

Planning Committee

17 March 2022

Reference:
OUT/21/01516

Area Team:
**Development
Management Team**

Case Officer:
Mr N Williams

Ward:
Claughton

Location: Birkenhead School, Noctorum Field, NOCTORUM ROAD,
NOCTORUM, CH43 9UQ

Proposal: The demolition of the existing pavilion and erection of up to 33
dwellings and associated infrastructure. All matters are reserved with
the exception of access.

Applicant: Birkenhead School
Agent : Lambert Smith Hampton

Qualifying Petition:	Yes
Petition Number:	Number of signatures:
1	1588
2	290

Site Plan:



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Development Plan designation:

Density and Design Guidelines Area
Primarily Residential Area
Sports Ground

Planning History:

Location: Bhead Schpf Noctorum Lane Noctorum L439ub
Application Type: Full Planning Permission
Proposal: Erection of single storey games pavilion
Application No: APP/76/05575
Decision Date: 02/09/1976
Decision Type: Conditional Approval

Location: Birkenhead School Sports Ground, Noctorum Road, Noctorum, Wirral,
CH43 9UQ
Application Type: Full Planning Permission
Proposal: Change of use from playing fields to playing fields and occasional use as
helicopter landing site.
Application No: APP/07/06431
Decision Date: 27/09/2007
Decision Type: Withdrawn

Summary Of Representations and Consultations Received:**1.0 WARD MEMBER COMMENTS**

1.1 No comments received.

2.0 SUMMARY OF REPRESENTATIONS**REPRESENTATIONS**

Having regard to the Council's Guidance for Publicity on Planning Applications, 93 notifications were sent to adjoining properties and a notice published in the local press.

At the time of writing, there had been a petition of objection containing 1588 signatures received, together with 447 individual objections. The petition and objections can be summarised as:

- Loss of sports pitch and historic playing field (and pavilion);
- Wirral has a shortage of rugby pitches;
- Proposal does not comply with Sport England's policy or NPPF;
- Loss of valuable greenspace which makes a significant contribution to the area;
- One of the few green spaces left in the area;
- Environmental impact and impact on wildlife;
- Highway safety concerns from increased vehicle movements and poor access;
- No highway footpath in parts of the surrounding area;
- Development would be detrimental to the character of the area;
- Impact on/ loss of trees;
- Too many houses (density not in keeping with area);
- Poor layout;
- Impact on drainage;
- Inadequate parking, especially given the unsustainable location of the area;
- School do not allow use of the pitches by other groups;
- Sufficient brownfield land available in the borough for housing;
- Does not address the need for affordable housing in Wirral;

- Site is not sustainable given distance from services;
- Biodiversity impact;
- Negative impact on residents;
- Increased litter;
- Potential conflict of houses with balls from adjacent golf course;
- Proposal is motivated by financial gain;
- Climate change concerns;
- Air pollution;
- Noise and disturbance;
- Positive benefits the existing field has on mental health, especially during Lockdown;
- Impact on general health and wellbeing of losing the field; and
- Pitches are in regular use

There has also been a petition of support received containing 290 signatures and 169 individual comments in support of the application. These comments can be summarised as:

- Positive impact and benefits for the wider community from proposed mitigation package; and
- Field is underused

CONSULTATIONS

Sport England - Objection on the basis that the proposed mitigation package does not adequately replace the loss of the existing playing field, having regards to Paragraph 99 of the National Planning Policy Framework (NPPF)

Highways - Objection (see comments below)

Lead Local Flood Authority - Objection (see comments below)

Environmental Health - No objection

Natural England - No objection subject to mitigation being secured (see comments below)

3.1 Site and Surroundings

3.1.1 The site is a large grassed area utilised primarily as a rugby playing pitch and cricket pitch. It contains a single-storey pavilion building towards the west of the site, with a small access via Noctorum Road. The site is located between Noctorum Road and Noctorum Lane. The site is allocated as a Sports Ground in the Wirral Unitary Development Plan. The site is mostly surrounded by low density housing, and is within the Noctorum Ridge Density and Design Guidelines Area. Noctorum Field itself makes a significant contribution to the almost rural feel of the immediate area. An established golf course sits to the east of the site.

3.2 Proposed Development

3.2.1 The application proposes the demolition of the exiting pavilion and the erection of up to 33 dwellings and associated infrastructure. This is an outline application with all matters reserved other than access.

3.3 Development Plan

3.3.1 The following policies from the Wirral Unitary Development Plan are particularly relevant:

RE6 Sports Grounds for Protection from Development
 HS4 Criteria for New Housing Development
 HS5 Density and Design Guidelines
 HS6 Principles for Affordable Housing
 GR5 Landscaping and New Development
 GR7 Trees and New Development
 NC7 Species Protection
 TR9 Requirements for Off Street Parking
 TRT1 Provision for Public Transport

WA1 Development and Flood Risk
WA2 Development and Land Drainage
WA4 Safeguarding Water Resources
WA5 Protecting Surface Waters

The following policies of the Joint Waste Local Plan for Merseyside and Halton are relevant:

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

3.4 Other Material Planning Considerations

3.4.1 Paragraph 98 of the National Planning Policy Framework states that "access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change."

3.4.2 Paragraph 99 of the NPPF states:
"Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use."

3.5 Assessment

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

- Loss of Sports Provision;
- Density and Impact on Character;
- Highways;
- Ecology;
- Trees;
- Drainage;
- Amenity; and
- Affordable Housing

3.5.2 The applicant has submitted an appeal to the Planning Inspectorate on the grounds of non-determination. The following assessment is set out to enable the Planning Committee to establish the decision that would have been made had it determined the application. This will enable Council officers to establish the stance that should be taken by the Council in terms of contesting the appeal.

3.6 Loss of Sports Provision:

3.6.1 The proposed development will result in the loss of an existing sports provision given that the site currently contains a rugby pitch and cricket field. Wirral Unitary Development Plan Policy RE6 identifies the site as being a playing field which will be protected from development.

3.6.2 Paragraph 99 of the NPPF states:
"Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or

c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use."

- 3.6.3 The Wirral Playing Pitch and Outdoor Sports Strategy (PPOSS) was updated in July 2021 and is effective from the beginning of December 2021. This was published in advance of the submission of the new Local Plan and forms part of the evidence base. This document concludes that, for both the rugby and cricket pitch on the application site, "Based on the findings of this PPS, the site is not considered to be surplus to requirements. As such, any permanent loss of the provision and the mitigation options brought forward must align with NPPF and Sport England's Playing Field Policy requirements to provide an equivalent or better quantity and quality replacement." Overall, the strategy highlights a shortfall across the wider area for rugby and cricket pitches.
- 3.6.4 The PPOSS also shows that deficiencies in pitch provision across most pitch types and sizes has increased significantly since 2016 and the overall recommendation is: "there is a resultant need to protect all existing playing pitch and outdoor sport provision until all demand is met, or there is a requirement to replace provision in accordance with the NPPF." As noted above, the PPOSS specifically states that the application site is not considered to be surplus to requirements.
- 3.6.5 Given that the evidence base indicates that this playing field is clearly not surplus to requirements, the proposed development would therefore conflict with criterion a) of NPPF Paragraph 99. The application is not for alternative sports and recreational provision, and it therefore also conflicts with criterion c) of Paragraph 99. The applicant has, however, presented a case for it to be assessed against criterion b), in that 'the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location'.
- 3.6.6 The applicant advises that the school no longer has a need for these facilities. They state that there has been insufficient demand for the use of the site by local groups or teams. No evidence has been provided of any advert in local papers, websites or engagement with sports bodies and therefore this conclusion by the applicant must be taken as anecdotal rather than substantiated.
- 3.6.7 It is also noted that a local group (Noctorum Ridge Residents Association) have shown significant interest in using the playing field for formal sport and informal physical activity opportunities - however, there appears to have been little engagement from the applicant to explore whether this would be an option.
- 3.6.8 Despite the applicant stating that they have found no interest in use of the pitch by local groups, they do appear to accept that the field is not surplus to the requirements of the borough. They do maintain that the school no longer have a requirement for the field, having consolidated all of their outdoor sports provision onto one site, at McAllester Fields (Bidston Road) - including the relocation of the cricket pitch, 4 cricket wickets and rugby pitch. They also propose to construct a new sports hall at the school although limited weight is afforded to this.
- 3.6.9 In addition to the relocation of facilities to McAllester Fields, the applicant is proposing the following mitigation package:
- Creation of a new floodlit natural turf pitch at Prenton RUFC, located on an existing training area. The cost for this is given as £229,905.
 - Main pitch at Old Parkonians RUFC to be fully drained and floodlit. The cost for this is given as £184,032.50.
- These sums would be secured by way of a Section 106 Agreement.
- 3.6.10 The cost of these improvements is given as £413,937.50, which the applicant contends is commensurate with the amount that would be required to replace the existing playing field, albeit this sum does not include the potential for any increase in costs. The applicant contends that the proposed mitigation package falls under the criteria set out in NPPF Para. 99(b), whereby "the loss resulting from the proposed development would be replaced by

equivalent or better provision in terms of quantity and quality in a suitable location." A significant part of the argument is that the improvement works will result in these pitches being available for more match equivalent sessions due to their improvements, and this will therefore result in a net quantitative increase in provision, as well as the more apparent quality improvements.

3.6.11 Sport England:

Given that the site is considered to constitute a playing field (or land last used as a playing field), the Town and Country Planning (Development Management Procedure) (England) Order 2015 states that Sport England are a statutory consultee and they have therefore been consulted on the proposal. They have submitted a statutory objection to the application.

3.6.12 Sport England's playing fields policy states that they will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of:

- all or any part of a playing field, or
- land which has been used as a playing field and remains undeveloped, or
- land allocated for use as a playing field

unless, in the judgement of Sport England, the development as a whole meets with one or more of five specific exceptions.

3.6.13 These five exceptions are:

E1 - a robust and up to date assessment has demonstrated, , to the satisfaction of Sport England, that there is an excess of playing field provision in the catchment, which will remain the case should the development be permitted, and the site has no special significance to the interests of sport.

E2 - The proposed development is for ancillary facilities supporting the principal use of the site as a playing field, and does not affect the quantity or quality of playing pitches or otherwise adversely affect their use.

E3 - The proposed development affects only land incapable of forming part of a playing pitch.

E4 - The area of playing field to be lost as a result of the proposed development will be replaced, prior to the commencement of development, by a new area of playing field:

- of equivalent or better quality, and
- of equivalent or greater quantity, and
- in a suitable location, and
- subject to equivalent or better accessibility and management arrangements

E5 - The proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field.

3.6.14 Neither paragraph 99 of the NPPF nor Sport England's Policy makes any distinction between private and publicly owned sites. Both policies are applied equally irrespective of the ownership and irrespective of whether the playing field is available for community use or not.

3.6.15 The application states that their mitigation package would comply with the exception E4. However, Sport England have objected to the application on the basis that only qualitative improvements to existing pitches have been put forward. Their view is that the applicant is required to put forward a deliverable replacement playing field and supporting ancillary facilities that complies with the requirements of paragraph 99 of the NPPF and Exception E4 of Sport England's Playing Fields Policy.

3.6.16 All of the mitigation/improvement works are qualitative improvements to existing pitches to

increase capacity. The applicant states that the creation of the new pitches at Prenton RFC will provide new playing field land - however, this is not accepted by the LPA or Sport England as this area is already used for some rugby training and aerial imagery shows a mini football pitch has been marked out in the recent past with disused floodlights located to the south of the training area. Although it is acknowledged the area is poor quality and in need of improvement to realise its potential, it does not represent replacement playing field land.

- 3.6.17 The PPOSS carried out scenarios to establish what the impact of improving all poor quality and overplayed pitches to good quality. The findings were that although pitch improvements could help address some of the shortfalls there would still be a deficiency. With Rugby Union Pitches, in particular, the PPOSS states that “whilst maintenance and drainage improvements on rugby union pitches across Wirral should be supported, these developments alone are insufficient to holistically address shortfalls.”
- 3.6.18 The PPOSS assesses the Old Parkonians' pitch as standard quality and overplayed, and Prenton RUFC pitches are assessed as standard quality and capable of sustaining the current level of activity. It is not clear whether improving the Old Parkonians pitch from standard to good would enable the club to increase the level of play they aspire to or if programming of matches and training on those pitches is already at capacity. Similarly, with Prenton RUFC it is unclear how the level of play will increase if the training area is improved. The PPOSS scenario for improving drainage at Old Parkonians still leaves the pitch overplayed which indicates a new pitch is required to support their activity in addition to improvements.
- 3.6.19 The applicant acknowledges that the proposed replacement does not directly offset the loss in terms of quantity alone (and therefore does not strictly meet Sport England E4 requirements), but insists that capacity does not necessarily directly correspond with number of pitches or pitch area/size. They state that one good quality playing field is able to sustain the same level of play as three equivalent playing fields that are of poor quality. However, whilst there is some merit in this argument, it does not adequately address the view that the proposed improvement works do not result in an actual quantitative increase in the number of pitches available.
- 3.6.20 Therefore, whilst improving these pitches may allow for greater use of these pitches (in terms of match equivalent provision), there remains significant concern that the ability to use these pitches for more games per week will not actually result in greater availability seeing as the increased availability for these pitches may be at times when there is no demand. This highlights that without a quantitative increase in the number of actual pitches at the desired times, then there is potential that the mitigation package merely results in providing a higher quality surface for existing usage, rather than actually helping to meet current unmet demand for pitches at desired times. On this basis alone, it is not accepted that the applicant's mitigation package is sufficient to offset the loss of the existing playing field land at Noctorum Field.
- 3.6.21 It should also be noted that both the NPPF and Sport England's Playing Fields Policy and Guidance define a playing fields as the "whole of a site which encompasses at least one playing pitch".
- 3.6.22 The applicant refers to the loss of 6,264 sqm of playing pitch (0.62 ha). However, in line with the definition set out, the proposed development would result in the loss of the entire 2.2 hectares site. Therefore, whilst the applicant claims that the proposal results in a net gain of 2,866 square metres in pitch provision, this is only compared against the size of the playing pitch at Noctorum Field. When the mitigation package is compared to the whole of the site at Noctorum Field, this results in the loss of 1.9 hectares. This merely highlights that the mitigation package proposed is completely insufficient to offset the loss of this site.
- 3.6.23 Whilst the mitigation package is not considered sufficient in itself, consideration must also be given to whether the proposed mitigation works could even be adequately secured. The applicant has indicated that the two rugby clubs are willing to be party to a legal agreement

to secure these works. The applicant therefore argues that the Council can be comfortable that a legal agreement could secure the financial sum offered by the applicant. However, the sum would be received by the Council who would then be obligated to ensure that the monies are spent on third party land for a scheme that does not have planning permission.

3.6.24 Sport England appear to also highlight this concern, and also suggest that the only alternative to retaining the site as a playing field would be to liaise with the Council, sports bodies and local clubs to identify a suitable site/land to purchase for a replacement facility, for construction by either the Council or relevant sports body. This would at least clearly secure a replacement facility and ensure that it is a qualitative replacement to the loss of Noctorum Field. The direct involvement of the Council would also ensure that the replacement facility can be constructed and maintained, rather than having to rely on individual rugby clubs. However, this has not been presented as an option within this application.

3.6.25 Cricket:

The applicant states that the four grass cricket wickets at Noctorum Field have been replaced at McAllester Field, sited between two existing rugby pitches. The applicant states that this playing field is larger than Noctorum Playing Field and the cricket outfield and boundary now meets ECB requirements, although this has not been confirmed with the ECB. However, this replacement is on existing functional playing field, and although the wickets are newly established the outfield is overmarked onto the existing rugby pitch areas. This is therefore the same position as at Noctorum Field and does not constitute new playing field.

3.6.26 In conclusion, the proposed mitigation package is inadequate and it is considered that the loss of Noctorum Field will not be replaced by equivalent or better provision in terms of quantity and quality. The proposal is therefore contrary to Wirral Unitary Development Plan Policy RE6, NPPF Paragraph 99 and Sport Englands playing fields policy.

3.7 Density and Impact on Character:

3.7.1 As noted, the application site is designated in the Wirral UDP as being within a Density and Design Guidelines Area, specifically Noctorum Ridge, Zone 1. UDP Policy HS5 states that development in this area should be a maximum density of 10 dwellings per hectare in low-rise development.

3.7.2 The justification for this policy states that "many of the Borough's older established residential areas have a special character derived from their architecture and extensive mature gardens. These areas are attractive to residents and there is always pressure for new dwellings through both infill and redevelopment... New development therefore offers a challenge to their existing character which can be addressed by specific controls on the density of new development. The guidelines set out in Policy HS5 are long established and have been successful in controlling new and converted housing, by retaining the best property as far as possible and by preserving the spaces between buildings."

"The Noctorum Ridge extends for 2.5 kilometres from Bidston Hill in the north to Woodchurch Road in the south and for 2 kilometres from Ford Hill in the west to Slaty Road in the east. It includes a number of different areas of mature housing, ranging from the large detached houses around the Wirral Ladies Golf Course to the densely developed Victorian housing around Oxtan Village.

However, the pressure for development on the Ridge, which is one of Birkenhead's most popular housing areas, has led to a threat to its character. The Council's response has been to divide the area into a number of separate zones of differing character and capacity for varied development. This diverse area provides for a full range of housing needs, from converted flats for small households in the east of the area, to large high-quality family housing in the west.

Zone 1 is comprised of large detached houses with extensive gardens. The abundance of mature trees and shrubs together with the low density of development create an area of

considerable environmental quality."

- 3.7.3 This outline application proposes up to 33 dwellings. This would result in the development having a density of almost 15 dwellings per hectare. This would be contrary to Policy HS5 and would result in a development which would be out of character with the established density of the surrounding area. UDP Policy HS4 states that proposals should be of a scale which relates well to surrounding property, in particular with regards to existing densities and form of development. It also states that the proposal shall not result in a detrimental change in the character of the area.
- 3.7.4 Noctorum Road and Noctorum Lane have an extremely pleasant, almost rural, character which is largely in part to the low density nature of the area. The proposed development being of a higher density than the prevailing density in the immediate area would clearly have a harmful impact on the character of the area. NPPF Para 124 states that decisions should take into account the desirability of maintaining an area's prevailing character and setting. The proposed development would clearly fail to maintain the character and setting of the area.
- 3.7.5 Noctorum Field makes a significant contribution to this character. The loss of this previously undeveloped site for a residential development, particularly one that has a higher density than the existing nature of the area, would have a clear adverse impact on the character of this area and therefore conflicts with Wirral UDP Policy HS4 and HS5.
- 3.8 Highways:
- 3.8.1 At the time of preparing this report, there are significant concerns that the site does not meet required accessibility standards, particularly where Buses are concerned. The nearest Bus stops are on Upton Road which are approximately 650m from the development entrance on Noctorum Road. This exceeds Wirral's standard of 200m walking distance to a Bus stop and the more usual 400m walking distance to Bus stops as recommended by the Institute of Highways & Transportation in the Journeys on Foot publication. Significantly, the pedestrian route to the Upton Road Bus stops also only has a footway for a short distance and pedestrians would have no option other than to walk in the road. There are a number of narrow carriageway sections and bends which raise concerns, particularly at night time. Even during the day the route is overshadowed by trees which could make pedestrians hard to see at times.
- 3.8.2 The proposed new site access is also considered unsatisfactory as the visibility afforded to pedestrians using either of the two uncontrolled crossing points on either side of the new junction are not satisfactory, and pedestrians crossing Noctorum Road would have reduced visibility to oncoming traffic due to the curved road layout and the access being located on the inside of the bend.
- 3.8.3 Discussions have taken place on how to resolve this, however, although there is a pedestrian link to the north of the site, it is still considered likely that over 1/3 of the proposed dwellings are located where access to the adopted highway and subsequent routes to the bus services on Upton Road would be made via the proposed site access, which would result in a distance in excess of the recommended 400m walking distance to such facilities. Due to this excessive distance the development could not be considered accessible and would therefore likely contribute to a high proportion of the residents relying on private motor vehicles for their daily trips.
- 3.8.4 The lack of a useable footway linking these facilities has not been satisfactorily mitigated and there are no proposals to address the current situation. The development proposes a pedestrian access out on to Noctorum Road, this would result in more pedestrians walking in the carriageway due to the lack of a useable footway which raises highway safety concerns. Improved lighting in the locality is considered insufficient to overcome these significant highway safety concerns. Therefore, walking and public transport use remain an unattractive option and the development is considered non-sustainable. Para 110 of the NPPF states that in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport mode can be taken up, given the

type of development and its location. It also states that safe and suitable access to the site should be achieved for all users. Para 112 states that development should give priority first to pedestrians, both within the scheme and with neighbouring areas, and should facilitate access to public transport. The proposal is considered to conflict with these requirements.

3.8.5 In conclusion, the main concern is the lack of suitable access to public transport which would increase the reliance on private vehicles by residents and make the development non-sustainable, whilst the lack of safe pedestrian facilities also result in highway safety concerns.

3.9 Ecology:

3.9.1 The development site is near to the following European sites. These sites are protected under the Conservation of Habitats & Species Regulations 2017 (as amended) and UDP policy NC2 applies:

- Mersey Narrows and North Wirral Foreshore Special Protection Area (SPA) (4.2km);
- Mersey Narrows and North Wirral Foreshore Ramsar site (4.2km);
- Dee Estuary Special Area of Conservation (SAC) (4.2km);
- Mersey Estuary SPA (4.5km);
- Mersey Estuary Ramsar site (4.5km).

3.9.2 The proposal is for up to 33 new residential units. This will result in increased visits (recreational pressure) to these sites. This may result in significant effects on habitats and species for which these sites have been designated.

3.9.3 Recreational pressure from residential development has been identified as a Likely Significant Effect alone and in-combination within the Liverpool City Region. Recreational pressure is recognised in the formal statutory Conservation Advice Packages and Site Improvement Plans as Medium-High risk to qualifying features of the European sites. An Appropriate Assessment has therefore been completed, in accordance with Regulation 63 of the Habitats Regulations 2017. This concludes that with sufficient mitigation/preventative measures there will be no adverse effect upon the integrity of the European sites. The following measures would have been secured by condition had the application been recommended for approval:

- Provision and distribution of a residents advisory leaflet within the sales packs of the properties which will include details of a 'responsible user code' for visitors to the international and national sites. The pack will include reference to alternative green spaces in the area, including Birkenhead Park and Bidston Hill.

3.9.4 Natural England have been consulted on the outcome of the Appropriate Assessment and conclude that there would be an adverse effect on protected sites if appropriate mitigation is not secured. They advise that sufficient mitigation would be the provision of an advisory leaflet which explains the sensitivities of the nearby designated sites, promotes the use of nearby Sustainable Alternative Natural Greenspaces and includes a responsible user code. On the basis of this mitigation being secured they have no objection to the proposal.

3.9.5 Bats

A Preliminary Roost Assessment (PRA) and a single dusk emergence survey of the pavilion building on site were completed in 2019. No bats were recorded roosting on site. A repeat PRA was completed in 2021 which identified no significant changes to the building on site. As a precautionary approach, it is advised that the building should be demolished during the period October to March. If this was not possible then a licensed bat ecologist would be required to directly supervise the removal of any features with bat roosting potential, primarily the fascia boards. This requirement would have been secured via condition had the application been recommended for approval.

3.9.6 A PRA of the trees at the site boundaries was also completed. The PRA of the trees on site was updated in 2021. 20 trees were classified as having Low potential for bats, with a further 10 being classified as Moderate potential. The site masterplan indicates that the majority of the trees at the site boundaries will be retained, however as the application is at outline stage it is not clear if some tree removals will be required. It was therefore advised

that:

- If any trees classified as having Low potential for bats are to be removed then these should be soft-felled under the supervision of a licensed bat ecologist.
- If any trees classified as Moderate potential for bats are to be removed then further elevated surveys or emergence/re-entry bat surveys are required prior to determination. The applicant should note that timing for these surveys is May to August / September inclusive.

These requirements would have been secured via condition had the application been recommended for approval.

3.9.7 Habitats on site, particularly the trees located at the site boundary, may provide foraging and commuting habitat for bats. Lighting for the development may affect the use of these areas. A lighting scheme should be designed so that it protects ecology and does not result in excessive light spill onto important habitats in line with NPPF (paragraph 180). This would be secured via condition should the application have been recommended for approval, having regards to the Bat Conservation Trust website <https://www.bats.org.uk/news/2018/09/new-guidance-on-bats-and-lighting>.

3.9.8 Badger & Hedgehog

The habitats on site are suitable for badger and hedgehog which are protected/Priority Species and UDP policy NC7 applies. The following reasonable avoidance measures would have been secured by condition had the application been recommended for approval:

- A pre-commencement check for badger and hedgehog;
- All trenches and excavations should have a means of escape (e.g. a ramp);
- Any exposed open pipe systems should be capped to prevent mammals gaining access; and
- Appropriate storage of materials to ensure that mammals do not use them.

3.9.9 Breeding Birds

Built features or vegetation on site may provide nesting opportunities for breeding birds, which are protected and UDP policy NC7 applies. The following planning condition is required. A condition stating no tree felling, scrub clearance of building works between 1st March and 31st August inclusive (unless otherwise checked first by an appropriately experienced ecologist to ensure no breeding birds are present) would have been attached as a condition had the application been recommended for approval.

3.9.10 Invasive Species

Cotoneaster and Rhododendron are present within the site boundary. These species are listed on Schedule 9 of the Wildlife and Countryside Act and national Planning Policy Guidance applies. The requirement for a method statement containing the following would have been secured by condition had the application been recommended for approval:

- A plan showing the extent of the plants;
- The methods that will be used to prevent the plant/s spreading further, including demarcation;
- The methods of control that will be used, including details of post-control monitoring; and
- How the plants will be disposed of after treatment/removal.

3.9.11 Archaeology

There are no heritage assets recorded on the Merseyside Historic Environment Record within the proposed development and the proposed development site is considered to have negligible archaeological potential.

3.9.12 Waste

The proposal is major development and involves excavation, demolition and construction activities which are likely to generate significant volumes of waste. Policy WM8 of the Merseyside and Halton Waste Joint Local Plan, the National Planning Policy for Waste (paragraph 8) and Planning Practice Guidance (paragraph 49) apply. These policies require the minimisation of waste production and implementation of measures to achieve efficient

use of resources, including designing out waste and minimisation of off-site disposal. In accordance with policy WM8, the requirement for a waste audit or a similar mechanism (e.g. a site waste management plan) demonstrating how this will be achieved would have been secured by condition had the application been recommended for approval.

3.9.13 Low Carbon and Renewable Energy

Wirral Council declared a climate emergency in 2019, and therefore consideration needs to be given to the impacts of the proposal on climate change and how this can be mitigated. Wirral Council is also part of the Cool Wirral Partnership who prepared the COOL 2 Strategy 2020 in response to the Climate Emergency. The submitted Planning Statement notes that the application scheme will provide energy efficient design principles that will be delivered through compliance with Building Regulations. The proposal is also proposing 100% EV charging coverage.

3.9.14 Biodiversity Net Gain (BNG) and Ecological Enhancement

A completed Biodiversity metric 3.0 and a biodiversity assessment have been submitted for the application. These indicate that the proposals will deliver a net gain of 15% for habitat units and 135% for hedgerows, which is acceptable. In line with paragraph 4.5 of the submitted ecological report (RSK, April 2019) the following additional enhancements should be provided on site, and would have been provided via condition has the application been recommended for approval:

- Provision of bat boxes affixed to new buildings or retained trees;
- Provision of bird boxes affixed to new buildings or retained trees

3.10 Trees:

3.10.1 The site is covered by a Tree Preservation Order, with a significant belt of trees running around the outside of the site.

3.10.2 The submitted tree survey only identifies 20 out of approximately 150 trees for removal, most of which are poor trees or unretainable. The retained trees, as per the indicative layout, will be predominantly alongside the access roads (rather than in back gardens) and will therefore limit post development pressure to remove any further trees. There are, however, plots to the south and north of the site that may need a shade analysis to be submitted with a reserved matters application.

3.10.3 The loss to overall amenity with regards to tree loss is considered to be relatively low given the number of trees on the site, and the significant number of trees that will be retained, in addition to the potential for a substantial tree replacement scheme within the site.

3.10.4 The submitted Outline Landscape Masterplan indicates a number of new trees will be planted and incorporated into the new development. Whilst this plan would not be an approved document, it does provide sufficient comfort that the trees being removed will be adequately replaced on the site. Had the application been recommended for approval, a condition would have been attached securing that the scheme submitted as part of the reserved matters application resulted in a net gain in tree cover. The requirement for a detailed arboricultural impact/method statement and final landscaping plan would also be required at reserved matters stage.

3.11 Drainage:

3.11.1 At the time of preparing this report, the Lead Local Flood Authority (LLFA) has objected to the application and recommends refusal of planning permission. The applicant has submitted a revised Flood Risk Assessment which amends the proposed discharge rate down from 14 l/s to 10 l/s, and have provided preliminary hydraulic calculations. However, there is still an unresolved matter relating to the actual discharge point, which United Utilities are not satisfied with.

3.11.2 Defra's technical standards for sustainable drainage systems (believed to be the "minimum operational standards" referred to in para 169 of the NPPF) are only met by the proposed design if the development has a functioning outfall to prevent surface water flooding on site for the lifetime of the development. The applicant has stated that they have permission to

connect to the private land drain conveying land drainage from the golf course to the public surface water sewer through their site. The LLFA does not dispute the connection to the private land drain, however, wastewater providers are not obligated to accept land drainage into their sewers and United Utilities have made contact with Wirral Council to advise that they believe the private land drain may be an illegal connection to their sewer and as such could be at risk of disconnection.

- 3.11.3 The potential illegality of the land drain's connection and the impact of a disconnection on the flood risk to the site has not been considered in the revised Flood Risk Assessment, despite raising it as an issue. The LLFA have therefore at this point maintained its objection on the grounds that no evidence has been provided that the private land drain to which the system proposes to outfall will retain connectivity for the lifetime of the development and without a functioning outfall the minimum operational standards cannot be met. The applicant can overcome the LLFA's objection by:
- Amending the design to keep the surface water drainage from the site and the land drain from the golf course separate by constructing a new outfall from the site to the public surface water sewer and therefore negating the risk, or
 - Providing evidence that they have reached an agreement with United Utilities that will ensure the site can drain in perpetuity

3.12 Amenity:

3.12.1 As noted, only access is to be fully assessed at this stage. The access will be onto Noctorum Road - opposite existing dwellings. Whilst this will result in increased traffic in this location, the distance from existing properties is sufficient to ensure that this will not have an unacceptable adverse impact on the amenities of these properties.

3.12.2 The indicative layout provided indicates that up to 33 dwellings could likely be accommodated on this site without having a direct adverse impact on surrounding residential properties, in terms of overlooking, loss of light. As layout is reserved for future assessment, it is considered at this stage that there is sufficient comfort that the development would not directly harm residential amenity.

3.13 Affordable Housing:

3.13.1 There is a requirement for 20% affordable housing provision within this area. Whilst the applicant has offered to meet this requirement, it has been suggested that this would be in the form of a commuted sum. This is contrary to the requirement that the affordable housing provision would be met on site. The applicant states that following previous discussions with housing associations it was concluded that there was no interest in the larger family homes proposed by the application. However, Council officers have contacted those housing associations who currently have active affordable housing development programmes in Wirral, regarding this potential development. They have indicated that they have not been contacted recently in relation to this potential development, and would be interested in a discussion with the applicant regarding this. The units offered would, in line with planning policy, need to be reflective of the strategic and local need and demand in the borough for affordable housing. It does not appear that the applicant has sufficiently considered this in the proposed mix. It was therefore advised that the applicant explores this further and the design of this potential development is reflective of an appropriate level, type and size of affordable housing following these discussions.

3.13.2 Even if the applicant had demonstrated that there had been recent contact with housing associations and there was insufficient interest (and no scope to change the type of properties proposed), then it should also be noted that Wirral Council now has Investment Partner status with Homes England and is therefore also able to purchase potential homes for affordable council housing if it was felt that they would meet an identified housing need. Some larger homes, as proposed on this site, would therefore likely be of interest to the Council.

3.13.3 In conclusion, the applicant has provided insufficient evidence to demonstrate that this development cannot meet the affordable housing requirement on site, and the proposal is therefore contrary to Wirral UDP Policy HS6

3.14 Other:

3.14.1 The Council's Environmental Health team have no objection to the application, but have requested that the following conditions be attached had the application been recommended for approval:

1. No development shall take place until an assessment is carried out in accordance with authoritative Land Contamination Risk Management technical guidance has been submitted to and approved in writing by the Local Planning Authority.
2. If any contamination posing unacceptable risks is then found, a report specifying the measures to be taken to remediate the site to render it suitable for the approved use shall be submitted to and approved in writing by the Local Planning Authority.
3. The site shall be remediated in accordance with the approved measures and a verification report shall be submitted to and approved by the Local Planning Authority.
4. If, during the course of development, any contamination posing unacceptable risks is found, which has not been previously identified, additional measures for the remediation of the land shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures and a verification report shall be submitted to and approved by the Local Planning Authority.

Recommended Decision: **Planning Committee is recommended to resolve that it would have refused this planning application for the following reasons**

Recommended Reasons:

1. The playing pitches are not surplus to requirement and the proposed mitigation package is inadequate to compensate for the loss of the existing Noctorum Playing Field. This loss will not be replaced by equivalent or better provision in terms of quantity and quality, and the proposal is therefore contrary to Wirral Unitary Development Plan Policy RE6, National Planning Policy Framework Paragraph 99 and Sport England's playing fields policy.
2. The loss of this previously undeveloped site for a residential development, particularly one that has a higher density than the prevailing character of the area, would have a clear adverse impact on the character of this area and therefore conflicts with Wirral Unitary Development Plan Policy HS4 and HS5 and the National Planning Policy Framework, in particular Paragraph 124.
3. Insufficient evidence has been provided to demonstrate that this development cannot meet the 20% affordable housing requirement on site, and the proposal is therefore contrary to Wirral Unitary Development Plan Policy HSG2 and HS6 and the National Planning Policy Framework
4. The proposal is considered to constitute unsustainable development due to the site being located a substantial distance from local services and the lack of a dedicated pedestrian footpath for substantial parts of the surrounding road network. This will result in significant highway safety concerns and will dissuade future occupiers of the site to consider alternative, sustainable transport modes. The proposed development is therefore considered to be contrary to the Wirral Unitary Development Plan, in particular Policy TR9 and TRT1, and the National Planning Policy Framework, in particular Paragraphs 110 and 112
5. Insufficient evidence has been provided to demonstrate that the private land drain to which the proposed drainage system proposes to outfall will retain connectivity for the lifetime of

the development and without a functioning outfall the minimum operational standards cannot be met. The proposal is therefore contrary to Paragraph 169 of the National Planning Policy Framework.

Further Notes for Committee:

Last Comments By: 27/09/2021 17:23:00

Expiry Date: 29/10/2021