

# Planning Committee

23 July 2014

**Reference:**  
**APP/14/00694**

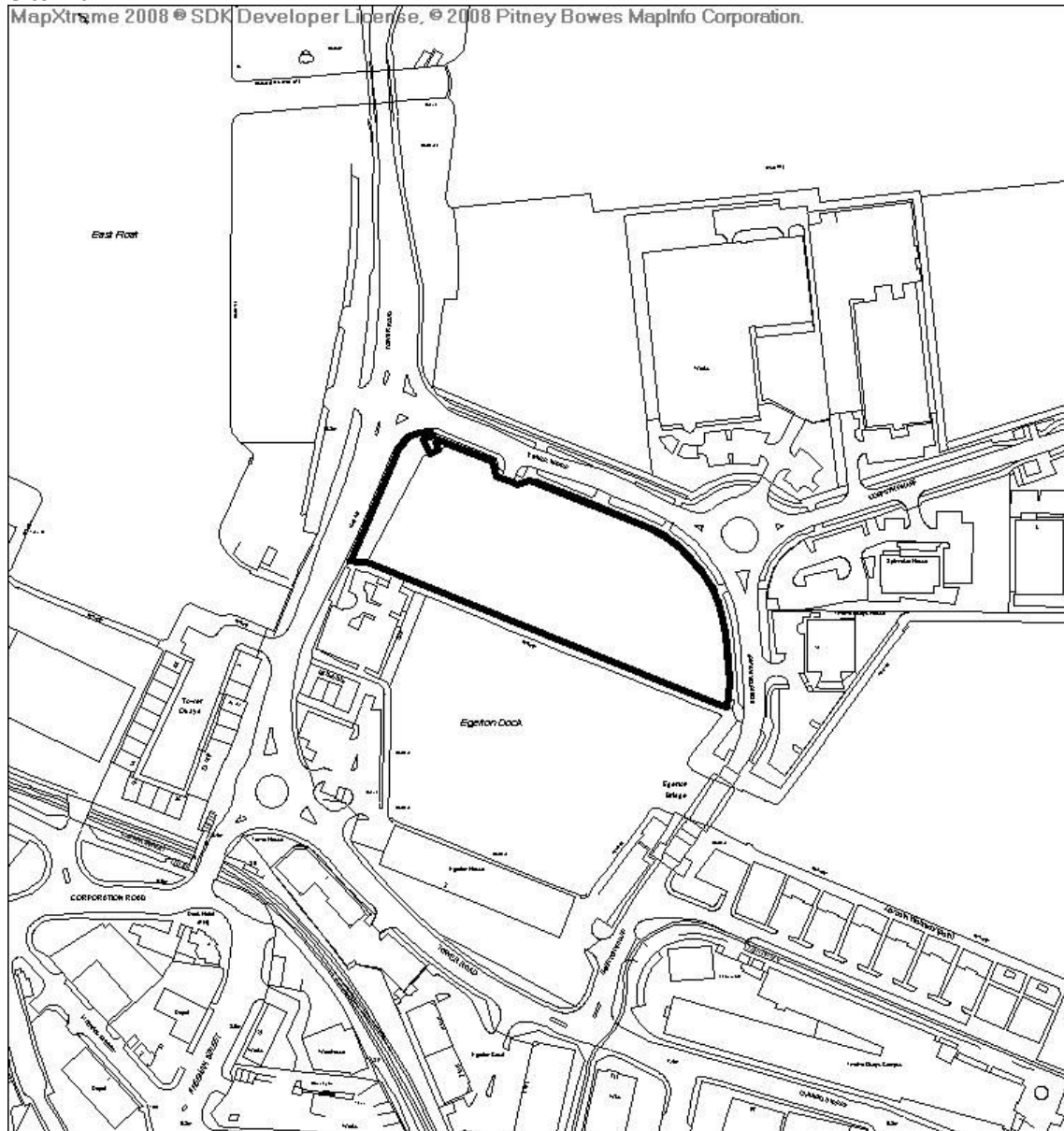
**Area Team:**  
**North Team**

**Case Officer:**  
**Ms J Storey**

**Ward:**  
**Birkenhead and  
Tranmere**

**Location:** Land at Tower Wharf, Birkenhead, CH41 1NE  
**Proposal:** A four storey new commercial development (Use Class B1) with new associated car parking and landscaping.  
**Applicant:** Longmeadow Estates Ltd.  
**Agent :** Falconer Chester Hall Ltd

## Site Plan:



**Development Plan allocation and policies:**  
Primarily Industrial Area

Coastal Zone  
Employment Development Site  
Road Corridor subject to Environmental Improvement

**Planning History:**

Non relevant to this application

**Summary Of Representations and Consultations Received:**

**REPRESENTATIONS**

Having regard to the Council's Guidance on Publicity for Planning Applications 66 letters of neighbour notification were issued. Two site notices were placed outside the site. At the time of writing, no representations have been received.

**CONSULTATION**

Environment Agency - no objections subject to contamination/remediation conditions being attached to any planning approval.

Natural England - Require a more up to date Bird survey is undertaken. This has been completed by MEAS. If the applicant formally submits the additional information and your authority as competent authority is satisfied that the proposal can be screened out of the HRA process, then we do not need to be re-consulted.

Head of Environment and Regulation (Environmental Protection Division) - no objections subject to remediation conditions attached to any planning approval

Head of Environment and Regulations (Traffic and Transport Division) - no objections

Merseytravel- No objection subject to a request to the LA ensuring that the traffic likely to be generated by this development can be accommodated on the local highway network without causing congestion, In addition Merseytravel would wish to request that the Council require the developer to fund in full the upgrade of the nearest stops to the development located upon Tower Road.

Wirral Wildlife - Happy to accept TEP's assessment that there is little ecological interest in the site itself. Need to ensure that the recommendations included in the submitted documentation are attached as conditions.

**Director's Comments:**

**REASON FOR REFERRAL TO PLANNING COMMITTEE**

The application development is in excess of 5,000m<sup>2</sup>. As such under the provisions of the Scheme of Delegation for the Determination of Planning Applications & Planning Related Matters, as approved by Full Council on 10th March 2014, this application is required to be considered and determined by the Planning Committee.

**INTRODUCTION**

This application is for the construction of commercial development for open B1 office development. The proposed office building will provide a total of 5,720sqm of floor space across four floors. Vehicular access to the site will be from Tower Road. The scheme also includes a 125 space car park to the front of the site and a landscaped area to the rear which will provide a semi public garden area. This will link the building to Egerton Dock and the public Footpath. The dock wall is Listed (Grade II) and the proposed building has been position 22m away from the site boundary (originally recommend to be 14m in a report to English Partnerships) to factor in an additional safety element to ensure that the Listed the existing dock wall is not disrupted.

**PRINCIPLE OF DEVELOPMENT**

The application site is designated as part of the Primarily Industrial Area and the Coastal Zone in the Unitary Development Plan (UDP) and is subject to UDP Policies EM8 and CO1. Office development in Use Class B1 is acceptable in principle under UDP Policy EM8. UDP Policy CO1 only permits development that requires a coastal location, unless the applicant can demonstrate there are no

alternative sites outside of the coastal zone. Offices are now identified in the National Planning Policy Framework (NPPF) as a main town centre use and are subject to the national sequential and impact tests. This, alongside the impact on the visual quality of the area and the listed structures, the effect on nature conservation and any flood risk and land contamination are the main issues to be addressed.

### **SITE AND SURROUNDINGS**

The site is just north of Birkenhead town centre, on the River Mersey. The site and most of the surrounding land is currently vacant and derelict. The Hydraulic Tower a grade II Listed Building is located to the north, and modern office buildings on Morpeth Wharf to the East. The old dock walls and Egerton 'bascule' Bridges serve as physical links to the history of the site. The site is bounded by the 'Great Float' to the West, Egerton Dock to the south, Morpeth Dock to the East, and Tower Wharf to the North.

The early 2000s saw the infill of Wallasey Dock in order to create a new ferry terminal which provides a service to Belfast. Wirral Waters, a £4.5b scheme has also recently been granted permission, which it is hoped will rejuvenate the areas surrounding the Great Floats, and bring an economic boost to the area surrounding the Tower Wharf site.

### **POLICY CONTEXT**

The application site is designated as part of the Primarily Industrial Area and the Coastal Zone in the Unitary Development Plan (UDP), where industrial development and proposals for the expansion of existing businesses requiring a coastal location can be permitted subject to the criteria in UDP Policies EM8, CO1 and CO7. The main issues to address include: the impact on the neighbours amenity, the effect on nature conservation, flood risk, navigation and public access to the coast.

The statutory development plan consists of the Wirral Unitary Development Plan (UDP) adopted February 2000 and saved by Direction of the Secretary of State on 18th September 2007) and the Joint Waste Local Plan (adopted 18th July 2013). UDP Policies relevant to this application include:

Policy URN1 Development and Urban Regeneration  
Policy EM8 Development within Primarily Industrial Areas  
Policy EM6 Criteria for New Employment Development  
Policy EM7 Environmental Criteria for New Employment Development  
Policy CH1 Development Affecting Listed Buildings and Structures  
Policy CO1 Development within the Developed Coastal Zone  
Policy TRT1 Provision for Public Transport  
Policy TRT3 Transport and the Environment  
Policy TR9 Requirements for Off-Street Parking  
Policy TR11 Provision for Cyclists in Highway and Development schemes  
Policy TR12 Requirements for Cycle Parking  
Policy WA1 Development and Flood Risk Policy  
Policy WAT1 Fluvial and Tidal Flooding  
Policy WA2 Development and Land Drainage  
Policy PO3 Noise  
Policy LAN 1 Principles for Landscape

Relevant Policies in the Joint Waste Local Plan (adopted 18th July 2013) include

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

The site is designated as part of the Primarily Industrial Area and Coastal Zone as shown on the Unitary Development Plan (UDP) Proposals Map. Strategic UP Policy URN1 seeks to ensure full and effective use of land is made within urban areas and that neglected unused or derelict land or buildings are brought into use. This should be read in conjunction with:

- UDP Policy EM8, which makes provision for uses within Use Class B1, B2 and B8 and proposals for the reconstruction of existing businesses. This is linked to UDP Policy EM6 and

Policy EM7 which contains criteria that seeks to ensure there would no unacceptable loss of amenity, no adverse effect on the operations of neighbouring uses and to consider traffic impact, nature conservation and the extent to which natural features would be retained.

- UDP Policy CO1, which makes provision for development requiring a coastal location, provided there would be no adverse effect on nature conservation, flood risk can be addressed and public access to the coast can be preserved or enhanced where safe and practical to do so.

Section 38 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 made in accordance with the plan unless material considerations indicate otherwise.

The National Planning Policy Framework (NPPF) became a material planning consideration on 27th March 2012. This indicates that the purpose of the planning system is to contribute to the achievement of sustainable development and that paragraphs 18 to 219 taken as a whole constitutes the Governments view of what this means in practice for the planning system.

One of the core principles is to support sustainable economic growth.

As offices are identified as a main town centre use, the national sequential and impact tests are applicable to this application (NPPF paragraphs 24 and 26 refer). This is considered under the heading on employment below.

Paragraphs 56 sets out that good design is a key aspect of sustainable development and should contribute positively to making places better for people. Paragraph 57 refers to planning positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development.

Paragraphs 96 sets out that the planning system should contribute and enhance the natural and local environment by preventing development contributing to unacceptable levels of soil, air, water or noise pollution or land instability. Despoiled, degraded, derelict, contaminated and unstable land should be remediated and mitigated where appropriate.

Paragraph 131 states that when determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation
- the positive contribution that conservation of heritage assets can make to sustainable communities including economic viability
- the desirability of new development making a positive contribution to local character and distinctiveness.

The Core Strategy Local Plan - Proposed Submission Draft (December 2012) which has been approved by the Council as a material consideration in future planning decisions also seeks to pursue a strategy and of urban regeneration and the area in which this sited located is identified as the a primary focus for new jobs to support economic competitiveness (Policy CS2 – Broad Spatial Strategy refers).

## **EMPLOYMENT**

While offices should normally be directed to town centre or edge of centre locations outside the Coastal Zone under the terms the NPPF and UDP Policy CO1, in this particular case, the site forms part of the Mersey Waters Enterprise Zone where the aim is to rejuvenate under-used and surplus dockland and create permanent new jobs with private and public sector support.

The Wirral Economic Profile (April 2014) shows that Borough continues to have a higher percentage of people claiming out of work benefits that the regional and national average with concentrations in deprived areas recorded at 28%. It also indicates that Wirral significantly lags behind other local areas in terms of growth and has the lowest GVA per head in England.

In terms of building a strong economy, the Government wants the planning system to do all it can to support sustainable economic growth. Revitalising the local economy is a fundamental part of the urban regeneration strategy which is pursued, through the UDP and the emerging Core Strategy Local Plan. Furthermore, it is also a key priority of the Council's Investment Strategy to increase the number of jobs and seek employment opportunities for Wirral residents, particularly in areas of the borough where there are high levels of unemployment.

It is The proposed development could provide for up to 450 new full time equivalent jobs to Wirral. It is considered that these proposals will contribute to the wider regeneration of Wirral and assist in the long term support of sustainable economic growth, which should be given significant weight in favour of the development in this case.

### **HISTORICAL CONTEXT**

Paragraph 131 of the National Planning Policy Framework advises that when considering the impact of any proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation.

The dock wall to the immediate south of the site is Listed (Grade II). Initial discussions with both English Estates and the Boroughs conservation officer advised that there should be a 15m buffer zone between the dock wall and any new development. The proposed building has been positioned 22m away from the site boundary to factor in an additional safety element to ensure that the Listed existing dock wall is not disrupted. The Hydraulic Tower also a Grade II Listed Building is located to the north east of this site, approximately 300m away. The scale and massing of this development, together with the careful design of this building will ensure that the proposal will have no adverse impact on the setting of the Hydraulic Tower and therefore complies with UDP Policy CH1. The Boroughs Conservation Officer has raised no objections to the proposal

### **APPEARANCE AND AMENITY ISSUES**

The proposed four storey building contains a recessed ground floor and the stepped back roof profile which reduces the overall scale of the building and creates a massing that is reminiscent of the trade vessels which once occupied the now-disused docks, and helps it sit comfortably in its setting. The composition of the building and the stepped roof profile complements and reduces the building's impact on the context. The lower levels to the elevation are reinforced with set back facade and chamfered slab above, and the entrance is picked out by a canopy and full height recess

The main body of the building is fully glazed, with aluminium spandrel panels highlighting and accentuating the horizontal. Relief to the facade is provided through louver screens across the front and rear facades, and through large sun-shading features to the south elevation which also helps with climate control. A brise-soleil to the top accommodation floor provides a vertical visual stop, and the contrasting material helps to reduce the scale of the glass used throughout the rest of the building.

The area around the site for the proposed offices contain predominantly modern buildings, with few original buildings remaining around. The most notable exception to this is the Hydraulic tower, and the dock walls themselves. The predominant building materials for the dock walls and remaining original dock structures are brick and stone. The modern buildings surrounding the site are composed of a mixture of brick, glass and metal panels

The landscaped area directly behind the building provides a semi-public garden which links the building, Egerton Dock and the public footpath. Informal seating is provided along diagonals which encourage views out over the docks. Soft landscaping provides an infill to the hard landscape lines and allows a degree of privacy between rooms to lower levels. Seating and lighting features are provided to the main entrance of the building, providing an animated zone between the lobby and car park. The trees to the perimeter of the site are to remain.

The proposal is therefore considered to comply with UDP Policies Policy LAN 1 Principles for Landscape.

### **SEPARATION DISTANCES**

Separation distances do not apply in this instance, as no residential properties will be affected by the

proposed development.

### **HIGHWAY/TRAFFIC IMPLICATIONS**

There are no Highway Implications relating to this proposal subject to conditions for the provision of cycle parking, a full travel plan and details of the vehicle access onto Tower Wharf to be for approval submitted in writing to the LPA prior to construction and implemented in accordance with the approved details.

### **ENVIRONMENTAL/SUSTAIN ABILITY ISSUES**

#### **EA Scoping and Environmental Impact Assessment**

An EA screening request was submitted by the applicant prior to the submission of the application. The proposals were categorised under the EIA Regulations 2011 as within the scope of an "urban development project" under Schedule 2, clause 10(b). MEAS have considered the scheme on behalf of the Council against the screening provisions set out in the EIA Regulations, . The Local Planning Authority can conclude that the proposals are unlikely to give rise to significant environmental effects and that full EIA is therefore not required in this case.

#### Impact on Wildlife

UDP Policy NCO1, states that the Local Planning Authority will only permit proposals which will not adversely affect either directly or indirectly the integrity of the Boroughs international, national and locally designated sites for nature conservation and earth science.

As the competent Authority, a Habitat Regulations Assessment has been undertaken for the Local Planning Authority by Merseyside Environmental Advisory Service. The supporting documentation that accompanies the application has been assessed and it can be concluded that the proposal:

- is not directly connected with or necessary to the management of the nature conservation sites
- does not intrude into the Natura 2000 sites listed below
- is not considered, either alone or in-combination with any other plans or projects, to have a likely significant effect on each of the following sites:
  - Mersey Estuary Special Protection Area (SPA)
  - Mersey Estuary Ramsar
  - Mersey Narrows and North Wirral Foreshore SPA
  - Mersey Narrows and North Wirral Foreshore Ramsar site and
  - Liverpool Bay SPA

Consequently the Local Planning Authority can concluded that the proposal will have no adverse effect on the integrity of the Natura 2000 sites

UDP Policy NC7 Species Protection states that any development that has 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.

Vegetation on site may provide some limited nesting opportunities for breeding birds, which are protected. No tree felling and scrub clearance should take place between the period 1st March to 31st August. If it is necessary to undertake works during the bird breeding season then all trees on site are to be checked to ensure no breeding birds are present. If they are present, details of how they are to be protected are to be required. This can be achieved through the attached condition.

#### Flood Risk Assessment

The site is located within Flood Zone 1 on the Environment Agency's current Flood Map. The proposed development would be within a regeneration area, a "Less vulnerable" classification has been assigned to it and is therefore an appropriate development in this location and is not considered to be at risk of flooding from rivers or the sea.

#### Drainage

Existing drainage infrastructure consists of separate foul and surface water systems that flow along Tower Wharf in an easterly direction, with the surface water discharging into the River Mersey, and

the foul water flows to a foul water pumping station located at the end of Morperth Wharf. Furthermore, the applicants have advised within their submission that it is understood that United Utilities will increase the surface water runoff into the existing surface water drainage system.. Notwithstanding this the applicants have advised that they are developing a range of options for SUDS which would, if adopted could significantly reduce the volume of runoff under storm conditions. The Environment Agency has no comments to make with regards to surface water flooding.

#### Waste

Policy WM9 - Sustainable Waste Management Design and layout for New Development. The proposed site design and layout provides appropriate vehicle access and would appear to provide sufficient space for commercial waste collection. Details of demonstrating how the proposal will facilitate the collection and storage of waste can be achieved through a suitably worded condition

#### Contaminated Land

The National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

The development is located on land which has been part of the areas long industrial heritage since the formation of port facilities in the area prior to 1844. The long and varied history of land use may have led to conditions of site which may pose a significant risk to controlled waters.

The Environment Agency have advised that the level of contamination is unlikely to require significant, long term, remediation but the presence, primarily of the underground tank, is likely to require remediation.

Based on the information submitted, it is recommended by both the Environment Agency and the Councils Environmental Health Officers that the development could be granted providing there are conditions relating to the control and management of contamination.

#### **HEALTH ISSUES**

There are no health implications relating to this application.

#### **CONCLUSION**

Having regard to the statutory development plan and specific material considerations in this particular case, it is considered that the proposed development would have a positive impact on the area in terms of economic regeneration, visual amenity and environmental amenity. The proposed development which will provide a facility for uses within Use Class B1 within the Mersey Waters Enterprise Zone. The proposed Grade A office accommodation will provide for up to 450 new full time equivalent jobs to Wirral. It is considered that these proposals will contribute to the wider regeneration of Wirral and assist in the long term support of sustainable economic growth which is promoted through both National and local plan policies.

#### **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 advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposed development is likely to have a positive impact on the area in terms of economic regeneration, visual amenity and environmental amenity. The proposed development which will provide a facility for uses within Use Class B1 within the Mersey Waters Enterprise Zone. The proposed Grade A office accommodation will provide for up to 450 new full time equivalent jobs to Wirral. It is considered that these proposals will contribute to the wider regeneration of Wirral and assist in the long term support of sustainable economic growth which is promoted through both National and local plan policies.

**Recommended**      **Approve**  
**Decision:**

**Recommended Conditions and Reasons:**

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

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

2. 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.

**Reason:** To ensure a satisfactory development which does not prejudice the amenity of the locality.

3. 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 Policies of the Wirral Unitary Development Plan.

4. No part of the development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangement for its implementation. Development shall be carried out in accordance with the approved schedule.

**Reason:** To ensure landscape features are properly considered and protected and to accord with Policies of the Wirral Unitary Development Plan.

5. No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme 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 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** To ensure a safe form of development that poses no unacceptable risk of pollution



to the water environment.

6. No occupation of any part of the permitted development 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.

**Reasons** To ensure a safe form of development that poses no unacceptable risk of pollution to the water environment

7. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

**Reasons** To ensure a safe form of development that poses no unacceptable risk of pollution to the water environment.

8. Development shall not be commenced until a Full 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:** In the interests of highway safety and to accord with Policies in the in the Wirral Unitary Development Plan.

9. No part of the development shall be brought into use until a means of vehicular access to the site has been constructed. These works shall be in accordance with details, which should be submitted to and approved in writing by the Local Planning Authority

**Reason:** In the interests of highway safety and to accord with Policies of the in the Wirral Unitary Development Plan.

10. No part of the development shall be brought into use until space and facilities for cycle parking of a type and in a location previously submitted to and agreed in writing by the Local Planning Authority have been provided and these facilities shall be permanently retained thereafter.

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

11. Prior to the commencement of development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The provisions of the Construction Management Plan shall be implemented in full during the period of construction and shall not be varied unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** In the interests of highway safety and to accord with Policies of the Wirral Unitary Development Plan.

12. No tree felling and scrub clearance is to take place during the period 1st March to 31st August Inclusive. If it is necessary to undertake works during the bird breeding season then all trees and scrub on the site are to be checked first to ensure no breeding birds are

present. If present details of how they are to be protected are required.

**Reason** In the interest of amenity and to ensure that the construction of the development uses best practicable means to avoid adverse environmental impacts in accordance with National Planning Policy Framework. To ensure that there is no likely significant effects on natura 2000 sites and European protected species. To avoid pollution to controlled waters. To ensure that the proposed development makes a contribution to biodiversity in accordance with NERC "Biodiversity Duty", Policy NC7 of the adopted UDP and the National Planning Policy Framework.

13. The proposed landscaping shall be completed before the accommodation hereby approved is occupied and thereafter shall be maintained to the satisfaction of the Local Authority.

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

14. Prior to the commencement of development, details of proposed bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full unless otherwise agreed by the Local Planning Authority.

**Reason** In the interest of amenity and to ensure that the construction of the development uses the best practicable means to avoid adverse environmental impacts in accordance with the National Planning Policy Framework.

15. NO DEVELOPMENT SHALL TAKE PLACE until a Code of Construction Practice shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, the final Code of Construction Practice and Management Plan should cover the following Minimum requirements;

I. Site supervision

II. Machinery (Noise & Vibration Levels and mitigation measures, location and storage of plant, materials and access to banks etc)

III. Protection of areas of ecological sensitivity and importance

IV Methods used for all channel and dock edge water margin works

V Methods for the control of dust and air pollution

VI Methods for the prevention of dust, dirt, debris and other deposits on the highway

VII Details of security hoarding including maintenance, decorative displays and facilities for public viewing.

VII Lighting methods to avoid disturbance to birds and bats

IX Methods to avoid construction related debris and pollution from entering controlled waters

**Reason** In the interest of amenity and to ensure that the construction of the development uses the best practicable means to avoid adverse environmental impacts in accordance with the National Planning Policy Framework. To ensure that there is no likely significant effects on Natura 2000 sites and European protected species. To ensure that the proposed development makes a contribution to biodiversity in accordance with NERC "Biodiversity Duty", Policy NC7 of the adopted UDP.

#### **Further Notes for Committee:**

1. Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.

Refer to the Environment Agency Guiding principles for land contamination for the type of information that we required in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.

Refer to our website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) for more information.

**Waste to be taken off site**

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

Duty of Care Regulations 1991

Hazardous Waste (England and Wales) Regulations 2005

Environmental Permitting (England and Wales) Regulations 2010

The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) for more information.

**Waste on site**

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice

excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution

treated materials can be transferred between sites as part of a hub and cluster project

some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. The Environment Agency recommends that developers should refer to our:

Position statement on the Definition of Waste: Development Industry Code of Practice and;

website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) for further guidance.

**Last Comments By:** 02/07/2014 14:12:58  
**Expiry Date:** 22/08/2014