

Planning Committee

15 September 2016

Reference:
APP/16/00108

Area Team:
North Team

Case Officer:
Ms J Storey

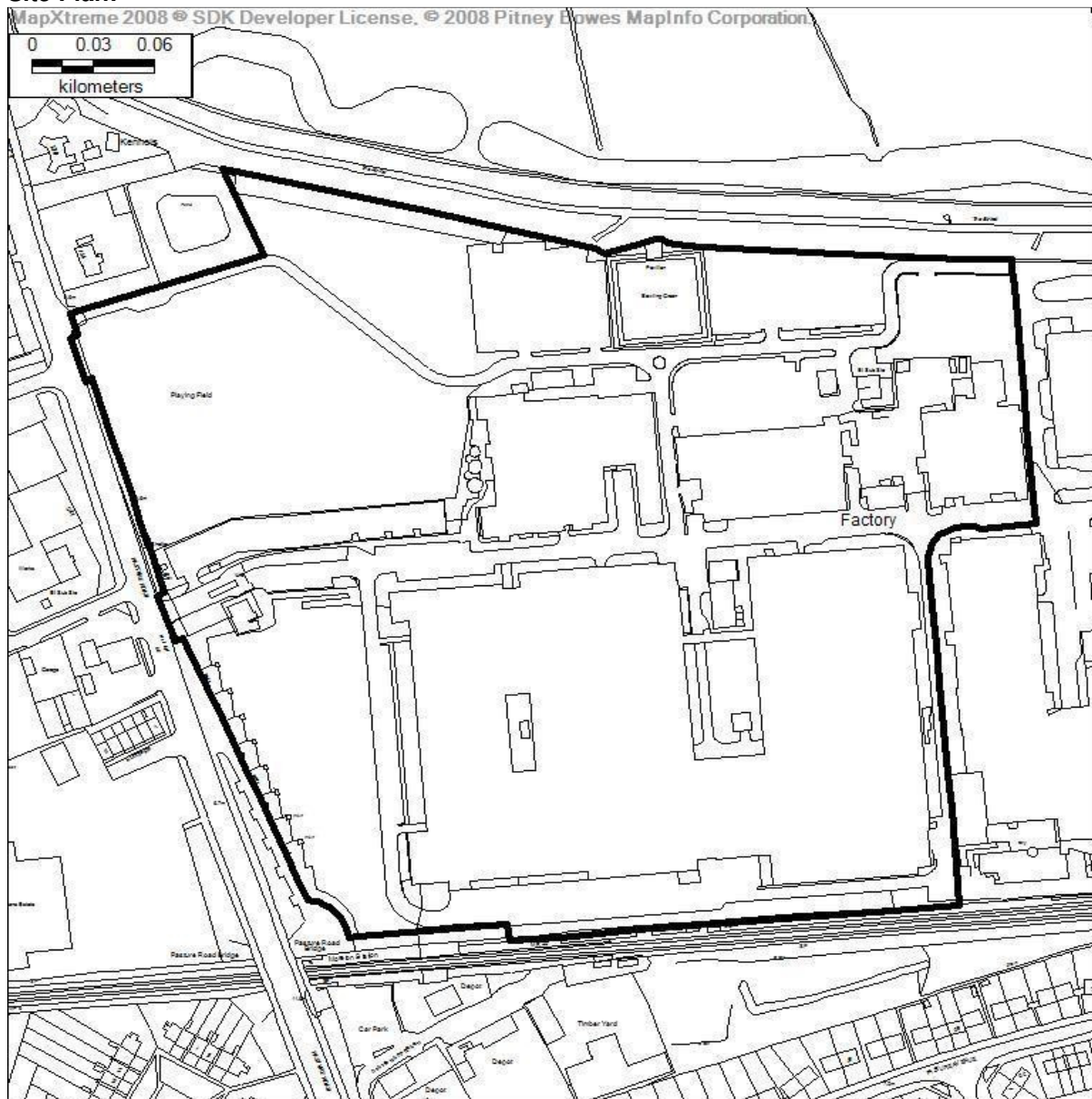
Ward:
Leasowe & Moreton East

Location:
Proposal:

Burtens Foods, PASTURE ROAD, MORETON, CH46 8SE
Demolition of existing industrial buildings and hybrid planning application, seeking full planning permission for access to manufacturing units to the east of the Site; security building; weighbridge; car & cycle parking; landscaped boundary treatment; and associated infrastructure for Burton's Biscuit Company. Outline planning application for 299 residential dwellings, associated open space and infrastructure with all matters except for access reserved for future determination.

Applicant: Burton's Biscuits Company
Agent : Bilfinger GVA

Site Plan:



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Development Plan allocation and policies:

Washland
Primarily Industrial Area

Planning History:

Location: Burtons Foods, PASTURE ROAD, MORETON, CH46 8SE
Application Type: Outline Planning Permission
Proposal: Demolition of the existing buildings and structures to facilitate mixed-use development comprising residential(class C3) and Employment (class B1, B2 & B8) uses, erection of a new security hut, access road and enhancement of the existing access.
Application No: OUT/14/00022
Decision Date: 08/05/2014
Decision Type: Refuse

Location: Burtons Foods, Pasture Road, Moreton, Wirral, CH46 8SE
Application Type: Full Planning Permission
Proposal: Removal of existing window & replace with fire door
Application No: APP/09/05206
Decision Date: 01/05/2009
Decision Type: Approve

Location: Burtons Foods, Pasture Road, Moreton, Wirral, CH46 8SE
Application Type: Full Planning Permission
Proposal: Erection of new raised dock and building enclosure incorporating two lorry loading docks and provision of floodlighting.
Application No: APP/04/06525
Decision Date: 02/09/2004
Decision Type: Approve

Location: Burton's Foods, Pasture Road, Moreton, Wirral, CH46 8SE
Application Type: Advertisement Consent
Proposal: Proposed new illuminated signs
Application No: ADV/02/05050
Decision Date: 05/03/2002
Decision Type: Approve

Summary Of Representations and Consultations Received:**REPRESENTATIONS**

Having regard to the Council's Guidance on Planning Applications 157 notifications were sent to surrounding properties and site notices were displayed near the site. At the time of writing, a qualifying petition has been received requesting that a condition be applied to any planning approval to ensure future maintenance of the existing water feature to the front of the site.

37 individual letters of support have been received in support of the proposal.

CBRE (on behalf of Premier Foods) - concerns that the consequences of residential development within close proximity to Manor Bakeries could have a detrimental impact upon the operational efficiency of its business. As such are keen to ensure that the noise assessment supporting the application is robust and accurately assesses and takes into account of all surrounding land uses. Does not consider that the submitted noise assessment adequately considers the potential impacts of the industrial operations associated with Manor Bakeries, Typhoo or the Burton's Biscuits Chocolate Refinery upon the occupants of the proposed developments. Have reviewed the baseline noise data against the identified hours of operation and are concerned that no weekend noise surveys were undertaken at any point when general ambient noise levels in the area would be reduced. As Manor Bakeries operates during the weekend, the company would expect consideration of potential weekend noise impacts when the bakery is operational. Dissatisfied that the construction assessment provided is

limited only to impacts on surrounding residential receptors. The assessment makes no reference to the potential impacts of piling on the directly adjacent industrial uses.

Wirral Society - support the proposal, whilst regretting the demolition of the interesting factory buildings, we nevertheless feel that the proposal to demolish it is the right one. The construction of new houses on the site will make a useful contribution to the local economy and reduce the pressure for building on the urban fringes of the Borough

CONSULTATIONS

Head of Environment and Regulation (Traffic and Transport Division) - No objections subject to conditions

Head of Environment and Regulation (Pollution Control) - No objections subject to conditions relating to a full site investigation and risk assessment and the implementation of a remediation scheme if applicable.

Network Rail - No objection , but consider that developer contributions could cover heated waiting shelters, CCTV, Customer Information Systems and Help Points and request that the developer submits a risk assessment and method statement once the proposal has entered the development and construction phase.

Merseytravel - No objections subject to the provision for suitable public transport enhancements

Natural England - No objections

Environment Agency - no objection in principle to the proposed development. Reviewed the supporting documents with regards to flood risk (Environmental Statement, Volume 1 – Main Report, December 2013, and Environmental Statement, Volume 2 – Technical Appendices, 14.1 – Flood Risk Assessment, Ref: CIV 15138/FRA-R1, December 2013) and it is the Agency's view that outline planning permission for development would be conditionally acceptable from a flood risk perspective, subject to the necessary exception and sequential tests being carried out (as required by the National Planning Policy Framework (NPPF)).

Merseyside Environmental Advisory Service (MEAS) - No objections

United Utilities - No objections subject to conditions attached to any approval relating to the submission of details relating to foul drainage, and surface water drainage.

Sports England - Object on the grounds that the proposal does not accord with any of the exceptions in Sport England's Playing Fields policy or paragraph 74 of the National Planning Policy Framework

Head of Housing - support the proposal

Director's Comments:

REASON FOR REFERRAL TO PLANNING COMMITTEE

This application is for Major Development and under the provisions of the Scheme of Delegation for Determining Planning Applications this application is required to be considered by the Planning Committee. Councillor Blakeley has also asked for the scheme to be taken out of delegation.

INTRODUCTION

Planning permission is sought for the following:

- a) outline planning permission for 299 residential dwellings (Use Class C3) with all matters reserved apart from access; and,
- b) full planning permission for a new access road, construction of a new security hut, a weighbridge, car and cycle parking facilities, associated landscaping and infrastructure.

The works would involve the demolition of the main original factory unit, which is adjacent to Moreton

Railway Station and faces Pasture Road.

The site was originally developed for the production of confectionary by Cadbury's in the early 1950s. Expansion of the original buildings and production was extended through the 1950s, 60s and 70s and employed 4,000 staff at the peak of its operation. During the 1980s the business was subject to a management buyout and became Premier Brands UK Ltd. From 2007 onwards buildings and operations within the site began to close and operations contracted. The existing buildings on the site are now all vacant. Manor Bakeries and Typhoo Tea continue to operate on the adjoining land, to the immediate east.

This application seeks to address the previous reasons for refusing residential development on this designated employment site and its landscaped frontage, which are considered in the Directors comments below. The main issues relate to the need for employment and housing land, the prospects of employment development coming forward in the longer term and whether or not the current proposal would constitute sustainable development.

PRINCIPLE OF DEVELOPMENT

The site is designated as a Primarily Industrial Area in the Unitary Development Plan (UDP). As there is no provision for residential development under UDP Policy EM8, the application is a departure from the Wirral Unitary Development Plan and has been advertised as such.

SITE AND SURROUNDINGS

The application site comprises of 12.90 hectares of land (the outline application extends to 9.7 ha and the full planning application area extends to 3.2 ha) including vacant industrial buildings and access roads plus an open area of disused playing fields and a bowling green to its north and west. The site is defined by the River Birket to the north, Pasture Road to the west, Morton Railway Station and rail track to the south and industrial buildings (which are not part of this residential application) to the east. The main road frontage along Pasture Road contains an area of landscaping and a water feature.

The main Primarily Residential Area is located beyond a storage depot, workshops and builders merchants on the opposite side of the railway track to the south of the site. While small areas of sporadic housing can be found along Pasture Road, the area as a whole is predominantly characterised by industrial employment uses. The site adjoins the remaining parts of the Burton's Foods, Premier Foods/Manor Bakeries and Typhoo Tea industrial complex to the east and the Tarran Industrial Estate is located to the immediate west, on the opposite side of Pasture Road.

The site contains a former company playing field on the western side and a bowling green along the northern boundary, adjacent to the River Birket, to the north. The total area of sports provision equates to approximately 2.4 ha.

The site is 700m from Mersey Narrows and North Wirral Foreshore SPA/Ramsar. Land directly to the north, including the Ditton Lane Nature Area and the fields to the north, is identified as a WeBS count sector and provides supporting habitat for bird species for which the SPA/Ramsar has been internationally designated.

POLICY CONTEXT

The statutory development plan consists of the Wirral Unitary Development Plan (UDP adopted February 2000 and saved by Direction of the Secretary State on 18 September 2007) and the Joint Waste Local Plan for Merseyside and Halton (adopted 18 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 HS4	Criteria for New Housing Development
Policy HSG2	Affordable Housing
Policy HS6	Principles for Affordable Housing
Policy GR5	Landscaping and New Development
Policy GR6	Greenspace within New Family Housing Development

Policy REC1	Principles for Sport & Recreation
Policy RE11	Criteria for Children's Play Facilities
Policy NC1	Protection of Sites of International Importance for Nature Conservation
Policy NC5	Protection of Sites of Local Importance for Nature Conservation
Policy NC7	Species Protection
Policy TRT1	Provision for Public Transport
Policy TRT3	Transport and the Environment
Policy TR8	Criteria for the Design of Highway Schemes
Policy TR9	Requirements for Off-Street Parking
Policy TR11	Provision for Cyclists in Highway and Development Schemes
Policy WAT1	Fluvial and Tidal Flooding
Policy WA1	Development and Flood Risk
Policy WA2	Development and Land Drainage
Policy WA5	Protecting Surface Waters
Policy WA6	Development within River Corridor
Policy PO4	Noise Sensitive Development.

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

Policy WM8 – Waste Prevention and Resource Management

Policy WM 9 – Sustainable Waste Management Design and Layout for New Development

The site is designated as part of a Primarily Industrial Area shown on the Unitary Development Plan (UDP) Proposals Map. Strategic UDP Policy URN1 seeks to ensure full and effective use of land is made within urban areas. This should be read in conjunction with UDP Policy EM8, which makes provision for uses within Use Classes B1, B2 and B8 and proposals for the reconstruction, extension or expansion of existing business. A proposal for residential development is therefore a departure from the UDP and has been advertised as such.

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 constitute the Government's view of what this means in practice for the planning system. Paragraph 14 and its footnote make it clear that locations at risk from flooding should be restricted and are not subject to the national presumption in favour of sustainable development. Paragraph 74 also places restrictions on the future use of existing open space, sports and recreational buildings and land, including playing fields and paragraph 123 makes it clear that existing businesses should not have unreasonable restriction put on them because of changes in nearby land uses since they were established.

The Council has also resolved that the Core Strategy Local Plan - Proposed Submission Draft (December 2012) and its supporting documents including the Wirral Employment Land and Premises Study Update (ELPS, BE Group, 2012) will be material considerations for the purpose of determining planning applications. A series of initial proposed modifications to the Proposed Submission Draft were also published in July 2013, which should also be considered, although these have not yet been formally confirmed as Council policy.

Weight can be given to the emerging Core Strategy according to its stage of preparation, the significance of any unresolved objections and the degree of consistency with NPPF (paragraph 216 refers). Whilst full or significant weight cannot yet be accorded to the Core Strategy, insofar as the Proposed Submission Draft Core Strategy has been prepared in accordance with the NPPF, it should be given some weight as material consideration in the determination of this application.

Flood risk and the availability of other sites with a lower probability of flooding, the need for residential development, the need for industrial development, potential impacts on the character of the area and neighbouring uses, the loss of former playing fields and any benefits that might be accrued in context

with the National Planning Policy Framework (NPPF) and the emerging Core Strategy Local Plan are the principal material considerations in this particular case.

Flood Risk and the National Sequential Test

Although not designated as part of the Washland on the UDP Proposals Map, the site falls within the wider flood plain for the River Birket and Liverpool Bay to the north and following flooding incidents elsewhere in Moreton last year the Environment Agency has updated its Flood Map to show the whole of the site as now falling within Flood Zone 3, where risks from river and tidal flooding are normally considered to be high.

UDP Policies WAT1 and WA1 only permit development that would not be at risk from flooding and would not increase the risk of flooding elsewhere. Draft Core Strategy Policy CS34 updates this position in the light of the Council's Strategic Flood Risk Assessment and makes it clear that the national sequential assessment will be applied in determining planning applications. Development would not be permitted where there would be an unacceptable risk of flooding or risk is increased elsewhere or where there would be maintenance liabilities or complicated emergency procedures.

The Environment Agency has been consulted and does not object to the application on flood risk grounds, subject to the imposition of certain planning conditions.

The Environment Agency have indicated that the amended Flood Risk Assessment (FRA) (Flood Risk Assessment, Waterman Infrastructure & Environment Limited, Ref: WIC 15138/FRA-R2.3, Issue 3, July 2017) and revised hydraulic modelling report are acceptable in principle. The FRA demonstrates areas towards the northern part of the site are at risk of fluvial flooding should there be a breach in the River Birket flood embankment. The FRA explains that this risk can be mitigated by either residential dwellings avoiding the area affected by flooding through the breach, or by raising development levels above the breach flood level. Such mitigation is considered acceptable in principle. Although the Environment Agency are satisfied at this stage that the proposed development could be supported in principle, the applicant will need to provide further information with any further Reserved Matters application to ensure that the proposed development can go ahead without posing an unacceptable flood risk. As such the conditions at the end of this report are required.

NPPF, paragraphs 101 and 103 make it clear that the aim of the sequential test is to steer new development to areas where there is a lower probability of flooding. This is clarified in the National Planning Policy Guidance (6 March 2014, paragraphs 18 & 19) which indicates that if there are no reasonably available sites in Flood Zone 1, the vulnerability of development in Flood Zone 2 and thereafter Flood Zone 3 can be taken into account. If found that it is not possible to build where flood risk is lower, an 'exception test' can also be applied if the wider sustainability benefit to the community would outweigh the risk.

Responsibility for assessing compliance with the sequential approach lies with the Local Planning Authority, not the Environment Agency. Even where the Agency does not object on flood risk grounds, the requirement to consider whether the proposal could be accommodated on sites at lower probability of flooding remains in place.

The applicant contends that sites not capable of accommodating 299 dwellings should be discounted from any sequential assessment but have adopted their own methodology to assess 14 alternative sites with a threshold of 50 units or more before claiming that there are no available sites which are appropriate for the proposed development. Sites discounted by the applicant included land at Fiveways – New Chester Rd; Acre Lane; Manor Drive; Rock Ferry High School; and The Former Dell Primary School.

The Council's latest calculations at April 2016 nevertheless show that planning permission was in place for 2,221 dwellings in April 2016, of which 1,746 units were on sites awaiting implementation. In addition to this, there is sufficient land within the Borough to accommodate up to 1,249 units on Category One sites without planning permission at April 2016 (which has been assessed in line with national policy as available, suitable and achievable within the next 5 years). In terms of some of the larger sites, Acre Lane (8.54 ha) is capable of accommodating 230 dwellings; land at New Chester Road (2.36ha) 135 dwellings; Highfield South (6.32ha) 109 dwellings; and Manor Drive (4.14ha) 127. The Council's calculations do not include the potential extra capacity dwelling in the Wirral Waters

proposals, which include potential for up to 15,193 dwellings.

The Need for Housing and Employment Land

Housing Land

The Council's latest statutory monitoring report for December 2015 shows that there is a 3.4 year supply with a 5% buffer or a 3.1 year supply with a 20% buffer based on the latest 2012-based national household projections. A revised Strategic Housing Market Assessment (May 2016), shows the objectively assessed need for housing to be between 875 and 1,235 per annum; at a level significantly higher than the 2012-based household projections. Further work, including a study of the viability of all development, is currently being carried out to help decide on the number of new homes that will be needed as part of the Council's Core Strategy Local Plan, will be reported later this year.

The NPPF expects local planning authorities to deliver a wide choice of high quality homes by meeting objectively assessed needs for market and affordable housing in full and by maintaining a five-year supply of specific developable housing sites, with a buffer of between 5% and 20% (NPPF paragraph 47). As a specific requirement for Wirral has not yet been identified the terms of NPPF paragraphs 14 and 49 are applicable. Relevant policies for the supply of housing should not be considered up-to-date and planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF taken as a whole or specific policies in the NPPF indicate that development should be restricted. The absence of a 5-year housing land supply does not mean, however, that housing development should be permitted anywhere; it should be permitted only where it amounts to sustainable development taking account of any other relevant issues.

Employment Land

In terms of building a strong competitive economy, the Government wants the planning system to do all that it can to support sustainable economic growth. It recognises that businesses should not have unreasonable restrictions put on them because of changes in nearby land use but expects planning policies to avoid the long term protection of designated employment sites where there is no reasonable prospect of a site being used for that purpose. Where there is no reasonable prospect, applications for alternative uses should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable communities (NPPF paragraphs 18-22 & 123 refer).

Although UDP Policy EM8 only makes provision for industrial uses within Use Classes B1, B2 and B8, draft Core Strategy Policy CS17 proposes, in line with national policy, to continue to safeguard designated employment areas and to only allow alternative uses where:

- the site is not suitable for one of the priority sectors; and
- there has been continuous marketing at realistic prices and there is no reasonable prospect of the site being re-used for employment purposes;
- an ongoing supply of available, suitable, developable employment land would be retained; and
- the uses are compatible with the character of the surrounding area, would not restrict operation of other employment uses, contribute to more sustainable patterns of development and meet Development Management Policy CS42; and
- in the case of residential development, that additional housing is needed to demonstrate a 5 year supply of housing land; or
- the development is necessary to secure employment development that would not be otherwise viable.

Priority is to be given to protecting high scoring sites capable of providing employment and training in areas of greatest need.

The Council's Corporate Plan includes a pledge to provide for greater job opportunities and includes a target for the creation and safeguarding of 5,000 jobs by 2020.

The Council's Employment Land and Premises Study (2012) found that there was a serious shortage of immediately available, serviced, developable employment land with utilities and road access already in place and concluded that a large proportion of the existing potential supply was being considered for

alternative uses, which could seriously affect the Borough's ability to maintain a credible future supply.

Because of their location, the employment areas at Moreton are still considered an important part of the Borough's employment land portfolio. The main supply of employment land is located in east Wirral and there is no other major site of comparable size to the application site that is accessible by bus and rail and suitable for new development, to the west of the M53 Motorway. It is adjacent to a cluster of food-related industries, a priority sector, and is within an Assisted Area qualifying for state aid to encourage employment in an area with consistently high unemployment. Eligibility for grant assistance will remain in place up to 2020 as the location has been included on the new Assisted Areas Map for 2014 to 2020.

The national Indices of Multiple Deprivation indicate that the areas immediately surrounding the application site are amongst some of the most deprived in England – four of the surrounding Lower Level Super Output Areas fall within the worst 10% and one falls within the worst 20% - scoring poorly in ranks of income and employment deprivation. The Council's statutory Monitoring Report also shows that the ratio of total jobs to the working-age population in Wirral (job density) remains considerably lower than national, regional and sub-regional averages.

The applicant has challenged the findings of the Council's Employment Land and Premises Study and suggests there is sufficient supply of land for 67 years based on average annual take up rates over the past five years of 2.97ha. This, however, over-simplifies the issue, as take up rates are prone to fluctuation according to economic circumstances and the requirements of individual businesses. Council monitoring shows that 39.52ha of employment land was developed over the 5 years between 2010/11 to 2014/15 at an annual average of 7.9 ha per annum. The most up to date take-up rates, at April 2015, have averaged 7.05 hectares over the last 10 years throughout the Borough. The Council's monitoring also shows a gross employment land supply in the region of 167.2ha. Making allowances for land with serious physical constraints and with planning permission for other uses, a take-up rate of 7.05ha per annum would give a supply of 14.4 years. A take up-rate of 8.3ha per annum, based on the annual average the last 15 years, would provide a supply equivalent to 12.3 years. This does not include allowances to maintain a 5 year buffer as recommended in the Employment Land and Premises Study. Issues related the size, type and location of a suitable supply would also need to be addressed through the Core Strategy Local Plan public examination later next year.

The applicant has sought to address the first refusal reason for the previous application (OUT/14/00022) by implementing a marketing strategy from August 2014 targeted at the industrial Use Classes B1, B2 and B8, using a sales board on site, a sales brochure sent to Industrial Agents around the country, the UK Trade & Investment Service and Council's Economic Development Team, advertisements on-line and in property magazines, with reports and reviews provided to the Council on a regular basis.

- The submitted details indicate that 38 enquiries were received of which 11 expressed interests for employment use and 1 for commercial use. However none of these were progressed, with some citing the current state of repair or suitability as reasons for not pursuing their initial interest. Out of 18 enquiries for residential use, 2 offers were made. Of the other expressions of interest, 1 was for retail, 1 for the grazing and stabling of horses, 1 for a football pitch and mobile theme park (short term), 2 for mixed use residential-led developments and 3 for asset stripping.

The applicants have advised that parties that expressed an initial interest in the site were provided with a pack of images showing the latest internal condition of the buildings. On that basis they concluded that the re-use of the buildings was not appropriate and/or deliverable and therefore retracted their interest in the site.

The applicant has claimed that redevelopment or reuse of the existing buildings on the site for industrial purposes would be unviable because the prospects for speculative commercial development are poor in the foreseeable future. Their assessment goes on to indicate that it is likely that the only commercial development will be where pre-lets / pre-sales have been agreed in advance of construction or refurbishment. Findings in the Council's Local Plan & Community Infrastructure Levy Economic Viability Study also suggest that substantive speculative industrial development is unlikely to take place without grant assistance, unless there is significant upturn in demand or market values over the next 15 years.

Removal of employment use from previous application

The previous scheme contained an element of provision for future small to medium sized business units... As part of the marketing exercise for the site undertaken as part of this application the applicants have advised that they did not identify any specific demand for this type of use, and no employment use is now therefore included as part of the current application.

The applicant's socio-economic impact assessment contends that beneficial impacts can be accrued during the demolition and construction period through the:

- creation of 71 direct jobs;
- creation of 7 indirect jobs; and
- additional GVA of £25.31m over the construction period.

It is also claimed by the applicant that after the proposed dwellings are occupied there would be:

- an additional resident population of 678 people, of which 423 will be of working age, of which 175 will be in employment;
- additional retail expenditure of £3.3m per annum (£1.4m in convenience goods and £1.93m in comparison goods);
- Earnings potential of £4.9m per annum associated with residents in employment;
- Additional New Homes Bonus of £2.4m over 6 years; and
- Additional Council Tax revenue of £402,510 per annum.

Loss of Playing Fields

At the time of the adoption of the Unitary Development Plan, the playing fields at Burton's were included in land with outline planning permission for B1, B2 and B8 development (OUT/1998/5016), which was granted subject to a condition that outline permission granted in parallel, was implemented at Ditton Lane to provide a replacement for the company sports facilities at both Reeds Land and Pasture Road (OUT/1998/5202). The land at Ditton Lane was allocated for this purpose on the UDP Proposals Map (Proposal RE6/7). The permissions have not, however, been implemented.

The agent acknowledges that the playing field, which is prominently located on the frontage with Pasture Road, has been used for sport and recreation including football, cricket and archery in association with the factory complex; and whilst the sports teams were disbanded in 2007, the playing fields have subsequently been generally maintained. The applicant also indicates that a separate bowling green on the north edge of the site remained open until about 2011. Council records show Moreton Royal British Legion Bowling team were given notice to quit in 2011 and had to re-locate, to play 2.6 miles away at Coronation Park in Greasby.

Greenspace features within sites are protected from inappropriate development by UDP Policy URN1 and recreational facilities of Borough wide importance are safeguarded under UDP Policy REC1. NPPF paragraph 74 indicates that open space, including playing fields should not be built on unless an assessment shows it is clearly surplus to requirements; or the loss would be replaced by equivalent or better provision in a suitable location. Draft Core Strategy Policy CS31 (which has been subject to objection) would re-iterate these requirements and would require that the site was marketed for recreational uses at realistic prices to ensure that it was genuinely surplus.

Sport England has objected to this planning application after noting that aerial photographs show that pitches were marked out and maintained on the Burtons playing fields in 2012. Sport England advised that they would therefore be seeking a quantitative replacement for the pitch located previously at Burtons, in line with their policies and Paragraph 74 of the NPPF, rather than an off-site contribution for improving the quality of an existing pitch. This would involve the laying out of a replacement pitch either on-site or in another suitable location in the vicinity of the proposed development. Sport England has suggested looking at areas which are currently unused on other playing fields in the locality and, specifically, to look for land which is not currently utilised for sporting purposes.

The Council's Parks and Countryside Service advise that the pitches at Lingham Park are currently played to capacity and there is no scope to accommodate any additional pitches or match sessions at that site, even if replacement drainage and playing surfaces were provided. Other than the land previously identified under UDP Proposal RE6/7, the only other sites that could be considered within the area would be at Leasowe Recreation Centre, which is currently subject to a proposal for the provision of five aside pitches.

If the playing fields have been used within the last five years, Sport England must be treated as a statutory consultee. The Sport England evidence is based on aerial photographs from Google Maps, shown dated 2015. While it is not possible to further verify the actual date that the photograph was taken, the applicants have submitted signed affidavits from a number of people which suggest that the pitches on the application site have been out of use for a much longer period, since at least 2007, which appears to coincide with the closure of the previous company sports and social club. In which case, Sport England would not need to be considered as a statutory consultee and there will be no need to notify the Secretary of State before outline planning permission can be granted under the Town and Country Planning (Consultation) (England) Direction 2009. The applicants have nevertheless confirmed that they are willing to enter into a 106 agreement to provide for qualitative improvements to existing playing fields within the vicinity of the site.

Environmental Impact

EIA Scoping and Environmental Impact Assessment

The proposals are in hybrid form, providing for the demolition of existing buildings, revised access arrangements for businesses and the provision in outline for up to 299 residential dwellings and associated works. The site is up to 12.9 hectares in size and the proposals are deemed to constitute EIA Development under the Environmental Impact Regulations 2011. The application is accordingly accompanied by an Environmental statement.

Proposals can only be permitted if there is no adverse effect on the integrity of designated sites for nature conservation under the terms of UDP Policy NC01.

Land immediately to the north of the site has been identified in the WeBS count sector as supporting habitat for the North Wirral Foreshore Site of International Importance for Nature Conservation Area, which is a Special Protection Area and RAMSAR site. The Leasowe Common Site of Biological Importance, which contains a number of rare species, is also located with 500 metres of the site and land off Ditton Lane is known to contain a number of Priority Habitats. Development affecting these habitats and species can only be permitted under UDP Policies NC5 and NC7 if the Local Planning Authority is satisfied that protection can be secured through planning conditions and/or by legal agreement.

After considering the Environment Statement submitted by the applicant, the Merseyside Environmental Advisory Service (MEAS) has advised that in general terms the structure and content of the Environmental Statement meets the requirements of the EIA Regulations 2011, as amended, and is acceptable subject to any requirements for additional information that may arise from the those undertaking detailed reviews of other specific topic areas. Impacts arising from different phases of development have been considered and coverage of cumulative impacts and alternatives has also been included.

There are particular issues with undertaking EIA for outline applications and, in this case, the applicant has used an appropriate parameter-based approach to set out the maximum scale of the development for the purposes of impact prediction.

The Environmental Statement has identified a number of issues where mitigation measures will be required which MEAS advise should be secured through planning condition or other appropriate binding mechanism. In the light of the scale of the scheme and its estimated 8.5 year timetable for implementation, MEAS welcome the commitment given to the use of a Construction Environment Management Plan (CEMP) to ensure good practice on site and recommend that the content of the CEMP should be agreed and secured through a planning condition. The CEMP should be applied to demolition activities as well as to the subsequent redevelopment of the site.

Ecology

Habitat Regulations Assessment

The site is located 700m from the Mersey Narrows and North Wirral Foreshore SPA and Ramsar. These sites are protected under the Habitats Regulations 2010 as amended. Land directly to the north of the site, including the Ditton Lane Nature Area and fields to the north is identified as a WeBS count sector and provides functionally linked land (supporting habitat) for bird species for which the SPA and Ramsar have been designated.

Due to the development's potential pathways and impacts on the above sites, this proposal requires Habitats Regulations Assessment. UDP Policy NC1 applies. The Habitats Regulations Assessment report, submitted by the applicants concludes that there are no likely significant effects.

If there are any amendments to the proposals the whole development will need to be re-assessed for likely significant effects. This includes amendments prior to determination and through subsequent approval/discharge of conditions or requests to vary the proposal.

MEAS recommend that the following matters be secured by appropriately worded planning conditions and other appropriate planning mechanisms to ensure no likely significant effects on European Designated Sites:

- Submission of a Construction Environmental Management Plan, to include details of noise reduction measures;
- Noise limits during the wintering bird period (September – March inclusive) to be no greater than a continuous noise limit of 65dB and an intermittent noise limit of 50dB LAeq within Leasowe Fields WeBS site; and
- Provision of funding by the applicant for Ditton Lane Nature Park and Leasowe Fields for the provision of pathways and other means of diverting public use away from sensitive areas.

Local Wildlife Sites

The development site is 500m from Leasowe Common Local Wildlife Site (LWS) and UDP Policy NC5 applies. The site is adjacent to Ditton Lane Nature Area, which although not designated as an LWS does contain a number of Priority Habitats identified under Sections 40 and 41 of the NERC.

The development may have an indirect effect on the features for which the LWS site has been designated and on the nature conservation value of the Nature Area due to increased recreational pressure from the proposed residential dwellings.

The proposed site layout includes an area of green space along the northern boundary adjacent to the Birket, this is welcomed as it will provide a green corridor along The Birket and will take some of the recreational pressure from residents. Leasowe Common LWS is already well used and it is unlikely that additional recreational use from the residents of the proposed housing will have a significant detrimental impact to this site. However, given the proximity of Ditton Lane Nature Area it is still likely that there will be significant increased recreational use of this site. This impact is also identified within the applicant's submitted Environmental Statement, (section 15.103 of the ES), which suggests that to mitigate this increased pressure that the Council secure a contribution towards the management of Ditton Lane Nature Area, which MEAS consider is required. A contribution towards the management of Ditton Lane Nature Area should be secured through an appropriate planning mechanism e.g. S106 / commuted sum.

Pollution prevention measures are also required to protect The Birket during construction. These can be incorporated into a Construction Environmental Management Plan (CEMP) and secured by a suitably worded planning condition.

The Great Crested Newt survey is now three years old and MEAS advise that this should not normally be accepted. However, on this occasion it is acceptable as no great crested newts were recorded by these surveys and the ponds are isolated from other ponds and wetlands by roads and railway. Therefore no updated survey was required in support of this current application.

No further action is required in relation to protected species. Further details are provided in relation to the section on tree works below.

Evidence of the presence of foxes was found within one of the buildings on site (identified as building 10

within the bat survey). MEAS recommend that prior to demolition works the building should be first checked for foxes by a suitably qualified ecologist and appropriate mitigation measures put in place if found to be present, these must be submitted to the Council for approval. This can be secured by a suitably worded planning condition.

Breeding birds

MEAS note that existing buildings and vegetation on site may provide nesting opportunities for breeding birds, which are protected. No tree felling/scrub clearance/ground clearance/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 and hedgerows should be checked first by an appropriately experienced ecologist to ensure no breeding birds are present. This can be secured by a suitably worded planning condition.

On site Biodiversity enhancements and EMP

Survey and assessment of the site identifies the existing ponds, woodland, semi-improved grassland and scrub as habitats of value on this site. There will be some loss of grassland as a result of the development; however, existing ponds, woodland and scrub will be retained. The development also proposes creation of a green space along the northern boundary. The Ecological section of the Environmental Statement proposes a number of management prescriptions for these features, and MEAS consider that these should be incorporated into a comprehensive Long-term Environmental Management Plan for this site which can be secured through an appropriate planning mechanism e.g. Section 106 agreement. The management plan should also include measures to enhance existing habitat features on site as this is in line with NPPF and the NERC Duty 2006.

Waste Local Plan

The Planning Policy chapter of the Environmental Statement does not include analysis of the requirements of the adopted joint Waste Local Plan. Policies WM8 and WM9 apply to the development.

Policy WM9 requires applications to demonstrate how their design facilitates effective waste management when completed. In this case most of the relevant design detail is to be dealt with in outline and Policy WM9 should therefore be addressed in subsequent reserved matters applications.

However, Policy WM8 covers requirements for the efficient management of resources during construction and therefore applies from the early site preparation phase. The Policy requires the use of a waste audit or similar mechanism during construction and this can be secured through planning condition.

Historic Environment

The Historic Environment effects of the proposals have been adequately considered in chapter 13 of the applicant's Environmental Statement, which is supported by a Historic Environment Desk Based Assessment (*Burton's Biscuit Company; Land at Pasture Road, Waterman Infrastructure and Environment Ltd, December 2015*). Although no designated assets are present on site a number of other issues have been identified relating to standing buildings, designed landscape features and archaeological deposits. Appropriate mitigation measures have been proposed and the detailed arrangements for their implementation should be formalised through a programme of archaeological works set out in a Written Scheme of Investigation (WSI) prepared by the applicant and subject to agreement by the Council. This can be secured through a planning condition.

Trees

The trees on site are largely classed as category 3 (Hundt 2012), however, trees within small woodland around the angling pond are categorised as having low potential (Category 2). Plans show that this area will not be affected by the development, however, should any tree removal or tree works be required then Reasonable Avoidance Measures (RAMS) will be needed and advice will need to be sought from the ecological consultant, which can be secured by condition.

Contaminated Land

The site is in a sensitive location in terms of controlled waters receptors and drift geology deposits in the northeast half of the site (Tidal River/Creek Deposits (Secondary A Aquifer)) with differing drift deposits potentially present in the south-western half of the site (Till comprising sandy gravelly cobbly clay (Unproductive)), if confirmed to be present.

The solid geology comprises Sidmouth Mudstone Formation: (Secondary B Aquifer). The site is situated on several historic ponds and drains which were present until 1966 and may have been

culverted. A number of man-made weirs are present in the northwest side of the site flowing north into the River Birket. The River Birket, part of the Arrowe Brook and The Fender bound the northern portion of the site. Three historic oil and one gas oil pollution incidents at the site have affected the adjacent River Birket.

The historical maps and current site use indicate that different areas of the site have been subjected to several potentially contaminative former land uses. The previous site uses include a food manufacturing factory with above ground fuel storage tanks, electricity sub-stations and potentially infilled ponds. In addition, off-site potentially historic and current contaminative land uses are also located adjacent to the site including a historic landfill which was formerly a historic brick and tile works. A present-day landfill is located to the west of site. A railway station and railway embankment is adjacent to southern site boundary.

The Council's Environmental Health officer has however raised no objections to the proposal subject to conditions requiring site investigation and risk assessment and if necessary the submission of a scheme of remediation.

APPEARANCE AND AMENITY ISSUES

Affordable Housing

The Council's evidence through housing market assessment indicates that there is a significant unmet need for affordable housing in the Borough overall. The proposed development could, therefore, contribute to meeting some of this general need.

Affordable housing can be sought under both UDP Policy HSG2 and UDP Policy HS6 with the latest requirement based on strategic viability assessment set out in Policy CS22 of emerging the Core Strategy Local Plan, which expects proposals for new market housing of this size to make provision on site at a rate of 10% within areas of greatest need or 20% elsewhere unless site specific viability justifies lower levels. The application site is partially within and partially outside an area of greatest need.

The applicants have submitted a financial viability assessment with this application. This was sent to an independent assessor who confirmed that the report bears out the applicant's assertion that no more than 10% (30 no) affordable units are presently viable.

Indicative layout

Achieving high quality design and creating sustainable and distinctive places are key aspects of the NPPF, UDP policy and emerging Core Strategy policy.

The application is submitted in outline with all matters reserved apart from access reserved for future consideration. However, whilst matters of detailed design and layout are reserved, the Local Planning Authority must be satisfied that the proposed number of dwellings can be built within the site in accordance with the terms of local and national planning policy.

The application is accompanied by a Design and Access statement with an indicative layout to indicate the applicant's perception on how 299 dwellings might fit within the site. Following a thorough review of the indicative layout, it was considered by officers that the original layout as proposed, did not take the opportunity to make a positive contribution for the area as a whole. The applicants have since submitted amendments to the layout. These amendments demonstrate that the Council's adopted standards in terms of interface distances and car parking provision could be accommodated within the site.

The indicative residential layout for the proposed development uses the concept of perimeter blocks, which can be supported.

All routes into and within the development should be designed to promote security. They should be open in appearance, clear, direct and well lit. Boundary enclosures adjacent to roads, footpaths and cycleways should be designed to eliminate the potential for places of concealment and to allow for natural surveillance from the main elevations of adjacent buildings.

The indicative layout indicates that it should be possible to achieve the appropriate interface between

dwellings and includes a variety of house types and sizes to promote choice within the housing market. The proposed layout shows an area of public open space which the applicants have indicated can accommodate children's play space and the existing landscaped frontage, which contains the water feature designed by the renowned landscape architect Geoffrey Jellicoe, can be retained as part of this scheme. The Council requires a minimum of 60m² of open space per new residential unit and the indicative layout suggests that this requirement could be accommodated within a development of up to 299 dwellings.

Full planning permission is sought for a new access from Pasture Road along the northern part of the site in order to provide a separate vehicular access for use by employees, visitors and commercial traffic associated with the food manufacturing process at the existing chocolate refinery and Typhoo complexes, located to the immediate east of the site. The proposal includes a layby for tankers awaiting collection to be temporarily stored. The scheme also includes a 70 space car park for users of the chocolate refinery. In addition, the applicants have included within the detailed part of the proposal, a wall with a planted bank up against it between the new access road and the proposed residential development. The applicants maintain that this will provide appropriate acoustic and visual separation for the proposed residential development and protection for the employment uses to the east.

Open space and landscaping

While landscaping is reserved for future consideration, the indicative layout presents an area of landscaped open space including children's play area, through the middle of the development. This, together with the retention of the existing water feature and associated landscaped grassed area at the front of the site, will ensure that the required provision of 60m² of usable open space per dwelling is achievable.

Impact on the Character of the Area

In terms of the character of the area, the application site includes a large open area of land between the Manor Bakeries, Typhoo Tea sites to the east and Tarran Industrial Estate to the west, which was previously used as company playing fields. The site is relatively flat and is currently grassed over apart from the existing building and a road that runs from Pasture Road into the factory site.

Whilst there is a small element of inconspicuous housing (well screened bungalows on Pasture Road and a single terraced row at Sunnyside), the residential development proposed in this application would be substantial in comparison. However, approximately, 60,000m² of vacant commercial buildings will be removed. The proposed development is set well back from the site frontage and will retain the existing landscaped water feature on the site.

A petition of objection has been received regarding a requirement to impose a condition relating to the future retention and maintenance of the water feature at the front of the site which has been designed by Geoffrey Jellicoe, which the applicant has shown can be accommodated within the development.

Noise

UDP Policy PO4 states that proposals for noise sensitive development will only be permitted in locations which are not expected to become subject to unacceptably high levels of noise or where adequate protection against noise can be achieved by means of planning conditions or planning obligations. Policy CS21 in the emerging Core Strategy, also states that proposals for new housing development should not place additional constraints on the on-going, viable, and safe operation of the adjoining land uses, whilst still securing an acceptable level of amenity for future residents.

The adjoining food factory units operate over 24 hours and continued traffic access will need to be provided across the site to serve Manor Bakeries and Typhoo Teas Ltd. Housing is a noise sensitive development and can only be permitted under UDP Policy PO4 if it would not be subjected to high levels of noise. The impact from smells can also be a material consideration. The location of houses closer to existing businesses within the industrial area could produce potential for future complaints and act as a constraint on the future operation of these businesses. NPPF paragraph 123 makes it clear that existing enterprises wanting to develop in continuance of their business should not have unreasonable restrictions put upon them because of a change in nearby land use since they were established.

A letter of objection has been received from CBRE on behalf of Premier Food Group. Their main concern relates to the consequences of residential development within such close proximity of Manor

Bakeries could have a direct and detrimental impact upon the operational efficiency of its business. In addition, they are concerned that the baseline noise data supporting this application was dated 2012 and 2013 and was based on weekday surveys.

Premier Foods have indicated that they operate on a 24hr basis five days a week and weekend production is sporadic based upon demand. In reviewing the baseline data against the identified hours of operation CBRE are concerned that no weekend noise surveys were undertaken at any point when ambient noise levels in the area would be reduced. The nature of operations of both existing and proposed industrial processes insofar as operating circumstances may change in future and operating circumstances may not remain the same in any plant. Business could be restricted to existing practices with no provision for expansion or upgrade to meet changing business opportunities.

It is a material consideration that the existing industrial uses are not currently restricted by conditions related to plant equipment, ventilation, odour, and extraction systems, noise and odour management, together with control of outside working, on site generators, refrigerated lorries, external lighting which are clearly appropriate for an industrial location. Assessment must then be made of the suitability of introducing a new residential development adjacent to industrial/ commercial uses and the impact of such development on both existing commercial operations and the residential amenities of future residential occupiers.

In terms of the delivering and servicing to the commercial site, the detailed element of this application proposes a new access road to the manufacturing units to the east of the site which includes a landscaped boundary treatment comprising of a tree lined bund and a 3.375m high acoustic barrier between the edge of the proposed new road and the residential development. This is provided to afford attenuation to garden areas within this part of the proposed development. The Councils Pollution Control Section has advised that this will afford adequate noise protections from both existing operations and HGV deliveries to gardens and ground floor windows to proposed properties backing onto the road and to the public open spaces through the site.

The noise assessment submitted as part of the Environmental Statement accompanying this application also concludes that "The proposed front row of housing onto Pasture Road, the Mersey Rail, Wirral Line, Burtons Chocolate Refinery and the Industrial access road are predicted to be exposed to elevated noise, when compared to current internal and external guideline noise levels, the mitigation measures recommended are opening, standard double glazing units throughout the majority of the site. Those properties closest to the commercial units, railway line and Pasture Road, may require some non-opening windows at first floor level, as such, passive attenuation ventilators may be suitable to provide air inlet into habitable rooms whilst maintaining suitable internal noise levels for these facades.

The applicants further advise that a number of additional measures could be undertaken at the reserved matters stage to inform the design Firstly; they could look to undertake additional detailed acoustic surveys to allow each noise source associated with the factory to be individually characterised. Based upon this data they would be in a position to prepare a much more comprehensive noise model of the site. Monitoring could be timed to account for peak periods of night-time working. This information would be used to refine the layout of the development to minimise the noise levels experienced by residents this could be achieved through the careful orientation of properties to provide self screening from noise sources and the design of individual dwellings to ensure that non-sensitive uses (i.e. bathrooms and kitchens) are orientated towards key noise sources and where openable windows are to be used opening type and direction are selected to minimise noise ingress (i.e. side openings to hinge so opening orientated away from noise source or top opening windows to be used) , although, the final solution would need to be formulated in conjunction with the final wider design team.

There would also be the potential for further investigation of the materials used for the construction of the acoustic barrier/bund between the factory and the future receptors so as to minimise reflections off the barrier and factory behind to further control noise levels. The Council's Environmental Health Team concur with both the noise monitoring process and the proposed mitigation measures for the properties facing Pasture Road and the railway line. They have advised however that properties closest to the commercial units will still need to achieve suitable noise levels in the bedrooms with windows open (to avoid any future statutory nuisance).

The applicants have submitted an indicative plan indicating how the layout of the proposed dwellings

could be orientated. The Local Authority are satisfied that the a reserved matters application which adopted these principles could ensure that future occupiers are protected from adverse noise and existing commercial operators will be able to continue their existing commercial operations.

HIGHWAY/TRAFFIC IMPLICATIONS

The submitted Transport Assessment has estimated the traffic flow which could arise as a result of the proposed development. The analysis indicates that there could be a combined 153 two-way vehicular movements during the AM peak period and 175 two-way movements in the PM peak.

If the likely generation from the site is added to the existing peak flows of approximately 900vph on Pasture Road, the road is still well within its capacity as calculated in Design Manual for Roads and Bridges. In addition, the operation of the junction into the residential development has been modelled and shown to work within capacity with little or no queuing likely to occur.

Both national and Local Plan policies promote the need to minimise travel and encourage the use of more sustainable options than the private car. The site is located adjacent to Moreton Train Station and within the recommended walking distance to Local Bus Stops and Moreton Town Centre. It is therefore considered that the development complies with the above policy advice in terms of its sustainable location.

There are two accesses proposed from Pasture Road; the first at the north western corner of the site will provide a new road and car park to serve the commercial units to the west of the site. The second access will separately serve the residential development.

Following amendments to the indicative layout the Director of Technical Services has no objections to the proposal on traffic and highway safety grounds, providing some additional measures are secured at the detailed stage, to ensure 20mph design speed within the new roads and has advised that the amended layout is acceptable in terms of the ability to make those changes as part of a subsequent reserved matters application without significantly impacting on the layout itself. These additional measures should not rely purely on traditional methods (such as road humps) but should be reflective of guidance provided in Manual for Streets.

Upgrades to the two nearest bus stops will be required, including all necessary traffic signs and road markings, in addition to the provision of a pedestrian refuge on Pasture Road to facilitate access between the development site and the bus stop on the west side of the road. The pedestrian refuge would also assist in moderating vehicle speeds on Pasture Road.

Whilst the site is situated close to an existing train station, links from the development into that station would benefit from improvement as would access between station platforms.

There is an established cycle route fronting the site along Pasture Road that links to the Wirral Circular Trail and beyond. The development should provide a link to this network.

In addition, the Local Authority will require the provision of two Vehicle Activated speed signs on Pasture Road at suitable locations, which can be secured through a section 106 agreement.

SECTION 106 AGREEMENT

A Section 106 Legal Agreement shall be sought, if permission is granted and will include the following elements:

- Local open space; to agree the provision of local on-site open space and children's play area, and on-going maintenance of the agreed facilities thereafter.
- Contribution for replacement playing pitches to improve facilities in the area.
- Affordable housing provision; to agree the amount of affordable housing to be provided on site in respect of both its housing type and tenure or to agree any off-site commuted sum payment required in respect of affordable housing provision.

- Local Employment Initiative (Construction Phase); the aim for the Local Employment Initiative will be to maximise the benefits of the scheme to the local labour market during the construction phase of development. The applicant (or successor in title) shall use reasonable endeavours seek to enter into a Local Employment Partnership (LEP) involving Wirral MBC, Job Centre Plus and other relevant local employment agencies.
- Ecological Mitigation Measures Environmental Management Plan to agree a figure for the implementation of footpath improvements and public access controls within the Ditton Lane Nature Reserve Area (plan attached) in order to offset the potential for increased human activity on WeBS sites close to the application site.
- To agree a contribution towards improving public transport facilities within the site
- Vehicle activated speed signs
- Retention and future maintenance of the Jellico water feature

CONCLUSION

Approval of this application can result in the development of 299 dwellings on a site designated for primarily industrial purposes contrary to the adopted development plan and within an area where risk from river and tidal flooding are normally considered to be high (Flood Zone 3), with a relocated access road and associated infrastructure for the remaining industrial businesses. Construction would take place on the former sports pitches and bowling green which form the landscaped frontage for the factory complex and over 41,000 square metres of industrial floorspace, which would be lost through the demolition of the existing industrial buildings on the site.

Adverse impacts should be considered in context with the benefits that may be accrued from the proposed development.

The only material changes since refusing the previous application are that the site has been properly marketed, the Environment Agency has re-classified the whole site to fall within flood zone 3 and that the scheme make no provision for incorporating employment land. The three reasons for refusal included: insufficient evidence to demonstrate that there is no reasonable prospect of the site being used for employment purposes; the detrimental effect on the character of the area and to neighbouring business as would have been a noise sensitive development; and the applicant had not adequately demonstrated that the development could not be accommodated on reasonably available sites with lower probability of flooding, which are now considered, on balance to be addressed through this current submission.

There are sufficient sites elsewhere in the urban area with a lower probability of flooding where the proposed residential units could be accommodated. However, whilst national planning policy directs this type of development to locations with lowest probability of flooding in order to facilitate and promote sustainable development, refusal could leave a large parcel of land with deteriorating buildings in the urban area without the prospects of any beneficial use in the longer term. If the national exception test were to be applied it could be reasonably contended that the development can be made safe without increasing flood risk elsewhere and that it would make a contribution towards the housing land supply for the borough.

Provision for replacement playing pitches can be secured through an s106 legal agreement.

This proposed development would provide housing on a site, part of which is currently being used as Burton's Biscuit Company. The proposal is to provide up to 299 residential dwellings and provision along with access to manufacturing units to the east of the site.

The site is considered to be underused and could bring forward a site for residential development to drive up the supply of land for new housing. The mixed industrial and residential site has the potential to deliver 299 units of accommodation, and the proposal on this site would go some way to assisting the Council to deliver its Wirral Plan pledge to deliver 3500 new homes in the borough by 2020.

The applicant has indicated it is viable to provide 10% (30 dwellings) for affordable housing on this site

and this is supported by viability testing. It is considered that further discussion regarding the tenure and type of affordable homes to be provided would need to take place and an agreed way forward finalised as part of the reserved matters process, bearing in mind the government 'new starter homes initiative.

It can also be accepted that substantive speculative industrial development would be unlikely to take place without grant assistance, unless there is significant upturn in demand or market values over the next 15 years.

The loss of this industrial site for employment land has to be weighed against the evidence, which supports the need to provide more homes in the borough each year.

It is acknowledged that the site is in an accessible location and that benefits can be accrued from the development in terms of affordable housing, increased spending within local centres and potential employment in construction and maintenance.

There are significant issues in this particular case, which lead to a finely balanced recommendation. The continued loss of employment sites could undermine the Borough's ability to accommodate new employment over the next 15 years set against the need to identify and deal with the housing requirement for Wirral, which will need to be addressed before the Core Strategy Local Plan is submitted for public examination next year. On balance it is considered that the policy requirements to steer development to areas with lower probability of flooding and to support economic growth by retaining this site for employment purposes are outweighed by market signals (which suggest there is no reasonable prospect for new industrial development in the foreseeable future and the need for new housing) and the prospects and benefits of securing development on a site, that can be made safe without exacerbating flood risk elsewhere, and that would otherwise be at risk of further deterioration without a willing investor for bringing the site back into employment use.

Summary of Decision:

Having regards to the individual merits of this application the recommendation to grant Planning Permission subject to a Section 106 legal agreement has been given 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 site is considered to be underused and could bring forward a site for residential development to drive up the supply of land for new housing. The mixed industrial and residential site has the potential to deliver 299 units of accommodation, and the proposal on this site would go some way to assisting the Council to deliver its Wirral Plan pledge to deliver 3500 new homes in the borough by 2020. The loss of this industrial site for employment land has to be weighed against the evidence, which supports the need to provide more homes in the borough each year. . It is acknowledged that the site is in an accessible location and that benefits can be accrued from the development in terms of affordable housing, increased spending within local centres and potential employment in construction and maintenance and through provision of land for some limited future industrial development.

Recommended Decision: Approve Subject to Section 106 Legal Agreement

Recommended Conditions and Reasons:

1. NO DEVELOPMENT SHALL COMMENCE ON SITE UNTIL details of the following reserved matters have been submitted to and approved in writing by the Local Planning Authority within three years from the date of this permission.
 - (a) The scale of the development;
 - (b) The layout of the development;
 - (c) The external appearance of the development;

- (d) The landscaping of the site; and
- (e) The means of access

The development shall be carried out in accordance with the approved details.

Reason: To enable the Local Planning Authority to control the detail of the development and to comply with Section 92 of the Town and Country Planning Act (as amended).

2. NO DEVELOPMENT SHALL TAKE PLACE UNTIL samples of the facing/roofing/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 Policy HS4 of the Wirral Unitary Development Plan.

3. No tree, shrub or hedgerow felling, or any vegetation management and/or cutting operations should take place during the period 1st March to 31st August inclusive.

Reason: To protect birds during their breeding season and to comply with Policies in the Wirral Unitary Development Plan.

4. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 23rd March 2016 and listed as follows: 4439_003 and 006 and the principles contained within the indicative layout drawing 4439_004B, 4439_007A, 4439_005B and "The design Parameters(July 2016)" received by the Local Planning Authority on 11th August 2016

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

5. Full detail of a scheme showing that each dwelling unit will be constructed so as to provide noise attenuation to not exceed, 35dB_LA_{eq}16hour (7.00 hrs to 23.00hrs) and 30dB_LA_{eq}8hour (23.00hrs to 7.00hr with the windows open, against external noise source particularly from the industrial/commercial units to the railway line site the kennels and Pasture Road to adjacent the site. The development shall be completed in accordance with the approved details prior to the first occupation of each dwelling unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the residential amenities of occupiers of properties and to comply with Policy PO4 of the Wirral Unitary Development Plan and the National Planning Policy Framework (paragraph 123 in particular).

6. An acoustic barrier shall be erected along the north and east boundary of the development site, details of which shall be submitted to and approved by the Local Planning Authority before building works commence on site.

Reason: To safeguard the amenities of the occupiers.

7. NO DEVELOPMENT SHALL TAKE PLACE UNTIL full details of soft and hard landscaping have been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall detail the locations, species and heights of all existing and proposed trees, shrubs and hedge planting and all existing and proposed grassed and hard surfaced areas and any other natural or proposed features. The approved scheme shall be implemented in full in the first planting season following first occupation of the dwellings hereby permitted, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of residential amenity and to comply with Policy HS4 of the Wirral Unitary Development Plan.

8. NO DEVELOPMENT SHALL TAKE PLACE 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: In the interests of highway safety and to accord with Policy [§] in the in the Wirral Unitary Development Plan.

9. Full details of secure covered cycle parking and/or storage facilities shall submitted as part of the reserved matters relating to appearance, layout and scale for consideration 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.

10. The detailed plans submitted as reserved matters shall include a survey of existing and proposed ground levels, sections across the site and details of the finished slab level for each property. The ground levels across the site and finished slab levels for each property shall be as per the approved plans.

Reason: In the interests of privacy and amenity of neighbouring occupiers and to ensure that the development complies with Policy HS4 of the Wirral Unitary Development Plan.

11. NO DEVELOPMENT 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.

A site investigation scheme shall provide information as follows:

- a detailed assessment of the risk to all receptors that may be affected, including those off site
- site investigation results and detailed risk assessment 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
- a verification plan providing details of the data that will be collected in order to demonstrate that the works set out above 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 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.

12. NO DEVELOPMENT SHALL TAKE PLACE UNTIL a verification report demonstrating completion of the 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, and for the reporting of this to the local planning authority.

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

13. 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.

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

14. Full details of a Site Waste Management Plan, confirming how demolition and construction waste will be recovered and re-used on the site or at other sites, shall be submitted as part of the reserved matters relating to appearance, layout and scale for consideration by the Local Planning Authority. The approved Site Waste Management Plan shall be implemented concurrently with the development hereby approved 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 Merseyside Waste Plan.

15. NO DEVELOPMENT SHALL TAKE PLACE (including any demolition works) UNTIL a Construction Management Plan or Construction Method Statement for the demolition and/or construction of the development hereby approved has been submitted to, and approved in writing by, the Local Planning Authority. The demolition and 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.

16. PRIOR TO ANY DEMOLITION WORKS the building(s) should be first checked for all protected species including birds and foxes by a suitably qualified ecologist and appropriate mitigation measures put in place if found to be present which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to protect the biodiversity of the area and having regard to Policy NC7 of the Wirral Unitary Development Plan

17. No tree felling/scrub clearance/ground clearance/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 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 would be required to be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to protect the biodiversity of the area and having regard to Policy NC7 of the Wirral Unitary Development Plan

18. PRIOR TO FIRST OCCUPATION OF THE DEVELOPMENT details of a scheme for all boundary treatment shall be submitted to and agreed in writing with the Local Planning Authority. The agreed scheme shall be implemented in full and retained as such thereafter unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of amenity

19. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years from the completion of the scheme shall be replaced by trees or shrubs of a similar size and species to those originally required to be planted unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory standard of appearance and that the proposed development enhances the visual amenity of the locality in accordance with Policy GR5 of the UDP.

20. NO DEVELOPMENT SHALL TAKE PLACE until a scheme for the disposal of foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until the drainage system has been constructed and completed in accordance with the approved plans.

Reason: In the interests of providing satisfactory drainage of the site and to accord with Policy HS4 of the Wirral Unitary Development Plan.

21. Full details of the arrangements for the storage and disposal of refuse, and vehicle access thereto, within the curtilage of each dwelling on the site, shall be submitted as part of a reserved matters application relating to appearance, landscaping and scale for consideration by the Local Planning Authority. The development shall be completed in accordance with the approved details prior to the first occupation of each dwelling 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 policies WM8 and WM9 of the Waste Local Plan.

22. Surface water drainage works shall be carried out in accordance with the details contained within the submitted Drainage Strategy approved in writing by the Local Planning Authority, in conjunction with the Lead Local Flood Authority.

The surface water drainage scheme shall be fully constructed prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the approved Drainage Strategy, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority in consultation with the Lead Local Flood Authority.

Reason: To ensure satisfactory drainage facilities are provided to serve the site in accordance with the National Planning Policy Framework, Paragraph 103 and Policy CS35 in the Core Strategy Local Plan Proposed Submission Draft.

23. No development for the access to manufacturing units; security building; weighbridge; car & cycle parking; landscaped boundary treatment; and associated infrastructure for Burton's Biscuit Company shall commence until full details of a scheme for a sustainable drainage system¹ to serve the site, and method of implementation including arrangements to secure funding and maintenance for the lifetime of the development through an appropriate legally binding agreement have been submitted to and approved in writing by the Local Planning Authority in consultation with Lead Local Flood Authority. The approved scheme shall be implemented in accordance with the approved details and timetable. Thereafter the sustainable drainage system shall be managed and maintained in accordance with the approved scheme.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with Paragraphs 102 and 103 of the National Planning Policy Framework, and Policy CS35 in the Core Strategy Local Plan Proposed Submission Draft.

As part of an application for the approval of reserved matters for layout, appearance, landscaping and access of the residential development full details of a scheme for a sustainable drainage system¹ to serve the site, and method of implementation including arrangements to secure funding and maintenance for the lifetime of the development through an appropriate legally binding agreement shall be submitted for consideration by the Local Planning Authority in consultation with Lead Local Flood Authority.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with Paragraphs 102 and 103 of the National Planning Policy Framework, and Policy CS35 in the Core Strategy Local Plan Proposed Submission Draft.

24. NO DEVELOPMENT SHALL TAKE PLACE BEFORE details of the proposed finished floor levels; ridge and eaves heights of the dwelling hereby approved have been submitted to and approved in writing by the Local Planning Authority. The submitted levels shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of neighbouring property. The development shall be carried out as approved.

Reason: To ensure a satisfactory relationship between the various components of the development and between the site and adjoining land, to ensure that construction is carried out at a suitable level having regard to drainage, access, the appearance of the development, any trees and hedgerows and the amenities of neighbouring properties, having regard to Policy HS4 and GR7 of the adopted Wirral Unitary Development Plan.

25. NO DEVELOPMENT SHALL TAKE PLACE UNTIL full details of ground levels, earthworks and excavations to be carried out near to the railway boundary shall be submitted to and approved in writing by the Local Planning Authority

Reason: To protect the adjacent railway

26. NO DEVELOPMENT SHALL COMMENCE UNTIL full details and a timetable of works to provide two accesses onto Pasture Road together with the new roads within the site have been submitted to and approved in writing by the Local Planning Authority. Such details shall include, but shall not be limited to, carriageways, footways and footpaths, verges, cycle routes, street furniture, sewers and surface water drainage. The works shall be completed in accordance with the approved details and timetable to the written satisfaction of the Local Planning Authority.

Reason: To ensure that the development is laid out and constructed in a satisfactory manner having regards to highway safety and Policy HS4 of the Wirral Unitary Development Plan.

27. NO DEVELOPMENT SHALL COMMENCE UNTIL details of works to provide a pedestrian refuge on Pasture Road have been submitted to and agreed in writing by the Local Planning Authority. The works shall be completed in accordance with the approved details, to the written satisfaction of the Local Planning Authority, prior to first occupation of the development hereby approved.

Reason: To ensure that the development is laid out and constructed in a satisfactory manner having regards to highway safety and Policy HS4 of the Wirral Unitary Development Plan.

28. NO DEVELOPMENT SHALL COMMENCE UNTIL details of works to upgrade two bus stops

on Pasture Road to the latest standards have been submitted to and agreed in writing by the Local Planning Authority (including repositioning as required and all necessary highway works, road markings and traffic signs). The works shall be completed in accordance with the approved details, to the written satisfaction of the Local Planning Authority, prior to first occupation of the development hereby approved.

Reason: To ensure that the development is laid out and constructed in a satisfactory manner having regards to highway safety and Policy HS4 of the Wirral Unitary Development Plan.

29. NO DEVELOPMENT SHALL COMMENCE UNTIL details of works to provide two Vehicle Activated Signs on Pasture Road have been submitted to and agreed in writing by the Local Planning Authority. The works shall be completed in accordance with the approved details, to the written satisfaction of the Local Planning Authority, prior to first occupation of the development hereby approved.

Reason: To ensure that the development is laid out and constructed in a satisfactory manner having regards to highway safety and Policy HS4 of the Wirral Unitary Development Plan.

30. NO DEVELOPMENT SHALL COMMENCE UNTIL a scheme providing for the insulation and ventilation of the walls and roofs of the proposed dwellings shall be submitted to and approved by the Local Planning Authority.

Reason: To ensure that the occupiers are not objected to excessively high noise levels and to ensure an adequate standard of amenity.

Further Notes for Committee:

1. In connection with Condition 23 above, details of a scheme for a sustainable drainage system should include:
 - a) Information about the lifetime of the development and design of the sustainable drainage system design, including storm periods and intensity (1 in 30 & 1 in 100 year +30% allowance for climate change), discharge rates and volumes (both pre and post development), methods employed to delay and control surface water discharged from the site, and appropriate measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses;
 - b) Demonstrate that the surface water run-off would not exceed the pre-development greenfield runoff rate for the existing greenfield site;
 - c) Include details of a site investigation and test results to confirm infiltrations rates;
 - d) Include details of how any flood water, including depths, will be safely managed in exceedance routes;
 - e) Secure arrangements for adoption by an appropriate public body or statutory undertaker or, management and maintenance by a Residents' Management Company through an appropriate legal agreement;
 - f) Secure arrangements, through an appropriate legal agreement for funding on-going maintenance of all elements of the sustainable drainage system including:

- i mechanical components;
 - i. on-going inspections relating to performance and asset condition assessments and;
 - ii. operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.
 - g) Secure means of access for maintenance and easements, where applicable.
 - h) Include a timetable for implementing the scheme
- 2. Whilst the indicative residential road layout is generally acceptable, the applicant is advised to make early contact with the Highway Management / Network Management Divisions prior to submission of reserved matters to agree a detailed layout that reflects the guidance provided in Manual for Streets to achieve a design speed of 20mph and minimises the need for invasive speed reduction features. In order to comply with the highway conditions, the applicant will be required to enter into Section 278 and Section 38 agreements under the Highways Act to include all necessary highway works, legal orders and commuted sums. Any damage to the existing highway that occurs as a result of the development will require reinstatement at the expense of the developer. You are advised to contact Highway Management via www.wirral.gov.uk for further details.

Last Comments By: 13/07/2016
Expiry Date: 12/07/2016

