dwelling and would adopt the same roof form and line as the host dwelling and is therefore acceptable in this respect.

3.8.3 As the proposed development incorporates an additional residential dwelling within the curtilage of No. 43, Policy HS4 of the Wirral UDP applies. Policy HS4 seeks to guide the scale of new residential development and ensure it relates to surrounding property and does not result in detrimental change in the character of the area. Appropriate levels of landscaping should be incorporated into new residential schemes.

3.8.4 Paragraph 127 of the revised National Planning Policy Framework (NPPF) states that planning decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, are visually attractive as a result of good architecture, layout and effective landscaping, are sympathetic to local character and history, including surrounding built environment and landscape setting, whilst not preventing or discouraging appropriate innovation or change (such as increased densities), and establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

3.8.5 The proposed dwelling would be simple in style with hipped roof, ground to first floor hierarchy within the fenestration, and an offset front entrance. As there is no prescribed architectural style within Farr Hall Drive the proposed dwelling is acceptable in this respect.

3.8.6 The proposed development would effectively see the existing plot halved. Whilst Farr Hall Drive is characterised by dwellings set within large landscaped plots there is no definitive plot width, with plots ranging from 17 to 44 metres. The proposed increase in density is therefore considered acceptable and would not conflict with Paragraph 127 of the revised NPPF.

3.9 Highways:

3.9.1 The Highways Engineer has raised no objection to the proposal.

3.10 Ecology:

3.10.1 The applicant submitted a supporting Protected Species Survey which has been considered by Wirral Wildlife. Wirral Wildlife have raised no objection to the proposed development subject to a condition which seeks to preserve badgers and their habitats and bats and their insect food.

3.10.2 Policy GR7 states that in assessing the protection to be given to trees on development sites consideration will be given to the general health, structure, size and life expectancy of trees, their visual value within the locality and their value for nature conservation and will require buildings, structures and hard surface areas to be sited in order to; substantially preserve the wooded character of the site or of the surrounding area, provide for the protection of trees of greatest visual or wildlife value and other vigorous healthy trees, ensure that trees to be retained have adequate space in order to prevent damage to allow their canopy or root structures during construction and to allow for the future growth of canopy and roots to normal mature sizes, prevent the removal of trees by occupiers of the development to obtain reasonable sunlight to habitable rooms, secure an open unshaded garden area, or to remove perceived dangers to life and property.

3.10.3 A number of trees were identified within the site at the time of inspection, however, these were smaller specimens which benefit no form of protective order and could therefore be removed at any time. The Local Planning Authority acknowledges that the existing planting contributes the visual amenity of the area and has therefore imposed a condition requiring details of landscaping to be submitted prior to any development above ground level.

3.11 Amenity:

3.11.1 Insofar as this application relates to the extension of No. 43 Farr Hall Drive, Policy HS11 of the Wirral UDP requires house extensions to not so extensive as to be unneighbourly with regard had to light and outlook from neighbours habitable rooms and not so arranged as to result in significant overlooking.

3.11.2 The proposed extension would be set off the boundary with No. 45 Farr Hall Drive by approximately 5.2 metres and would sit at a lower gradient. At the time of site inspection it was noted that No. 45 had two dormer windows which project out towards the application property and its private amenity space. These dormers would be approximately 13.5 metres from the side of No. 43 and appear as secondary to first floor window which exists within the main rear face of No. 45 and the application is acceptable in this regard. Finally, the proposed extension would feature a first floor Juliet window which would be 17.6 metres from the rear boundary and not less than 35 metres from the rear of the closest rear facing dwelling which would exceed the Council's adopted (21 metre window to window) interface distances and is therefore acceptable.

3.11.3 The criteria for new residential development are set out within UDP Policy HS4. Proposals should provide adequate private amenity space for each dwelling whilst adequate distances should be kept between habitable rooms in separate dwellings and blank gables. Whilst Policy HS4 does not prescribe adequate interface distances the Local Planning Authority prescribes the following standards elsewhere; windows directly facing each other should be at least 21 metres apart. Main habitable rooms should be at least 14 metres from any blank gable.

3.11.4 The proposal would provide a rear garden area at least 20 metres in depth which is considered acceptable. No details of finished boundary treatment have been submitted and a condition has therefore been imposed. Finally, should both elements of the proposed development be

implemented No. 43 would feature a first floor bedroom with an outlook of approximately 6 metres out onto the roof of the proposed dwelling. Whilst this is below the abovementioned standards all other rooms would provide adequate levels of outlook and light and the application is therefore acceptable in this regard.

3.12 Other:

- 3.12.1 Concerns have been raised about drainage and flooding issues, however, the proposal is for less than 10 dwellings and there is therefore no trigger to consult the Lead Local Flood Authority.

4.0 RECOMMENDATION

4.1 **Approve - subject to the following conditions:**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 25 September 2018 & 26 October 2018 and listed as follows: Location Plan, Existing & Proposed Site Plan Rev. C, Proposed Garage Rev. C, Proposed Alterations Floor Plans and Elevations Rev. A, Existing Floor Plans and Elevations Rev. A, Contextual drawings Rev. G and New Build Floor Plans & Elevations Rev. C

Reason: For the avoidance of doubt and to define the permission.

3. Insofar as this permission relates to the construction of the new dwellinghouse, approval of the following details shall be obtained from the local planning authority prior to any development above ground level. The stated details shall be approved in writing and such approved details shall be implemented in the development hereby approved in full:

- I. Samples or specifications of the facing materials
- II. Samples or specifications of all doors and windows including the Juliet balcony

REASON: These details are not included in the application and the Council wishes to ensure that they are satisfactory in the interests of visual, residential and environmental amenity.

4. Notwithstanding the details provided, full details of all fencing, walls, gateways and means of enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is completed and the work shall be carried out prior to occupation, in accordance with the details so approved, and subsequently maintained to the satisfaction of the Local Planning Authority.

Reason: In the interests of residential amenity and to ensure a satisfactory appearance to the development, having regard to UDP Policy HS4.

5. Prior to any development above ground level, a scheme of landscape proposals shall be submitted to and approved in writing by the Local Planning Authority. The proposals shall include full plans and specifications for all hard and soft landscape works. The soft landscape work to be completed during the first available planting season following completion of the development hereby approved. any trees, shrubs, hedges or plants which

within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased 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. All hard landscaping comprised in the approved details of landscaping shall be carried out before the completion or first occupation of the development, whichever is the sooner.

Reason: To ensure a satisfactory standard of appearance and that the proposed development enhances the visual amenity of the locality.

6. Insofar as this permission relates to the construction of the new dwellinghouse, the first floor left elevation bathroom window and right elevation windows which services the circulation space shown on drawing New Build Floor Plans & Elevations Rev. C shall be obscure glazed prior to occupation and be permanently retained as such unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity in accordance with Policy HS4 of the Wirral UDP

7. Insofar as this permission relates to the extension of the existing dwellinghouse (No. 43 Farr Hall Drive), the first floor dormer which serves the rear master bedroom shown on drawing Proposed Alterations Floor Plans and Elevations Rev. A shall be obscure glazed and fixed shut up to 1.7 metres above finished floor level prior to first use and shall be permanently retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity in accordance with Policy HS4 of the Wirral UDP

8. In order to protect habitats of special local importance for nature conservation:

- 1) Construction work shall only take place between 8am and 6pm.
- 2) Any holes or trenches left open overnight must have a means of escape provided.
- 3) All construction materials, especially those containing lime, must be stored so that badgers cannot access them, and to the front of the house, not the rear.
- 4) When fencing to the garden is installed, a gap measuring at least 0.46 metres (high) x 2 metres (long) shall be provided below the boundary treatment in strategic locations of the site in accordance with details to be submitted to and agreed in writing by the Local Planning Authority before development commences. The gap shall be maintained in accordance with the approved details thereafter to enable important wildlife species to move around between gardens.

Reason: To protect important wildlife species having regards to NC7 in Wirral Unitary Development Plan.

9. Prior to occupation, a "lighting design strategy for biodiversity" for the developed area shall be submitted to and approved in writing by the local planning authority. The strategy shall:
- (a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging;

And

- (b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: In order to protect and enhance biodiversity on the site having regards to Policy NC7 in Wirral Unitary Development Plan.

5.0 PLANNING HISTORY

No relevant history.

6.0 WARD MEMBER COMMENTS

Councillor Rowlands has requested that the application be taken out of delegation due to significant public opposition.

7.0 SUMMARY OF REPRESENTATIONS

REPRESENTATIONS

Having regard to the Council's Guidance for Publicity on Planning Applications 9 notifications were sent to neighbouring properties and a site notice was displayed. At the time of writing a twenty two letters of representation have been received objecting to the proposal, summary of comments;

1. The density would be out of character with the area
2. Loss of light to No. 43
3. The additional cars would damage the unmade road
4. Loss of vegetation
5. There is no automatic right to use the bridleway
6. Highway safety
7. Proposal would reduce the outlook of the existing dwelling
8. Loss of trees would be detrimental to wildlife
9. Existing house has asbestos boarding
10. The extension would breach a right of light covenant
11. Drainage and flooding issues
12. Previous refusals on the site and subsequent dismissed appeals

CONSULTATIONS

Highways: No Objections

Wirral Wildlife: No Objections

Merseyside Fire and Rescue Service: No Objections

8.0 CASE OFFICER: Mr P Howson Senior Planning Officer

9.0 DATE PREPARED: November 22, 2018

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PLANNING COMMITTEE – 13th DECEMBER 2018

SUBJECT:	ERECTION OF A REAR DORMER ROOF EXTENSION AT 359 UPTON ROAD, NOCTORUM, WIRRAL, CH43 9RJ
WARD/S AFFECTED:	CLAUGHTON
REPORT OF:	CORPORATE DIRECTOR FOR ECONOMIC AND HOUSING GROWTH
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to advise members of the unauthorised erection of a rear dormer at 359 Upton Road, Noctorum, Wirral, CH43 9RJ.

2.0 RECOMMENDATION/S

- 2.1 It is not considered expedient issue an Enforcement Notice requiring the demolition of the dormer.

3.0 REASON/S FOR RECOMMENDATION/S

- 3.1 The erection of a roof extension at a dwellinghouse is permitted by The Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 1 Class B subject to a number of limitations and conditions. The dormer extension built at 359 Upton Road complies with all of those limitations and conditions, except for the following;

(a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

- 3.2 Government guidance suggests that in order to comply with the above condition, a roof extension such as a dormer should be clad in a hung tile of a similar colour to the roof tiles of the original roof in order to comply with the above condition.

- 3.3 The Dormer has been constructed using white UPVC cladding to its exterior, which is not similar in appearance to the existing roof tiles. The rear dormer extension therefore requires planning permission. The materials are not however incongruous in the area, as the property has white upvc in all existing windows, as do the majority of neighbouring properties. There are also a number of white UPVC conservatories in the immediate locality.

- 3.3 The scale of the dormer is considered appropriate to the existing building and not so extensive as to be unneighbourly, particular with regard to the effect on light to habitable rooms. The dormer windows are restricted to the rear of the dwelling and not projecting above the ridge, nor occupying the full width of the roof. The dormer does not introduce any additional overlooking
- 3.4 The development complies with Policy HS11 (House Extensions) of Wirral's adopted unitary development plan and the NPPF. Therefore it is not considered expedient to issue an enforcement notice requiring the removal of the dormer roof extension.

4.0 BACKGROUND AND KEY ISSUES

- 4.1 The Council received a complaint from a member of the public on the 26th June 2017. The complaint related to the erection of a dormer roof extension without consent at 359 Upton Road. Photographs were submitted with the complaint, which showed the dormer was clad in white UPVC, while the adjacent roof was tiled in red Marley tile.
- 4.2 On the 5th September 2017 a letter was sent to the occupier of 359 Upton Road, advising that consent was required for the dormer, due to the external cladding not matching the existing roof. The letter requested that steps be taken to remedy the breach of planning control by either re cladding the dormer with a hung tile, submitting a retrospective planning application seeking permission to retain the dormer as built, or permanently removing the entire dormer. The Council received no response to the letter.
- 4.3 On the 10th October 2017 a second letter was sent to the occupier of 359 Upton Road affording a further 7 days to take steps to remedy the breach of planning control. The Council received no response to the letter.
- 4.4 A site visit was carried out on the 31st May 2018 to assess the dormer, and in particular to assess the external materials. The dormer has a lower ridge height than the existing roof, is set back from the eaves and does not extend the full width of the roof. The windows in the dormer are sited on the rear elevation, and do not extend the full width of the dormer.
- 4.5 Letters were sent to 4 neighbouring properties on the 5th June 2018 explaining that the Council was in the process of considering whether it is expedient to issue an enforcement notice and offering the opportunity to provide any comments in relation to the dormer. One response was received and the respondent raised issues about the appearance of the Cladding and overlooking resulting from the windows in the dormer.

5.0 RELEVANT RISKS

- 5.1 None

6.0 OTHER OPTIONS CONSIDERED

- 6.1 It is open to the Council to issue an Enforcement Notice requiring the removal of the dormer roof extension. However, central government guidance sets out

that a Local Planning Authority should not take formal enforcement action solely to remedy the absence of a planning application and such action should only be directed at unacceptable forms of development. In this instance, the development is considered to comply with Policy HS11 (House Extensions) of Wirral's adopted unitary development plan, and is considered acceptable in planning terms.

7.0 CONSULTATION

7.1 N/A

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

8.1 None

9.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

9.1 None

10.0 LEGAL IMPLICATIONS

10.1 None

11.0 EQUALITIES IMPLICATIONS

11.1 None

11.2 Equality Impact Assessment (EIA)

(a) Is an EIA required? No

12.0 CARBON REDUCTION IMPLICATIONS

12.1 None

13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 As detailed above

REPORT AUTHOR: Steven Lacey
Principal Planning Enforcement Officer
telephone: (0151) 691 8599
email: stevenlacey@wirral.gov.uk

APPENDICES

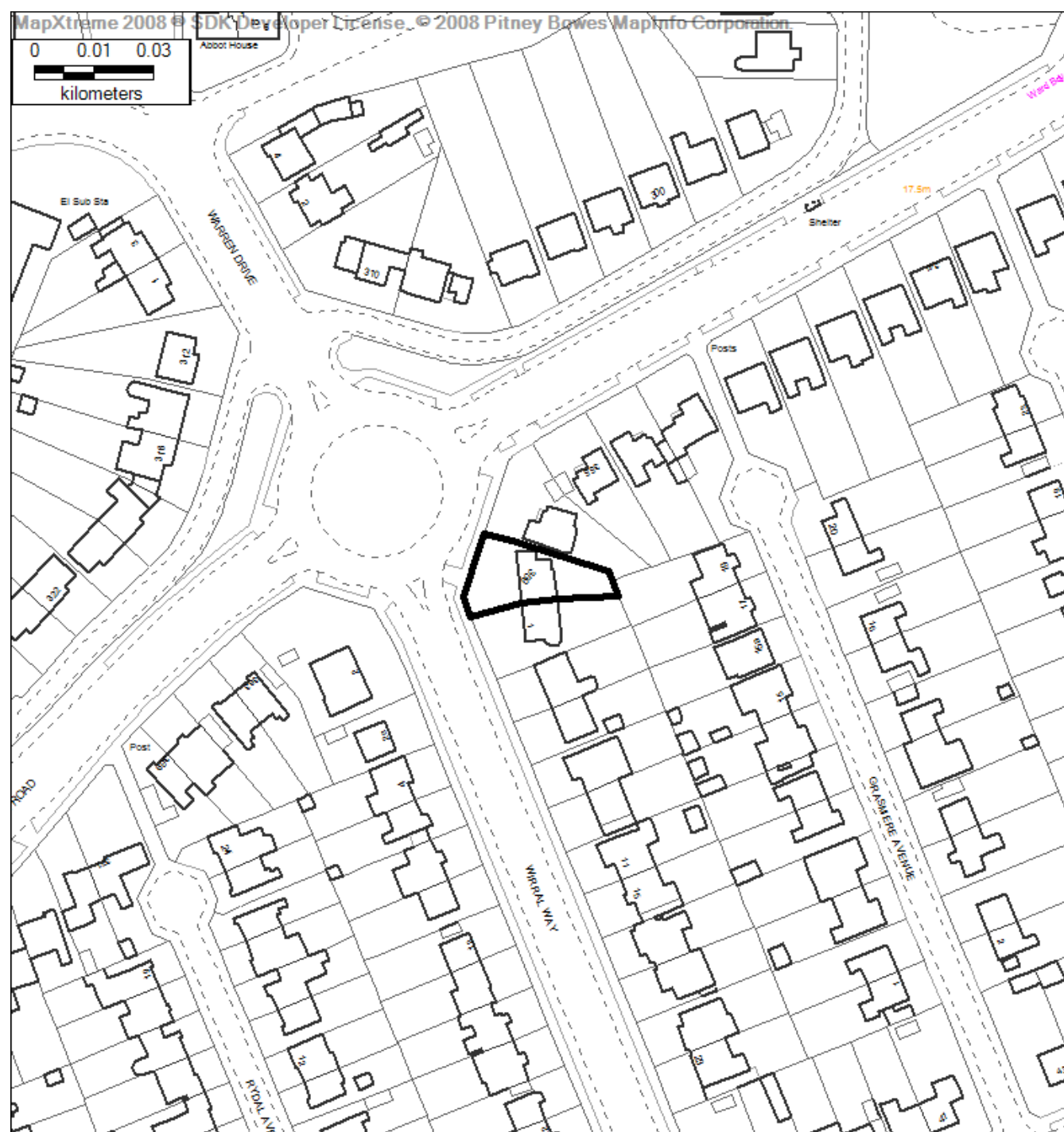
None

REFERENCE MATERIAL

SUBJECT HISTORY (last 3 years)

Council Meeting	Date

SITE PLAN



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PLANNING COMMITTEE – 13th DECEMBER 2018

SUBJECT:	ERECTION OF 2-STOREY REAR EXTENSION, TERRACE AND DETACHED GARAGE AT 13 MOUNT PLEASANT, OXTON, CH43 5SY – POTENTIAL REVOCATION OF PLANNING PERMISSION
WARD/S AFFECTED:	OXTON
REPORT OF:	CORPORATE DIRECTOR FOR ECONOMIC AND HOUSING GROWTH
KEY DECISION?	NO

1.0 REPORT SUMMARY

- 1.1 The purpose of this report is to advise Members that the grant of planning permission associated with APP/18/00817 did not follow the correct procedural process and to explore the expediency for revoking the permission that was issued on 9th October 2018.

2.0 RECOMMENDATION(S)

- 2.1 It is not considered expedient to revoke planning permission APP/18/00817 having regards to the Development Plan and other material considerations.

3.0 REASON(S) FOR RECOMMENDATION(S)

- 3.1 Having regards to the Development Plan, the approved development is appropriate to the size of the plot and would not dominate the existing dwelling and would not be so extensive as to be unneighbourly, particularly having regard to any effect on light to and the outlook from neighbours' habitable rooms. The design of the development together with the materials proposed to be used match and compliment those of the existing building.
- 3.2 The development would not affect the setting of special character of Oxtan Village Conservation Area, and would not impact on the distinctive characteristics of the Area. The development preserves the sense of contrast between houses in spacious grounds and cottage-style groups and would see a sandstone boundary wall that has collapsed be rebuilt reinstating a unifying feature within the Area. The Council's Conservation Officer did not object to the proposals noting the small scale nature of the development proposed and that the development is restricted to the rear of the site.

- 3.3 There is a liability for the local authority to pay compensation for abortive expenditure and for any other loss or damage directly attributable to the revocation.

4.0 BACKGROUND INFORMATION

- 4.1 A planning application for the erection of a two storey rear extension, terrace and detached garage to the rear of 'Grass Guards' 13 Mount Pleasant in Oxton was submitted to the Council on 18 June 2018.
- 4.2 At the time when the application was submitted, the Development Management Team was experiencing significant pressures having regards to the high volume of applications and pre-application enquiries being submitted to the Council coupled with resourcing issues . The Council engaged a number of agency workers to assist in clearing a backlog of applications that had not been allocated to officers whilst permanent solutions to the resourcing issues were explored and progressed. These backlog issues have now been resolved.
- 4.3 On 9th August 2018, application APP/18/00817 was allocated to one of the agency workers. The application was made valid and Ward Councillors were informed by email alert that this application had been received in their ward. On 15th August 2018, neighbour notification letters were sent to 12 adjoining/nearby properties. A Site Notice was also posted. The publicity period for this application closed on 19th September 2018.
- 4.4 On 10th September 2018, Councillor Brame requested that, "If officers are minded to approve this application for 13 Mount Pleasant could you please remove it from delegation. I believe the application conflicts with the Oxton Conservation Area Management Plan as it permits the demolition of a sandstone wall." This request was made in line with the Council's Scheme of Delegation for Determining Planning Applications (March 2014). It was made in writing, giving a planning reason for the request and was made prior to the end of the publicity period.
- 4.5 The case officer replied to Councillor Brame to state that he "saw no reason at this moment to put it (the application) to Committee." He quoted that the Scheme of Delegation gives "authority to officers to determine all applications where it is proposed to make a decision that is contrary to the Development Plan with the exception of domestic extensions."
- 4.6 On receipt of this response, Councillor Brame sought advice from his ward colleague, Councillor Stuart Kelly, who subsequently contacted the Development Management Manager to seek clarification as to whether the Scheme of Delegation had changed and was concerned that the case officer was reluctant to accept Councillor Brame's request for the application to be referred to Planning Committee.

- 4.7 It was confirmed to Councillor Kelly that the Scheme had not changed and that Councillor Brame's request was reasonable in all aspects having regard to the Scheme of Delegation
- 4.8 On 11 September 2018, the Development Management Manager put in writing to the case officer that the Scheme of Delegation allowed for any Member to remove an application from delegation provided it was done in writing, gave a valid planning reason for doing so and was done prior to the last date for comments.
- 4.9 Further to the request by the Ward Councillor that this application be considered by the Planning Committee, 31 representations were received in connection with this application. 6 were in support whilst 25 were objecting to the development proposed. Therefore, under the provisions of the Scheme of Delegation for Determining Planning Applications, a second trigger for reporting this application to Planning Committee had been met (i.e. more than 15 separate letters of objection had been received).
- 4.10 On 9th October 2018, the case officer presented a delegated report recommending approval of the application. The report made no reference to the Ward Councillor's observations on the application nor his request that should officers be minded to approve the application that it be removed from delegation and decided by Committee. The report did, however, highlight that 25 objections had been received.
- 4.11 The application was authorised and the decision notice was issued on 9th October 2018 effectively granting planning permission for the development.
- 4.12 On 3rd November 2018, Councillor Stuart Kelly emailed the Development Management Manager asking if he could explain why this application had been approved without referral to the Planning Committee as per the Council Constitution. He outlined that there were two reasons why this application ought to have referred, namely a request from an elected member and more than 15 individual objections had been received. The Councillor considered this to be a serious breach of the Council's Constitution.
- 4.13 An internal investigation was undertaken which concluded that the planning permission was not properly granted in terms of procedure, having regards to the Council's Constitution and Scheme of Delegation for Determining Planning Applications.
- 4.14 Following the investigation, the following actions were taken:
- 4.14.1 A review of all of the applications where the agency worker was case officer was undertaken to ensure this had not taken place elsewhere; no further incidences resulted following this review;
 - 4.14.2 Officers Reports for both delegated and Planning Committee items have been amended to include a specific section to report Ward Member Comments which will ensure that officers are required to report any received and for senior officers to be aware of these comments prior to authorising decisions; and

- 4.14.3 Appropriate action was taken under the Councils HR procedures and all officers have received refresher instructions around the provisions of the current Scheme of Delegation for Determining Planning Applications.
- 4.15 It is clear from the officer's written assessment of the proposals that, notwithstanding that this application should have been reported to Planning Committee, all the material planning considerations raised in objections to the proposal have been properly considered and taken into account when making a recommendation on this application.
- 4.16 Although there were 25 individual letters received, there was no qualifying petition of objection and therefore, the right to address the Planning Committee has not been lost to the objectors although the Ward Councillor has lost his right to address the Committee about the application as his request was not actioned.
- 4.17 Notwithstanding all of the above, a report to Planning Committee would have carried a recommendation of approval having regard to:
- the scale of the development proposed,
 - its siting to the rear of the property
 - the fact that the sandstone wall has already collapsed along a significant part of its length,
 - that access to the unadopted highway does not in itself require planning permission,
 - that the construction of a new garage would not result in any harm to the amenities of the area or the Conservation Area as a whole,
 - that the proposals were supported by the Council's Conservation Officer,
 - that the collapsed sandstone wall would be reinstated as part of these proposals thereby enhancing this part of the Conservation Area and
 - that the proposals were considered to be appropriate to the size of the plot, the design and materials were considered to be acceptable and that the development would not harm the setting of the Oxtown Village Conservation Area
- 4.18 As outlined above, a qualifying petition of objection had not been received so only a Ward Councillor would have had the opportunity to address Committee. Therefore, local objectors have not been deprived of this opportunity as a result of the decision having been taken under delegated authority. All material planning objections were taken into consideration when determining the application.
- 4.19 The application would have been debated by Members of the Planning Committee and subject to that debate, an alternative decision to that recommended by officers may have been made. Members of the Committee have lost that opportunity as the planning permission has not been properly granted in terms of procedure and process.

5.0 LEGAL CONSIDERATIONS

- 5.1 The law allows the local planning authority to revoke a planning permission “to such extent as they consider expedient” with regard to the Development Plan and other material considerations.
- 5.2 The power to revoke stems from Section 97 of the Town and Country Planning Act, 1990. Such powers can only be used before the development is complete.
- 5.3 The power is entirely discretionary and the local authority can decide not to exercise the power if it considers it is expedient not to do so. If a Revocation Order is made and opposed (e.g. by the applicant) then the revocation does not take effect unless it is confirmed by the Secretary of State. Notice of an application to the Secretary of State must be served on the owner/occupier of the land and on any person who in the opinion of the local authority will be affected by the Order. Any person on whom notice is served has the right to ask the Secretary of State to arrange for a hearing at which a Planning Inspector would determine the matter.
- 5.4 If an Order is unopposed, the local authority must advertise the fact that the Order has been made.
- 5.5 Legislation does not define what expediency means when considering whether to revoke a planning permission. However, the Supreme Court has stated that Section 97 “requires the authority to satisfy itself that revocation is expedient and in doing so to have regard to the Development Plan and other material considerations.” It has also stated that in this regard, where there is a potential liability for compensation, then that can be taken into consideration when determining whether it is expedient to revoke.

6.0 FINANCIAL CONSIDERATIONS

- 6.1 There is a liability for the local authority to pay compensation. The rules relating to compensation where planning permission has been revoked are set out in Section 107 of the Town and Country Planning Act, 1990.
- 6.2 There is liability for a local authority to pay compensation in respect of:
 - 6.2.1 Expenditure rendered abortive by the Order (e.g. expenditure on preparation of plans for the purposes of works); and
 - 6.2.2 For any other loss or damage directly attributable to the revocation.
- 6.3 Section 107(3) of the Act makes clear that compensation is *not* payable in relation to any works carried out before the planning permission was granted.
- 6.4 In calculating for the purposes of compensation the amount of any loss or damage then depreciation of the value of an interest in land can be taken into account.

- 6.5 In July 2012, the Supreme Court ruled that when local planning authorities are deciding whether or not to revoke a planning permission they are entitled to take into account the compensation they could have to pay. Lord Carnworth in the Supreme Court said: "As custodians of public funds, the authority not only may, but generally must, have regard to the cost to the public of its actions, at least to the extent of considering any case whether the cost is proportionate to the aim to be achieved."

7.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 7.1 None.

8.0 RELEVANT RISKS

- 8.1 If planning permission is revoked then compensation will be payable and the revocation would need to be referred to the Secretary of State for determination if any objections are received which could result in a Hearing which would have resource implications.

9.0 EQUALITY IMPLICATIONS

- 9.1 None

- 9.2 Equality Impact Assessment (EIA)

- (a) Is an EIA required? No

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APPENDICES

None

REFERENCE MATERIAL

SUBJECT HISTORY (last 3 years)

Council Meeting	Date