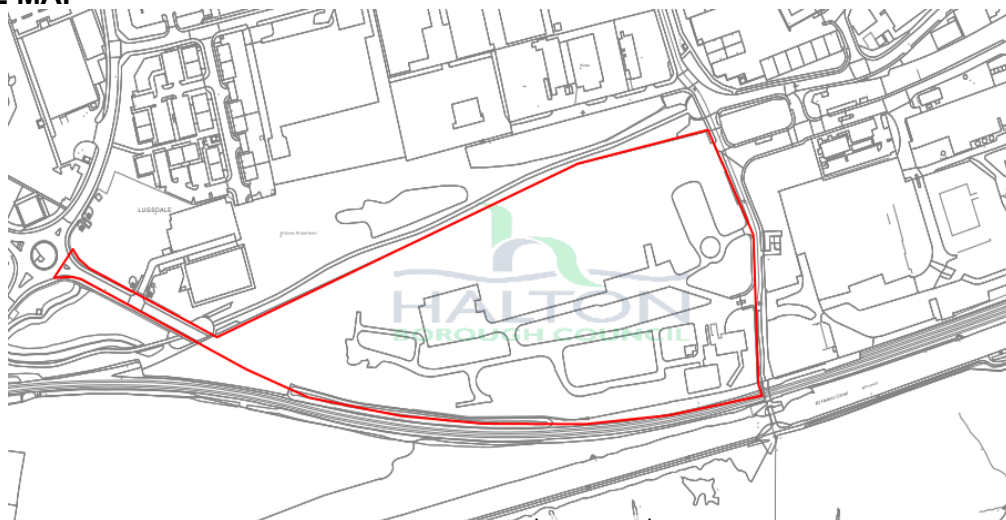


APPLICATION NO:	19/00235/FUL
LOCATION:	Land north of Railway and west of Tanhouse Lane, Widnes
PROPOSAL:	Proposed development of 243 dwelling houses, including access, open space and associated infrastructure
WARD:	Riverside
PARISH:	
AGENT(S) / APPLICANT(S):	Satplan, The Bridgewater Complex, 36 Canal Street, Bootle L20 8AH
DEVELOPMENT PLAN ALLOCATION: Halton Unitary Development Plan (2005) Halton Core Strategy Local Plan (2013) Joint Waste Local Plan (2013)	Action Area – 3 Widnes Waterfront Priority Employment Redevelopment Area Coastal Zone Developed
DEPARTURE	No
REPRESENTATIONS:	Written representation from one resident; and nearby commercial operators ICoNiChem; and Unifrax Ltd.
KEY ISSUES:	Principle of development, regeneration; noise and other amenity issues; drainage; contaminated land; highway safety and traffic issues; open space provision; residential amenity standards
RECOMMENDATION:	Delegate to determine subject to resolution of outstanding information.

SITE MAP



A report was originally prepared for the November Development Control Committee in relation to this application but was not considered due to receipt of a late detailed objection.

Members are directed to consider the original report as prepared below in combination with the subsequent update title “UPDATE SINCE NOVEMBER COMMITTEE REPORT”.

For clarity a review of the proposal has been undertaken by the applicant in light of the late objection received and officer advice including amendments to the layout/apartment design to improve the methods to mitigate the impact on future residents from noise, an updated noise assessment and to address those matters that were identified as outstanding.

THE APPLICATION SITE

The Site

The application site is located at the end of Carter House Way, southeast of The Hive and to the west of Tanhouse Lane. The site is bounded by Halton Borough Council owned land to the north which contains the footway/cycleway greenway. The land is bounded along its southern perimeter by rail line in the ownership of Network Rail, together with the St Helens Canal and Trans Pennine Trail to the south of the rail line, accessed by an existing level crossing.

The previous use of this area was industrial and historically was occupied by Imperial Chemical Industries (ICI). There are no residential or sensitive land uses near to the site. The nearest properties are those in the employment areas of Dennis Road and Tanhouse Lane – including the existing Unifrax (former Saffil) site. To the south of the site is the salt marsh and River Mersey, which provides important habitat and is linked to the Special Site of Scientific Interest (SSSI) and internationally designated Special Protection Area and RAMSAR site to the west of the Silver Jubilee Bridge.

A combined Public Right of Way (PRoW – W47) and cycle route (62) runs along the entire northern boundary forming part of the greenway network and linking The Hive to Tan House Lane.

Planning History

The site has a long planning history associated with the past chemical industry on the site, but latterly and pertinent to this current application are the most recent three planning permissions; 18/00267/FUL – Remediation of the site; 05/00109/OUTEIA - Outline application (with siting/layout, design/external appearance & landscaping reserved) for the creation of a new mixed use development, including development at 2, 3, 5 and 6 storey plus commercial A1(12,750 sq.ft), B1(25,000sq.ft) and C3 (624 dwellings); 05/00057/OUTEIA - Outline Application, with all matters reserved, for a mixed use development comprising up to 624 residential units, up to 1275 sqm of Use Classes A1 (Shops) and A2 (Financial and Professional Services) up to 500 sqm of Use Classes A3 (Food and Drink); 96/00577/OUT - Outline application for use of land for purposes within Classes B1, B2 & B8 of the Town & Country Planning (Use Classes) Order.

THE APPLICATION

The proposal and Background

The planning permission 18/00267/FUL dealt with the proposal to remediate the site in preparation for it to be used for an alternative and more sensitive future uses. This work is currently being undertaken on site as of October 2019. The application is for the proposed development of 243 dwelling houses, including access, open space and associated infrastructure.

Documentation

The applicant has submitted a planning application, drawings and the following reports:

- Design and Access Statement
- Air Quality Assessment
- Phase 1 Habitat Survey
- FRA
- Geotechnical Assessments
- Transport Statement
- Acoustic Assessment
- Phase 2 Site Investigation
- Transport Assessment
- Tree Survey

Planning Application Statement

POLICY CONTEXT

National Planning Policy Framework

The National Planning Policy Framework (NPPF) was published in February 2019 to set out the Government's planning policies for England and how these should be applied.

Paragraph 47 states that "Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on application should be made as quickly as possible and within statutory timescale unless a longer period has been agreed by the applicant in writing."

Paragraph 11 and paragraph 38 state that plans and decisions should apply a presumption in favour of sustainable development and that local planning authorities should work in a positive and creative way, working pro-actively with applicants to secure developments that will improve economic, social and environmental conditions of their areas.

Paragraphs 80-82 states the need for planning policies and decisions to be made to create conditions in which business can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. It encourages an adaptive approach to support local and inward investment to meet the strategic economic and regenerative requirements of the area.

Halton Unitary Development Plan (UDP) (2005)

The following Unitary Development Plan policies and policy documents are relevant to this application: -

RG3	Action Area – Widnes Waterfront
BE1	General Requirements for Development
BE2	Quality of Design
BE3	Environment Priority Areas
BE22	Boundary Walls and Fences
GE30	Coastal Zone Developed
PR1	Air Quality
PR2	Noise Nuisance
PR4	Light Pollution and Nuisance
PR7	Development Near To Established Pollution Sources
PR14	Contaminated Land
PR16	Development and Flood Risk
TP6	Cycling Provision as Part of New Development
TP7	Pedestrian Provision as Part of New Development
TP12	Car Parking
TP15	Accessibility to New Development
TP17	Safe Travel for All
E2	Priority Employment Redevelopment Area
E3	Primarily Employment Areas
H3	Provision of Recreational Greenspace

Halton Core Strategy Local Plan (2013)

The following policies, contained within the Core Strategy are of relevance:

CS1	Halton's Spatial Strategy
CS2	Presumption in Favour of Sustainable Development
CS4	Employment Land Supply and Locational Priorities
CS9	South Widnes – Key Area of Change
CS13	Affordable Housing
CS15	Sustainable Transport
CS18	High Quality Design
CS19	Sustainable Development and Climate Change
CS20	Natural and Historic Environment
CS22	Health and Well-Being
CS23	Managing Pollution and Risk
CS24	Waste

Joint Waste Local Plan 2013

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

Supplementary Planning Documents (SPD)

Design of Residential Development SPD
Widnes Waterfront SPD
Draft Open Space SPD

Where appropriate the above policies are specifically highlighted within the report. Where not specifically highlighted the above policies have been assessed has been applied with.

CONSULTATIONS

The application has been advertised via the following methods: site notices posted near to the site, press notice, and Council website. Surrounding residents, landowners and Ward Councillors have been notified. The application was originally advertised as a departure, however, it has since been established that this was not required under the terms of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

The following organisations have been consulted and any comments received have been summarised below in the assessment section of the report where appropriate:

Environment Agency – No objection subject to conditions in relation to land contamination; and advise on best practice for waste on site.

United Utilities – Comments in relation to the provision of sustainable drainage of the site; advice on the existing of United Utilities property and assets across the site; suggested condition in relation to surface water drainage; advice to consult with the Lead Local Flood Authority.

Natural England – Advised further information to be submitted in relation to impacts on designated sites as the development is within 1.75km of the Mersey Estuary Special Protected Area (SPA), Ramsar and SSSI and the need for assessment under the Habitats Regulations 2017.

Network Rail – Holding objection set out under the Assessment chapter in relation to Other Matters Arising As A Result Of Consultation.

Cheshire Police – Advised on several areas to be improved to increase security across the site. Further comments are expected in relation to the submitted amended plans.

Health & Safety Executive – Do Not Advise Against.

Canals & River Trust – although the Trust do not own or manage the Sankey Canal, they support the Sankey Canal Restoration Society and their aims to restore the canal. They ask the Council to seek to maximise any potential pedestrian linkages from the application site to the canal corridor.

National Grid – Response from Cadent Gas who have provided advice in relation to the major accident hazard pipeline that they have in the vicinity. They have provided advice which will be forwarded to the applicant. The Council has undertaken a consultation to the Health & Safety Executive who do not advice against the proposal.

Coal Authority – Referred to their standing advice.

Council Services:

HBC Contaminated Land – No Objection subject to conditions – outlined in report below.

Local Highway Authority –

Initial response -

Comments in relation to the requirement for the site to provide a width of road through to enable a future bus route; provision of better cycle links to the greenway to the north of the site; general comments in relation to technical issues as a result of the plot layout.

Response in Relation to Amended Plans – this is set out under the Assessment chapter below in relation to Highway Safety.

Lead Local Flood Authority – Require further information as set out under the Assessment chapter below in relation to Flood Risk and Drainage.

Merseyside Environmental Advisory Service – Advice in relation to the proximity of the site to the Mersey Estuary SPA and RAMSAR and initial advice that further information is required to enable an HRA to be undertaken due to the functionally linked. Conditions recommended in relation to waste.

HBC Environmental Health –

Initial response –

“Air Quality

The applicant has provided an air quality assessment which considers the potential dust impact from the site during the construction phase. This identifies a number of measures that will reduce potential dust emissions and I would suggest that as long as these measures are adopted Environmental Health would have no concerns regarding air quality impacts from the site.

Noise

The applicant has supplied an acoustic assessment of the site. The assessment calculates the exposure of future residents to noise. The noise levels recorded were compared with the standards in BS8233:2014. The report demonstrates that enhanced glazing is required in a number of properties to ensure that future residents can enjoy a reasonable level of comfort in their own property. This is not unusual with modern developments as pressure for land for development increases. However the noise report clearly indicates that there is a low frequency noise source impacting across the site. On further investigation it is my opinion that this noise source is from a neighbouring industrial plant. Noise from the plant is clearly identifiable to the northeast side of the site. Low frequency noise can be particularly pervasive and Environmental Health has concerns that the presence of this noise will cause disturbance to future residents. Given the pervasive nature I would have no confidence that enhanced glazing will prevent it causing disturbance.

Of particular concern is the objection from ICoNiChem suggesting that when the night time noise assessment was being carried out their plant was not operating and so the noise sources in the area have not been fully assessed.

A previous application for housing on this site included a considerable commercial element to the northeast perimeter. This was included as a ‘buffer’ zone between the proposed residential development to mitigate noise and disturbance from the industrial neighbours. The application in hand indicates residential properties being built across the site to the northeast perimeter with no such protection.

Conclusions

The application indicates that dust emissions from the site should be controlled through a number of measures and I would suggest that these are conditioned as part of the planning consent.

With regard to noise I am concerned that the application has not adequately addressed the potential noise issues from the surrounding industrial area. On the basis of these concerns Environmental Health are unable to support the application.”

Supplementary Response -

“BS8233:2014 and the World Health Organisation’s standards recognise that bedrooms should be protected such that a noise level of 30dB can be achieved at night, to allow restful sleep. To achieve this housing developers often recommend enhanced glazing and trickle vents to allow the required air changes per hour, in line with Building Regulations. In hot weather, however, most people choose to open their windows to keep the property cool, at which point the advantage gained by the enhanced glazing is lost. This can be accepted where the noise is perhaps more general in nature, such as road traffic. The Tanhouse Lane site is exposed to a specific, tonal noise from a local industrial site, and whilst the calculations for the original BS4142 assessment take this into account, our experience is that such tonal noises are more likely to cause an actionable statutory nuisance, particularly if it can be demonstrated that they disturb sleep.

The applicant has located the apartment blocks on the boundary of the site facing the industrial areas in effect to act as a noise screen to the other residential properties on the site. Where possible windows to bedrooms will not be located facing directly onto the industrial uses, however this is not possible in all units. The acoustic consultant indicated that where the houses are not adequately screened by the apartment blocks additional acoustic fences would be deployed. It should be noted that these screens would need to be at least to the height of the 1st floor bedroom windows, and this may cause some planning issues from a visual perspective. Until the site layout has been finalised and the acoustic consultant has revised the noise figures in line with this it is impossible to know whether additional screening is required. In line with my comments this morning it may be worth advising the applicant that require the following:

Any residential unit (house or apartment) where residents will be exposed to noise levels in excess of 30dB (as measured in line with the methodology in BS8233:2014) in bedrooms with windows open, shall be provided with additional air conditioning to permit residents to moderate the air temperature particularly in hot weather.”

Response in Relation to Amended Plans – this is set out under the Assessment chapter below in relation to Noise.

HBC Open Spaces – Comments awaited.

HBC Regeneration Team – No comment.

Mersey Gateway Environmental Trust - No comments.

REPRESENTATIONS

Representations have been received from objectors raising issues which are paraphrased below:

- *“Is the tenure mix a relevant issue planning wise? If so what is proposed? All social housing estates are a very bad idea now that access to such accommodation is primarily for the poor and vulnerable, creating mono cultures (specially on such a comparatively isolated site). If it is not a planning matter then could the Council intervene as the statutory authority for housing strategy? The recent developments around Page Lane by Halton HT are a good example of best practice.”*
Response – The proposal consists of a mix of house type and tenure which will be integrated across the site to avoid clusters of tenure type. The apartment blocks have a mix of 1 and 2 bed units. The approach is acceptable and meets the requirements of the Development Plan policy CS13 and the NPPF in this regard.
- **Objection on behalf of ICoNiChem:-**
“Noise Levels
Our Client produces inorganic salts of Cobalt and Nickel used in the manufacture of numerous products including colour pigments, rubber adhesion promoters, paint driers and petrochemical catalysts. This process continues seven days a week, 24 hours a day (the only exception being when the plant closes on Sunday afternoons). As with most manufacturing plants a continuous level of noise is emitted from the ICoNiChem Site. Our Client is very much aware of its responsibilities under environmental legislation regarding noise levels and accordingly they undertake their own noise monitoring on a regular basis. These noise recordings are carried out at various points both within the ICoNiChem Site and within the surrounding area, including on the boundary of the Application Site. A plan is enclosed, which identifies the points numbered 1 to 6 and marked "A" to "D" where the noise recordings are undertaken. Measurements date back as far as 2003, with the most recent recording being that of 6 March 2019. On that date, the recording equipment recorded a reading of 59 dB(A) at point "B" on the plan and a reading of 51 dB(A) at point "C" on the plan. Measurements have varied dependent on weather conditions, but what is clear is that the noise from the ICoNiChem Site is of such significance that it can be heard from the Application Site, and this noise is continuous given the hours of operation as noted above. Furthermore, as part of our Client's health and safety procedures prescribed by the Health and Safety Executive ("HSE"), an emergency siren must be installed at the ICoNiChem Site. The siren goes off continuously for one minute when tested, which occurs on the first Thursday of every month at 15:00. Equally, there are sporadic occasions where the siren will be sounded, either through human error or if a major incident occurs. The siren, at point of contact, is 106 decibels. There can be no doubt that this siren will be heard on the Application Site. A tannoy system is also used on the ICoNiChem Site, which added to regular fire alarm tests and relatively frequent incidents of increased noise levels due to the mechanical equipment will represent an increased noise level that one would expect to hear in an industrial/commercial area, but would likely affect the amenity of any residential occupier. This can in turn be added to the noise emanating from other commercial and industrial sites in close proximity to the Application Site (who in turn have similar (if not louder in some cases) tannoy systems, alarms and general manufacturing processes). The Applicants Noise Impact Assessment, dated 12 April 2019, acknowledges that 'the existing industrial sound is likely to have a potentially low impact at the northern site boundary during the daytime period and no impact during the night-time period'. The Assessment goes on to conclude that "Taking context into consideration, the existing industrial sound is likely to have a low impact at the proposed residential properties during the daytime period and no impact during the night-time period".

We struggle to ascertain how the Assessment can reach this conclusion when the level of noise emanating from the ICoNiChem Site is continuous day and night. Our Client has been able to confirm that the driers (being the noisiest equipment on site) were (on this rare occasion) not in operation after 8pm on 24 July 2018 when the only night time automated measurements were undertaken under the Assessment. This accordingly provides at least some explanation for the results of the Applicants assessment, although one must question why our Client's operation is not even named within the document.

One of the strategic objectives of The Halton Local Plan Core Strategy (April 2013) is to "Prevent harm and nuisance to people and biodiversity from potential sources of pollution and foreseeable risks".

Equally, policy S4 of The Halton Unitary Development Plan (7 April 2005) states that development "will not be permitted if it is likely to have an unacceptable effect on levels of air, surface water or ground water pollution, or ground contamination or noise or visual intrusion by artificial light".

Furthermore, policy PR8 notes that development "that is sensitive to noise will not be permitted near to transportation facilities such as Liverpool Airport, roads or railways unless steps are taken to substantially mitigate the effects of the noise nuisance upon the proposed development". This is particularly important in reference to the significant number of heavy goods vehicles that access Moss Bank Road, delivering to the many industrial and commercial units in the locality (and accessing the HGV parking area to the north of the ICoNiChem Site).

Ultimately, local planning policy is clear that residential occupiers represent a sensitive receptor for noise. The amenity of these occupiers must accordingly be protected. This is supported in the National Planning Policy Framework ("NPPF"), where (at paragraph 170 (e.)) it is noted that planning policies and decisions should contribute to and enhance the natural and local environment by "preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability".

It is accordingly our contention that the Applicant's Noise Assessment fails to fully appreciate the surrounding industrial and commercial uses in particular from the ICoNiChem Site. In light of this, our Client is willing to procure their own independent noise survey. A quote has already been obtained and the assessment can be undertaken on the week of 17 June, with the report back by approximately 28 June. However, clearly our Client would not want to pay such costs if any decision is made before that date. Accordingly, please can you confirm that any decision will not be undertaken on or prior to this date and that any such survey would be considered as part of the application process?

Outline Planning Permission

The Applicant relies heavily on the assumption that the principle of residential development has already been established due to the grant of outline planning permission on 12 December 2016 for a mixed use development made up of 624 residential units, up to 1275 sq m of Use Classes A1 (Shops) and A2 (Financial and Professional Services), up to 500 sqm of Use Classes A3 (Food and Drink) and A4 (Drinking Establishments), up to 2400 sq m of Use Class B1 (Business) and up to 300 sq m of Use Class D1 (Non Residential Institutions) (ref: 05/00057/OUTEIA).

Aside from the fact that any new planning application has to be decided on its own merits we must highlight that what is being proposed in this Application is significantly different to the scheme granted under the outline planning permission. Importantly, the outline planning permission proposed essentially a retail and commercial use buffer on the east boundary of the Application Site. This is of vital importance from a noise perspective as this buffer would have offered a means of mitigation, which simply isn't provided in this Application.

Equally, the retail uses provided important resources without which questions have to be raised as to the sustainability of any scheme.

This accordingly raises a fundamental point in that any proposed use for the Application Site within local planning policy never specify residential as the only viable

use. Multiple uses are purposefully proposed because it is recognised that for any residential scheme to be viable it needs mixed commercial/retail uses to support the same.

COMAH Site

The HSE have designated the ICoNiChem Site as an Upper Tier COMAH site. The HSE provide that the nature of the accidental hazards could be accidental release of dangerous substances, explosions and fires. The resulting dangers from these substances can be incredibly serious including burns to skin and eyes, allergic reactions and cancer.

The consultation zone designated by HSE extends to the boundary of the ICoNiChem Site, which may explain why the Applicant has categorically failed to appreciate the risk. However, this zoning is subject to change dependent on the chemical classification. Equally, one must highlight that any release of gas or explosion will likely affect the surrounding area, with it being a very real risk that this could include the Application Site.

Ultimately, the Applicant has failed to consider the potential impact of the ICoNiChem Site and the level of potential risk associated with it.

Policy S5 of the Unitary Development Plan is quite clear when it stresses that development will not be permitted near COMAH Sites where it cannot satisfactorily co-exist with their operations.

Furthermore, the Core Strategy provides at CS23 (b) that:

"To prevent and minimise the risk from potential accidents at hazardous installations and facilities, the following principles will apply:

- Minimisation of risk to public safety and property wherever practicable.
- Controlling inappropriate development within identifiable areas of risk surrounding existing hazardous installation or facilities, to ensure that the maximum level of acceptable individual risk does not exceed 10 chances per million and that the population exposed to risk is not increased."

Paragraph 45 of the NPPF highlights the need to consult with appropriate bodies when considering development around major hazard sites, and we trust that this will take place. However, the fundamental point here is that the safety of the residential occupiers cannot be guaranteed. Our Client will serve safety notices on each residential occupier, although technically not required to do so, but our Client cannot guarantee that safety guidance will be followed.

This in turn raises a further consideration surrounding the health and safety of any potential residential occupiers and that relates to the relatively frequent incidents of fire that occur in the area. Only just over a week ago there was a tyre stack fire at a site in very close proximity to the Application Site, which was noted in the local press and required seven fire engines to deal with the blaze. This follows major fires at the Unifrax site and the P R Pallet Services site over the last few years. Frequent fires also occur at the nearby scrap yard. Such incidents are to be expected in an industrial area, but sensitive receptors like residential areas would not expect the same and the natural result would be significant effects on amenity.

Economic Development

Our Client currently employs 64 people and in turn use a local supply chain that is becoming increasingly dependent on our Client. Our Client has invested heavily in the ICoNiChem Site and has a strategy in place for expansion. Indeed, our Client has recently redistributed the existing electricity supply to provide an expanded capacity in preparation for expansion. Any such expansion will lead to more jobs, but will in turn in all likelihood lead to an increase in noise levels with added manufacturing facilities. Our Client is deeply concerned as to what the effects a residential development could have not just on any potential expansion, but in the continued existence of the plant in the Widnes area. Should any form of restrictions be imposed on our Client as a result of this development it may simply become untenable to continue in this location.

The NPPF, at paragraph 38, notes that local planning authorities "should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area." Sustainable economic growth is further supported in local planning policy. The potential effect of this Application will be

to have a significantly detrimental effect on our Clients business and other businesses in the area. This Application accordingly can in no way be deemed supportive of sustainable economic growth.

Conclusion

Overall, the Applicant has failed to consider our Client and the ICoNiChem Site within the Application. This failure represents a significant omission which is wholly unacceptable and contrary to local and national planning policy. Indeed, the Applicant has failed to appreciate the nature of the locality generally and appears to rely upon a historic outline planning permission as establishing the principle of residential development. However, the said permission has fundamental differences from the Application, which in turn will lead to a far greater impact on the Application Site from the ICoNiChem Site and the surrounding industrial and commercial estate.

Our Client simply wants to protect their business, both in terms of current use and future expansion. As it stands, this Application offers no such protection which is not acceptable. We accordingly respectfully request that the Local Planning Authority refuse the Application in its current form.”

- *Objection on behalf of Unifrax Ltd:-*

“Noise Levels

We produce Saffil Alumina Fibres, which are high-purity polycrystalline fibres designed for use in applications up to L 600 °C. Since their development in the early 1970s, Saffil fibres have been used successfully to solve problems in demanding high-temperature insulation and many other speciality applications. A unique solution extrusion process that ensures the highest levels of chemical purity and lowest possible levels of shot content (non-fibrous particles) produces Saffil fibres.

The unique method of manufacture allows the fibre diameter to be strictly controlled with a median of approximately 3 microns, with very low levels of fibre less than 1 micron in diameter. Typical applications:

- Saffil fibres are used to increase the maximum use temperature in module, board and vacuum-formed shape and paper manufacture. The fibre can be further treated by milling for more specialist applications. This process continues seven days a week, 24 hours a day.*

- As with most manufacturing plants a continuous level of noise is emitted from the Saffil Site. We are very much aware of our responsibilities under environmental legislation regarding noise levels and accordingly we undertake our own noise monitoring on a regular basis.*

These noise recordings are carried out at various points both within the Offices and our manufacturing site at Widnes to BS4142 Environmental Noise monitoring.

The Saffil Site is located within the surrounding area, including on the boundary of the Application Site. Measurements have varied dependent on weather conditions, but what is clear is that the noise from the Saffil plant is of such significance that it can be heard from the Application Site, and the noise is continuous given the hours of operation as I have noted above.

Furthermore, as part of our health and safety procedures prescribed by the Health and Safety Executive (“HSE”), an emergency siren must be installed at the Saffil Site. The siren goes off when tested or activated in an emergency and will be sounded at 106 decibels. There can be no doubt that this siren will be heard on the Application Site and other surrounding areas, this can be further exaggerated due to weather conditions.

A tannoy system is used on the Saffil Site (in line with our company Health and Safety Policies and emergency procedures, which added to regular fire alarm tests and

relatively frequent incidents of increased noise levels due to the mechanical drives and equipment will represent an increased noise level that one would expect to hear in an industrial/commercial area, but would likely affect the amenity of any residential occupier.

This can in turn be added to the noise emanating from other commercial and industrial sites within close proximity to the Application Site (who in turn have similar (if not louder in some cases) tannoy systems, alarms and general manufacturing processes).

The Applicants Noise Impact Assessment, dated 12 April 2019, (completed during our maintenance shutdown period with both Lines 1 and 2 non-operational) acknowledges that 'the existing industrial sound is likely to have a potentially low impact at the northern site boundary during the daytime period and no impact during the night-time period'.

The Assessment goes on to conclude that "Taking context into consideration, the existing industrial sound is likely to have a low impact at the proposed residential properties during the day time period and no impact during the night-time period". It is clear on reading the assessment that this does not present a true reflection of our day to day operating noise levels.

As a company we struggle to ascertain how the Assessment can reach this conclusion when the level of noise emanating from the Saffil Site is continuous day and night on a 24 hour basis. I can also confirm that the secondary air fan's and the boiler and air compressors pressure release valves (being the noisiest equipment on site) measurements are undertaken under the Assessment. This provides at least some explanation for the results of the Applicants assessment, although one must question why our Saffil operation is not even named within the documentation provided.

One of the strategic objectives of The Halton Local Plan Core Strategy (April 2013) is to "Prevent harm and nuisance to people and biodiversity from potential sources of pollution and foreseeable risks".

I would also reference the Equally, policy S4 of The Halton Unitary Development Plan (7 April 2005) states that development "will not be permitted if it is likely to have an unacceptable effect on levels of air, surface water or ground water pollution, or ground contamination or noise or visual intrusion by artificial light".

Furthermore, policy PR8 notes that development "that is sensitive to noise will not be permitted near to transportation facilities such as Liverpool Airport, roads or rail ways unless steps are taken to substantially mitigate the effects of the noise nuisance upon the proposed development".

This is particularly important in reference to the significant number of heavy goods vehicles and equipment that access Moss Bank Road, delivering or servicing many industrial and commercial units in the locality including Saffil site.

Ultimately, local planning policy is clear that residential occupiers represent a sensitive receptor for noise. The amenity of these occupiers must accordingly be protected. This is supported in the National Planning Policy Framework ("NPPF"), where (at paragraph 170(e.)) it is noted that planning policies and decisions should contribute to and enhance the natural and local environment by "preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability".

It is accordingly our contention that the Applicant's Noise Assessment fails to fully appreciate the surrounding industrial and commercial uses in particular from the Saffil

Site. In light of this, we are willing to procure our own independent noise survey. An assessment has already been actioned and the assessment can be undertaken on the week commencing 24th June. Please can you confirm that any decision will not be undertaken on or prior to this date and that any such survey would be considered as part of the application process?

Outline Planning Permission

The Applicant relies heavily on the assumption that the principle of residential development has already been established due to the grant of outline planning permission on 12th December 2016 for a mixed use development made up of 624 residential units, up to 1275 sq. m of Use Classes A1 (Shops) and A2 (Financial and Professional Services), up to 500 sq. m of Use Classes A3 (Food and Drink) and A4 (Drinking Establishments), up to 2400 sq. m of Use Class B1 (Business) and up to 300 sqm of Use Class D1 (Non Residential Institutions) (ref: 05/00057/OUTEIA). I would be grateful if you can clarify that this is the final outline of the planning permission.

Aside from the fact that any new planning application has to be decided on its own merits we must highlight that what is being proposed in this Application is significantly different to the scheme granted under the outline planning permission. Importantly, the outline planning permission proposed essentially a retail and commercial use buffer on the east boundary of the Application Site. I can only reiterate that this is of vital importance from a noise perspective as this buffer would have offered a means of mitigation, which simply isn't provided in this Application or other documentation supplied.

Equally, the retail uses provided important resources without which questions have to be raised as to the sustainability of any scheme. This raises a fundamental point in that any proposed use for the Application Site within local planning policy never specify residential as the only viable use. Multiple uses are purposefully proposed because it is recognised that for any residential scheme to be viable it needs mixed commercial/retail uses to support the same.

Conclusion

Overall, the Applicant has failed to consider Saffil Site within the Application. This failure represents a significant omission, which is wholly unacceptable and contrary to local and national planning policy. Indeed, the Applicant has failed to appreciate the nature of the locality generally and appears to rely upon a historic outline planning permission as establishing the principle of residential development. However, the said permission has fundamental differences from the Application, which in turn will lead to a far greater impact on the Application Site from the Saffil Site and the surrounding industrial and commercial estate.

As a growing Manufacturing Company and employer for the local community, we simply want to protect our business and the employee's future. As it stands, this Application offers no such protection, which is not acceptable and I would hope you would agree.

We respectfully request that the Local Planning Authority strongly refuse the Application in its present form. We would welcome the opportunity to meet with you at your earliest convenience to discuss the concerns we have raised. I have also attached a local area site plan, indicating Saffil's proximity to the proposed developments."

Both objections received from ICoNiChem and Unifrax raise similar points the following addresses these shared points as one where this arises.

Response –

- i) Noise Levels – The Council’s Environmental Health would concur that noise from ICoNiChem is clearly audible on the eastern side of the site. Noise calculations carried out by the applicant are also consistent, indicating that noise levels at this boundary are 49-53.5dB_{L_{aeqT}}. Environmental Health acknowledges the concerns raised, however weekly emergency siren tests are not without precedent within the Borough in locations also adjacent residential areas. Such weekly tests would not be considered to constitute a nuisance. Operation of tannoy is a normal occurrence on commercial and industrial sites, and where they are used proportionately, and particularly during daytime hours they would be unlikely to constitute a statutory nuisance.
- ii) Applicant’s Noise Assessment - This matter has been addressed in Environmental Health’s comments in the Assessment chapter of this report under Noise and Other Amenity Issues.
- iii) Policy S4 – Both objectors cite the failure of the application to satisfy this policy. This policy is not material in the determination of this application as it no longer exists.
- iv) Policy PR8 - Both objectors cite the failure of the application to satisfy this policy. This policy is not material in the determination of this application as it applies only to development near ‘Transportation Facilities’. In the context of roads, these are defined as ‘major roads’ in the policy justification. However the application has been considered in the context of the potential impact on future occupiers from the use of nearby roads and railway in the Assessment chapter of this report under Noise and Other Amenity Issues.
- v) NPPF 170(e) – Both objectors cite the failure of the application to satisfy this policy. This national policy is contained in the ‘Conservation and Enhancing the Natural Environment’ chapter of the NPPF. This policy is aimed at conserving the natural environment and ensuring new development does not compromise it. In this case, the resulting residential development will improve the current environmental conditions and in this regard would meet the requirements of this part of the NPPF.
- vi) Difference in the current scheme from the previous planning permissions - Both objectors cite applicant’s reliance on the previous planning permissions as justification for the current proposal. The current application has been assessed on its own merits and on the basis of the adopted policies of the development plan and NPPF. Consideration is given to the site history and previous planning permissions, however this would not unduly influence the decision of the Council.
- vii) The site should be a mix of retail and commercial in addition to residential - Both objectors cite the failure of the proposal to provide a better mix of uses which the site is better suited for. The Council’s adopted policies RG3 and CS9 do not restrict the use of the site to specific uses and each application for development is assessed on its own merits. The site will be functionally linked to the Hive which is 191m away, the nearest grocery retail shopping available 400m away and Tesco is 662m away, providing the nearby availability of a mixture of supporting uses within walking distance of the application site. The proposal is not contrary to the Council’s adopted policies or NPPF in this regard.

- viii) COMAH site - Both objectors cite the proximity of the application site to existing COMAH sites and its location within respective consultation zones. The Council has consulted the Health & Safety Executive as part of the application process who do not advise against.
- ix) Impact on existing operations and future expansion - Both objectors cite the existence of the residential development will impede their current operations and potential for growth. Both ICoNiChem and Unifrax are employers in this area, the former currently employing 64 people and use the local supply chain. The impact on these and other surrounding businesses is material in the determination of this application and the NPPF paragraph 182 states that:-
“Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on the new development in its vicinity, the applicant should be required to provide suitable mitigation before the development has been completed.”
It goes on to say in paragraph 183 that an assumption should be made that the regulatory process will operate effectively in the control of processes and emissions and the planning issues should not be revisited through these. Members should take account of the objections from both businesses in balancing the regeneration impacts of the scheme and its delivery of affordable homes in this location. The applicant has provided information for assessment to enable the Council to make a decision in this regard, particularly in relation to noise. The Council’s assessment of noise is contained in the Assessment chapter of this report under Noise and other Amenity Issues.
It should be noted that in any future planning application for expansion for either these or any other businesses in the area, would need to meet the requirements of the policies contained in the planning framework at the time.
- x) Occurrences of fires in the area – ICoNiChem has cited incidents of fires in the area and the potential impact of future incidents on the occupiers of the residential properties. Members should note that the security and safe operation of the individual sites in the adjacent employment area is the responsibility of those site operators and owners and should incidents occur, emergency services and other regulators will take any necessary actions. This is not material in the determination of this application.

ASSESSMENT

Particulars of Development

The Council has screened the application under the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and agrees with the applicant’s assessment that the proposal does not require an Environmental Impact Assessment under the terms of these regulations and that all matters can be dealt with through the technical submissions that have accompanied the application.

Principle of Development

In the Halton UDP the site is designated as part of a Priority Employment Redevelopment Area, Action Area, and Coastal Zone Developed and the related policies are as follows:-

Priority Employment Redevelopment Area:-

UDP Policy E3 applies. This policy identifies sites which are considered suitable for employment redevelopment and when they become vacant and fully reclaimed and when land assembly takes place. The policy does not preclude other types of development.

Action Area 3 - Widnes Waterfront:-

Policy RG3 applies. This policy encourages regeneration and part of that includes residential use of site and more active use of the waterfront area.

Coastal Zone Developed:-

Policy GE30 applies. This policy does not prevent development occurring within these allocations, but requires proposals to acknowledge their location within the Mersey Coastal Zone and improve environmental quality and improve accessibility to the coast. The policy supports proposals which contribute to regeneration where they promote enhancement of environmental quality.

The regeneration principles of these allocations, policies and the Widnes Waterfront SPD (2003) have been taken forward through the Halton Core Strategy, where the site is included as a Key Area Change, part of the South Widnes allocation – CS9. Both related policies CS1 and CS9 seek specific area improvements and CS9 with particular regard to this site, seeks a mix of retail, leisure, employment and residential. Specifically the policy seeks the delivery of 400 residential dwellings across the South Widnes area of change.

The requirements of development in the South Widnes Key Area of Change are:-

- Improve connectivity and accessibility across South Widnes and the wider area and take advantage of opportunities to improve sustainable transport provision.
- Facilitate public access to the waterfront and prioritise opportunities for informal leisure associated with the waterfront destination.
- Ensure strong urban design in order to reflect the prominent waterside environment, gateway locations and the positive characteristics of South Widnes.
- Avoid adverse effects on the integrity of the Mersey Estuary Special Protection Area (SPA) and/or Ramsar site.
- Achieve high standards of sustainable design and construction including a reduction in carbon emissions through renewable and low carbon technology, with a particular emphasis on Widnes Waterfront and its potential as an Energy Priority Zone.

It is on this basis it is considered that the principle of the development is appropriate to the designations of the site and complies with UDP Policies E3, RG3, GE30 and Core Strategy Policies CS1 and CS9. The assessment below will deal with the issues arising from the proposal and establish whether the expectations of these policies are met.

Design and Character

The dwellings types are a mixture of apartments; semi and detached 2-storey dwellings; 3-storey dwellings; and bungalows. These range from one to four bedroom properties. The mix is disseminated throughout the site, but with the four 3-storey apartment buildings located in linear form north to south adjacent to Tanhouse Lane.

The site is laid out in loose perimeter block formation with frontage dwellings are used in the areas where there is an open aspect onto either the greenway to the north or the open space to the south. Whilst there is some frontage car parking in some areas of the site, this can be mitigated by the incorporation of landscaping and appropriate planting and where possible tree planting.

The car parking area and bin stores serving the apartments adjacent to Tanhouse Lane are located between the buildings and the Tanhouse Lane footway. Between that and the footway, there is the provision of a robust and attractive boundary of brick/pillar/railing infill, which meets both the requirements of good design and visual amenity, whilst maintaining highway visibility. It is important that along this frontage, a visual buffer is provided at the eastern edge of the car park to minimise the visual intrusion of the commercial site opposite, currently occupied by Unifrax. The applicant has shown how this is achieved and whilst further work is required through the landscaping specie choice, it has been demonstrated that this eastern edge of the site has been treated sufficiently to provide visual mitigation for the proximity of the existing commercial area.

The proposal includes a 1.75ha are of open space along the south of the site. This was the result of the remediation arrangements for the site but nevertheless allows for a significant and usable area of recreational space which includes footpath/cycleway through it, with several links through it from the residential area and onto Tanhouse Lane, for easy access onto the Trans Pennine Trail. The quality of this informal recreation space engenders a strong sense of place and provides an overall enhancement of the environment in this location. It serves as a purposeful link from the Hive to the Trans Pennine Trail and St Helens Canal.

The applicant has provided a landscaping scheme, which is currently insufficient in the areas along the north and north east boundary adjacent to the Greenway and the eastern boundary adjacent to Tanhouse Lane, which is critical in order to provide visual mitigation for the impact of the existing commercial sites on the future occupiers. The applicant has been informed of the inadequacy of the proposal in these areas, however a full landscaping scheme can be the subject of a planning condition.

A plan indicating boundary treatments has been provided and these in the main show a good standard in those locations where they would be highly visible to public view and would therefore significantly impact the overall quality of the scheme. A long section of the existing boundary between the site and the Greenway will remain, with the existing landscaping retained and enhanced where appropriate. The applicant has been advised of those boundaries which are as yet not of an appropriate standard and asked to review these. The Committee will be updated in relation to these and further advice in relation to their consideration will be provided.

The proposed layout adequately meets the Council's adopted interface standards and there is sufficient garden space provided for both the dwellings and apartments. The latter having private usable external space in addition to the provision of balconies and/or Juliet balconies on the individual units. In some cases, that property gardens are below the 80sqm within the Council's adopted New Residential Development Guidance, however, the gardens are practical in other regards and the significant amount of on-site recreational space and access to the wider Greenway network and Trans Pennine Trail, ensures that living standards will not be unduly compromised as a result.

Cheshire Police – Designing Out Crime Officer has initially commented with concerns regarding the layout. Their further comments in response to the amended layout and submissions will be reported to the Committee.

Subject to the comments to be received from Cheshire Police, and conditions relating to boundary treatment and landscaping, it is considered that the proposed amended drawings provide a good quality and mix of dwellings with appropriate levels of separation, on-site open space and boundary treatments, that will result in the creation of place with a strong individual identity and as such meets the requirements of Policies BE1, BE2, GE30 and RG3 of the Halton UDP and CS9 and the aims of the NPPF.

Noise and Other Amenity Issues

There are several businesses to the north and east of the site which are identified to be a source of noise as identified in the submitted Noise Report and two particular businesses to the north east of the site which produce noise that could result in nuisance. In addition to the existence of the noise sources identified in the applicant's noise survey and by the Council's EHO, a further consideration is the proximity of the allocated waste site – to the east of Unifrax Ltd – which is likely to have a road access directly off Tanhouse Lane, opposite the north eastern boundary of the application site. Given the size of the approved application for this site, there would be a significant amount of traffic using this access for the transport of waste and related vehicles.

The impact on future occupiers from noise resulting from the existing adjacent uses is a material consideration in the determination of the planning application in so far as how future occupiers of the development will be affected by them.

The Council assessed the impact from noise in these circumstances on the basis of the adopted UDP Policy PR7 which states that development near to existing sources of pollution will not be permitted if it is likely that those existing sources of pollution will have an unacceptable effect on the proposed development and its considered to be in the public interest that the interests of existing sources of pollution should prevail over those of the proposed development. The direct reference to 'noise' as a pollutant is omitted from Policy PR7, however this is an error and the policy is appropriately used to assess the impact from noise sources too. The inclusion of a re-worded text of Policy PR7 within the forthcoming Delivery and Allocations Local Plan written statement – HE7, which retains the wording but omits the mis-reference to other pollution elements of the Pollution and Risk chapter of the UDP, can be seen as evidence of the recognition of this current anomaly. The policy goes on to state that "Exceptions may be permitted where the applicant submits satisfactory proposals to substantially mitigate the effects of existing sources of pollution on the development proposal." A detailed reference to policy PR7 is set out below.

UDP Policy BE1 also refers to the need for development to 'avoid unacceptable loss of amenity to occupiers by virtue of noise disturbance, noxious fumes, and dust or traffic generation..', development must also 'be compatible with existing and proposed uses'

The national policy and guidance contained in the NPPF and Planning Practice Guidance supports the use of mitigation where it is established that there is an existing noise source and potential nuisance. Paragraph 182 states that planning decisions should ensure that new development is integrated effectively with existing businesses...and that those businesses should not have unreasonable restrictions placed on them as a result of the development permitted. Where a business operation could have a significant adverse effect on the new

development, the applicant should be required to provide suitable mitigations before the development is completed.

The applicant has provided an updated Noise Impact Assessment Ref: 50-033-R1-3 issued October 2019 to determine the level of noise affecting the site. With regard to the main noise source identified in the report from ICoNiChem, it recommends alternative ventilation along with enhanced glazing as follows:-

- *The actual alternative ventilation system to be used is ultimately down to the development and any requirements of the Local Planning Authority. The report only advises on the noise reduction required for any trickle ventilators, where required as some systems negate the need for these.*

The Council's Environmental Health Officer has commented as follows, this supplements the earlier comments:-

“Following concerns raised in June regarding the existing noise levels and the potential for future residents to be exposed to statutory nuisance, the applicant has submitted a further noise assessment.

Noise from existing industrial uses adjacent the site is clearly audible. In particular the noise from Iconichem which operates 24 hours a day. Following the initial noise assessment Iconichem reported that there was a shutdown on site during the period over which the noise survey took place, and it was not representative of the noise environment. Further noise sources at a waste site and a manufacturer to the north, and an industrial use to the north western boundary, have been identified as having a noise impact on the proposed development. The applicant commissioned a further assessment taking accounting of the specific industrial noise sources.

It is worth noting that Environmental Health approach noise from transport and infrastructure sources in a different manner to industrial or point sources. Background noise from roads tends to be accepted by residents as tolerable. In addition noise from roads, railways etc cannot be dealt with as a statutory nuisance and therefore residents do not have recourse to Council resources to address the issue. Noise from commercial and industrial units can be subject to the provisions of statutory nuisance with no legal defence that the noise source was in existence first.

2019 Noise report,

The noise report has measured the industrial noise at source and worked back to identify the levels at the site boundary. Appropriate penalties, taking into account the tonal and/or impact nature of the noises have been applied to the noise from the individual industrial sources, in line with the requirements of BS4142:2014. Environmental Health is satisfied that the assessment and applications have been carried out satisfactorily.

The report then applies the noise conditions to the internal environment taking into account the noise mitigation afforded by the building materials. These internal levels can then be compared against the standards contained within BS8233:2014. It concludes that internal noise levels will be complied with in all rooms apart from the bedrooms and proposes enhanced glazing along all the facades where night time bedroom noise levels will exceed the 30dB(A)8hr, together with trickle vents which will permit the appropriate number of air changes per hour (in line with Building Regulations).

Whilst we accept the approach will result in noise levels consistent with the BS8233:2014 it will rely on future residents keeping their windows closed. In addition subjective assessments from Environmental Health staff suggest a likelihood that noise levels will cause a statutory nuisance for future residents once they open the windows at night. Statutory nuisance is a legal definition and is judged on the audibility of a noise and the likely impact on the reasonable use of a property, taking into account the volume, time of day and location. An industrial noise audible at night may reasonably be expected to cause disturbance possibly amounting to a statutory nuisance. Should complaints be received the Council is duty bound to investigate and take enforcement action against the companies causing the nuisance. On hot nights it would be expected that residents will open their windows to allow cool air in as trickle vents will not moderate the temperature, merely the airflow.

Council policy PR7 states that development near to existing sources of pollution should not be permitted if those sources of pollution will have unacceptable impact on the proposed development. Environmental health does not consider that the applicant has submitted adequate mitigation, nor do we consider that the public interest, in locating the apartments in this location outweighs the potential impact on future residents.

Proposed Mitigation

The applicant has stated in section 2.4 and 2.6 metre barriers will be constructed in relation to transport noise and the mitigation of noise in the gardens.

With regard to the industrial noise they have recommended that the Local Planning Authority (LPA) and developer agree the mitigation measures to be utilised to ensure that the noise levels in the bedrooms are within the BS8233:2014 levels and that residents have access to cooling air during warm weather to prevent the need to open windows at night or to ensure that where windows are open the residents are not exposed to unacceptable noise levels.

It is noted that the applicant has located 3 storey apartment blocks to the eastern boundary of the site to mitigate against the noise levels from industry at the houses further west on the site. The flats themselves however have bedrooms facing eastwards without mitigation against noise from industry. The applicant does not appear to have fully considered whether the orientation and internal layout can be altered to ensure that all, or certainly as many apartments as possible, have all bedrooms facing away from the industrial uses to the east that run 24 hours a day. As a priority preventing exposure to the noise should be the first solution considered and only where avoiding the noise is not feasible should alternative means of mitigation be employed. We are not satisfied that satisfactory consideration of the internal layout of the apartments has been considered.

Should the current layout be approved it should be considered that all properties that are identified as exceeding the BS8233 levels at night with the windows open should be provided with suitable air conditioning to ensure that future residents are able to modify the temperature without recourse to opening the windows and compromising the sound insulation.

Conclusions

Environmental Health accepts the methodology employed by the applicant's acoustic consultant, and is satisfied that transport noise across the site will be at acceptable levels.

Concerns remain, however, that noise from the existing industrial sources, particularly Iconichem are likely to result in loss of amenity to future residents, particularly those living in the apartment blocks with bedrooms overlooking the eastern boundary of the site. The applicant has not justified the layout of the apartments, which results in a large proportion

having a bedroom overlooking the eastern boundary towards Iconichem, resulting in elevated noise levels with the bedroom windows open.

The applicant has suggested that the final ventilation system to be employed, offering a greater level of ventilation and reducing the need to open bedroom windows on the eastern boundary, could be agreed by the applicant and the LPA. Unless this was coupled with windows that could not be opened there is always the potential for statutory nuisance to occur once the windows are opened, and therefore remains an unsatisfactory solution.

Recommendations

On the basis of the noise report, Environmental Health could not support the application in its current form and objects to the proposed development.

In the event that Planning Committee is minded to approve the application as it stands, I would ask that the noise impact from the adjacent uses is appropriately addressed in the consent."

The impact of road and railway noise has also been considered. The properties closest identified as being affected can be fitted with enhanced glazing that would satisfactorily mitigate for resulting impacts.

It is evident from the conclusions of the submitted noise report and from the assessment of it by the Council's Environmental Health Officer that there will be a requirement for further physical measures within the apartments to mitigate against the impact of the surrounding commercial noise, particularly from the east of the site. Whilst physical measures can be part of the noise mitigation approach to development, the continuous and low frequency character of the noise emanating from ICoNiChem will effectively result in the need for additional mitigation, for example, enhanced glazing and non-opening windows to the bedrooms of the apartment's together with other noise attenuation matters affecting the rest of the site. Mechanical ventilation is also necessary. Whilst they do not form part of the current submission it would be necessary to impose these requirements by conditions.

As part of Policy PR7 members must understand and assess whether it is in the public interest for the source of pollution to prevail over those of the proposed development. Unifrax is a company that manufacture products relating to insulation and employs approximately 40 individuals. ICoNiChem is a chemical manufacture that produces produce inorganic salts of Cobalt and Nickel and employs approximately 64 individuals. This information must be balanced against the benefits of the scheme and this is done in the planning balance section of the report.

PR7 does have an exception to part 1 of the policy that states "exceptions may be permitted where the applicant submits satisfactory proposals to substantially mitigate the effects of the existing sources of pollution on the development proposal". The applicant has stated that suitable conditions could be imposed. However, this would result in an environment reliant on artificial ventilation. This would therefore restrict the living conditions of residents, who may expect to be able to open their windows during fine weather without being subjected to noise levels in excess of suggested limits.

With a condition attached to the permission requiring noise mitigation in relation to window and mechanical ventilation this would comply with the exception in PR7. On this basis the proposal is acceptable and meets the requirements of UDP Policies BE1 and PR7 and NPPF paragraphs 180, 182 and 183.

Highway Safety

The Local Highway Authority initially made several comments in relation to the position of the through road and other smaller issues within the layout that would result in difficult highway conditions. Following the submission of an amended scheme, some of their concerns have been addressed and the following comments have been provided as follows:-

“Further to your re-consultation we have considered the proposed application as the Highway Authority and would make the following comments;

*It is noted that there has been a wholesale change to the proposed layout which although is considered to be an improvement on the previous layout with most of our previous observation considered. **The Highway Authority still have concerns regarding the design of specific plots which would result in an objection on road safety grounds namely plots 105, 221 to 222 and 227 to 229 which result in a highway objection.***

For clarity the following plan has been considered 17083-01 Rev E.

Specific plot level comments;

- *Access/ driveways to plots 1 & 2 and 241-243 are at an angle that could create visibility issues. Visibility splays should be clearly marked on a plan to demonstrate the requirements set out in MFS can be met.*
- *Forward visibility diagrams should be provided to demonstrate that the positioning of 221 does not create a road safety issue (safety for right turn into side roads and residents utilising driveways). There are always concerns for the safe use of the driveway. We would recommend moving the dwelling East to improve visibility for all road users. Visibility diagram should be provided for driveways serving 221 and 222.*
- *Forward visibility diagrams should be provided to demonstrate that the positioning of 229 does not create a road safety issue (safety for right turn into side roads and residents utilising driveways). The driveway positioning for plots 228 and 227 are considered to be wholly unsuitable and in our opinion represents a severe road safety issue for residents and other road users. Our recommendation would to review plots 227-229 accordingly putting the focus on road safety.*
- *Plot 105 driveway visibility splays should be plotted to demonstrate required standards are met.*
- *Physical separation between the two adjacent private driveways is shown as a narrow width. We would question the practicalities of this proposal.*

Specific comments regarding the apartment blocks;

- *It is noted that 5 of the disabled car parking bays are not marked correctly.*
- *No cycle storage is shown on the plans. We have previously set out the requirements for provision and facilities should be shown on the plans prior to any decision to ensure space is made available in a suitable location, details of actual provision could be conditioned.*

General Layout comments

- *Provision should be made to encourage the use of electric vehicles, Further guidance on EV charging points can be found in the document produced by the Liverpool City Region <http://www.merseytravel.gov.uk/about-us/local-transport-delivery/documents/e-mobility-strategy.pdf>. Specific regard should be paid to 3.2.2 Table 3 “Min. provision of parking bays and charging points in new developments”.*
- *The link road through the site should be tracked as per previous requirements to demonstrate that it could be used as a single way working bus route as the wider area develops. Consideration should also be given to where future bus stops could be sited without conflicting with driveway provision.*
- *Junction table fronting plot 69 is incorrectly detailed.*
- *Access roads serving apartments would be private beyond the require turning head for the adoptable road.*

Access to sustainable modes of Travel;

The revised TA submitted to support the application is considered to be comprehensive enough in terms of trip generation and distribution.

Proposals for connecting to existing bus services are shown on a plan (plan 6) contained within the revised document but not on any of the submitted plans.”

We would require and indicative plan for offsite highway improvements be submitted and a condition applied to any decision that a detailed scheme be agreed with the Highway Authority prior to commencement and works implemented fully prior to first occupation.”

As such the applicant has been requested to make further alterations to the layout and their response in terms of further amended plans will be presented to the Committee and further advice in relation to their consideration will be provided.

Ecology

The application was accompanied by a Phase 1 Habitat Assessment. The Council’s retained ecology advisers have provided comments requiring the applicant to provide further information to allow assessment under the Habitats Regulations 2017 due to the site’s recognised linkage with the Mersey Estuary SPA; and Mersey Estuary Ramsar site due to the development’s potential pathways. As a result, the applicant has been requested to address specific matters in relation to the construction process and timings.

In addition, they have also advised of the application site’s functional linkage to the Local Wildlife Sites of Widnes Warth Saltmarsh Local Wildlife Site which is within 50m of the development site and is easily accessible from it, via the Trans Pennine Trail. The applicant did provide evidence that no significant effects will result, however the Council’s retained adviser disagrees with this conclusion. As such the applicant was asked to demonstrate how increased recreational pressure will be avoided or mitigated to enable the HRA to be undertaken.

The applicant submitted a Habitats Regulations Assessment Report 1235 R01 LC GP 30th September 2019, which addressed these issues and outlined a programme of mitigation for

both the construction phase and post development, which in addition to the on-site open space provision include the following:-

- Provision of signage and hedgerow 'gapping up' to discourage access onto Widnes Warth LWS.
- Provision of sales packs for future residents advising of alternative recreational opportunity in the area.
- Provision of a financial contribution through S.106 Agreement to fund four bird viewing screens along the Trans Pennine Trail with agreement from Halton Borough Council Open Spaces and the Mersey Gateway Environmental Trust.

Review of the submitted information will enable the Local Planning Authority to fulfil its obligation with respect to Habitats Regulations Assessment. The Committee will be updated of the further comments from the Council's retained ecological advisers and advice in relation to their consideration will be provided.

Flood Risk and Drainage

The Lead Local Flood Authority comments on this application are as follows:

"After reviewing 19/00235/FUL planning application which included the 'Flood Risk Assessment and Drainage Strategy' LLFA found the following:

- *The existing site has low flood risk.*
- *SuDS have been briefly discussed, with the feasibility of oversized pipe which acts as an easement/ attenuation before discharging into culverted watercourse east to site.*
- *The site is 7.6ha, however the Microdrainage surface water drainage calculations only discuss the road network (1.76ha) on the existing site giving a discharge rate of 245l/s. The applicant does not demonstrate the pre and post impermeability of the site with associated surface water drainage calculations. Therefore, the 245l/s will be an underestimation of the surface water draining from the site.*
- *The Microdrainage calculations do not include the parameters used for the calculations.*
- *The FRA states that the surface water outfall is into the culverted watercourse, while the drawings states that it is a combined sewer. From United Utilities (UU) drawings the proposed outfall is connected to a Combined Surface water overflow (CSO), which would not be permitted by UU to discharge into. In parallel to the CSO is either a private sewer or a culverted watercourse, of which the ownership is not UU or LLFA. Therefore, further information is required if the applicant wishes to discharge into this.*

If the applicant is not clear about the proposed outfall arrangement for surface water, LLFA will object to the proposed application.

Based on the information above LLFA request the following;

I. Further information of the private sewer/ culverted watercourse arrangement if the applicant wishes to discharge into this. This could include the ownership of the asset, information of the capacity of the asset and arrangement at Tan House Lane/ Moss Bank Road junction and St Helens Canal.

II. As the canal is adjacent to the site, with the private sewer going underneath the canal, consideration of the feasibility of connecting and discharging into St Helens Canal. This part of the canal is located between Ferry and Widnes Lock and is hydraulically independent with water supplied from the Ferry Power Station at a rate of 9.09Ml/d. Further information of St Helens Canal is located within, 'Sankey Interlocks Project HLF Grant Feasibility Study Part II – Hydrology Study,' 2016 which can be requested from LLFA.

III. Based on the revised surface runoff calculations and culvert information, confirmation that the capacity of the proposed outfall to the private sewer is sufficient for the proposed discharge.

IV. Flow Routes/ pathways of surface water at the site.

LLFA would recommend the following conditions, should the planning authority be minded to approved on this basis:

No development shall take place until details of the implementation, maintenance and management of a SuDS for the disposal of surface water in accordance with the SuDS hierarchy have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

I. Interceptors, attenuation structures and calculations to demonstrate a reduction in surface water runoff, comparing pre and post development calculations. Calculation should demonstrate no flooding to buildings in the NPPF design event (1 in 100 year + climate change allowance). Calculations should be based on the entire site (7.6ha).

II. A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption or connection to any system adopted by, any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.”

The applicant has not currently demonstrated that the outfall for surface water has been sufficiently addressed. Additional information has been submitted to the Council and is under further consideration by the LLFA, the Committee will be updated of any further information submitted and advice in relation to their consideration will be provided.

Housing Need and Affordable Housing Provision

The proposal would deliver 243 dwellings which represents a valuable contribution to Widnes's housing needs. The Core Strategy has identified that exceptional circumstances exist that warrant releasing land from the Green Belt to meet Widnes's development needs. Development of vacant urban brownfield sites such as this make a valuable contribution to overall housing supply.

Within the applicant's Planning Statement and submitted plans, information has been included in relation to the provision of affordable housing. Halton Core Strategy Policy CS13 sets out the borough's affordable housing requirements and requires new development of 10 or more units to provide 25% as affordable (50% of this to be social and affordable rented tenures and 50% intermediate housing tenures). This is in excess of the NPPF requirement for 10% of major development to be affordable.

According to the submitted information, this proposal would be expected to provide the following:-

- 60 dwellings for sale
- 69 dwellings for shared ownership
- 114 dwellings for rent

Only 30 of the 243 dwellings would be for open market sale another 30 for deferred sale. The properties are integrated throughout the site and are what the applicant describes as 'tenure blind' in that all properties defer to the character of the location and character areas within the scheme, rather than being identified by tenure alone.

The mix of dwelling includes 2 and 3 bedroom units which meet the need identified in the Mid Mersey Strategic Housing Market Assessment 2016.

The site does deliver benefits from the re use of brownfield land and regenerating this area of the borough as well as delivering affordable housing. Significant weight should be given to these benefits. This is considered further in the Planning balance later in this report.

The proposal more than meets the requirements of development plan policy CS13 and the provisions of the NPPF and is acceptable in the delivery of adequate affordable housing.

Provision of Open Space

The proposal incorporates an area of public open space to the south of the site adjacent to the railway. This is an engineered solution to the remediation of the site and comprises materials which are unsuited for use in residential developable area. This has the result of creating a defined area of 1.75 good quality on-site recreational amenity space.

The proposal has been assessed against all other open space deficiencies in the area and the applicant has agreed to provide a financial contribution to meet the lack of this provision on site through a S.106 Agreement.

Through the delivery of both the on-site provision and S.106 contribution, the proposal will provide an enhancement of the current recreational function of the site and create a visual environmental improvement of the area.

On this basis the proposal meets the requirements of development plan Policies H3, CS9 and CS18, the draft Open Space SPD and the NPPF.

Contaminated Land

The site is as of October 2019 undergoing significant remediation due to the existence of poor ground conditions resulting from the previous industrial and chemical uses at the site. The applicant has submitted a Remediation and Enabling Works Strategy 11-544-r2-RevD which is to be reviewed in conjunction with the previously submitted report in relation to the remediation permission 19/00267/FUL – Phase 1 and 2 Geo-Environmental Site Investigation Report aa-544-r1 dated April 2018.

The Council's Land Contamination Officer has reviewed the submitted information and has commented as follows:-

"The application is supported by the following documents;

- *Phase 1 and phase 2 geo-environmental site assessment, Widnes Waterfront, Tan House Lane, Widnes, ref 11-544-R1-RevC, E3P Ltd, April 2019*
- *Remediation and enabling works strategy, Widnes Waterfront, Tan House Lane, Widnes, ref 11-544-r2-RevD, E3P Ltd, May 2019*

The above reports cover the preliminary risk assessment, detailed site investigation, detailed risk assessment, conceptual model and remediation strategy for the site in order to ensure that it is suitable for the proposed residential end use with associated public open space.

The site has had a long association with the manufacture of heavy chemicals, most recently the herbicide paraquat. The industrial development and waste disposal practices of the past land users have resulted in significant impact on the land quality as identified in the site assessment.

The reports conclude that remediation in terms of being protective of human health and to ensure the site is geo-technically suitable is necessary. The remedial strategy requires a soil cover system of certified quality and thickness to be applied to landscaped and garden areas, and all geo-technically unsound Leblanc process waste derived soils are to be relocated from within the residential development footprint to the open space areas.

It should be noted that this remediation scheme has already agreed under planning approval reference 18/00267/FUL, and is currently underway (although not yet complete).

Given the above and ongoing progress updates in relation to the remedial scheme, I have no objection to the application, but recommend that any permission is conditioned to require the submission of a verification report upon completion of the agreed remediation strategy.”

On this basis the proposal is acceptable and meets the requirements of development plan Policies PR14, CS9 and the NPPF.

Waste

Matters arising from the assessment of waste:-

The Council's retained adviser in relation to waste matters has recommended two planning conditions in order for the development to comply with the policies of the Merseyside and Halton Joint Waste Local Plan.

Firstly for the provision of a Waste Audit to enable the minimisation of waste production on the site to comply with Policy WM8 of the MWLP; and information to be provided to demonstrate successful waste storage and collection of household waste to comply with WM9 of the MWLP.

It is considered that based on the submission of further information by condition that the proposal is acceptable and complies with the requirements of the Merseyside and Halton Joint Waste Local Plan and National Policy for Waste.

On this basis, the proposal satisfies the aims of the Council's Core Strategy, Waste Local Plan and the NPPF.

Other Matters Arising As A Result Of Consultation

Network Rail:-

A holding objection has been received from Network Rail with regard to the proximity of the site to assets in the ownership of Network Rail. The majority of this objection is based on the potential for the developer to damage or adversely affect their assets. These are matters that are to be resolved between the developer and Network Rail and are not matters material to the determination of this planning application.

A further issue raised is that of the proximity of the site to the Carter House Junction Level Crossing and the potential for an increase in pedestrians to cross the railway at this point. The intention of the Council's adopted policy CS9 is to improve access to the waterfront and this is the main access point identified in the accompanying diagram to access Widnes Warth and the Trans Pennine Trail (Route 62). It is acknowledged that there is likely to be an increase in crossings as a result of the new residential development, however this is completely in

accordance with adopted development plan policy. There is an existing level crossing that is currently used for access onto the Trans Pennine Trail along the St Helens Canal and this is encouraged as part of the overall green network system. The safety of this level crossing is a matter for Network Rail to deliver.

Whilst the existence of the level crossing is welcome to facilitate access to the wider area for future occupiers, it is not a necessity. The maintenance of this level crossing is the responsibility of Network Rail and is not material in considering this application. The Council can make a decision in favour of the development in accordance with the NPPF paragraph 11 as in this regard, it accords with an up to date development plan, and there are no material considerations to indicate otherwise.

Canals and Rivers Trust:-

Comments have been received from The Canals and Rivers Trust with specific regard to the potential for the development to provide improved pedestrian linkages onto the St Helens Canal corridor.

The layout provided footway/cycleway provision across the on-site open space on to Tanhouse Lane at its southern end which leads across the railway onto the Canal corridor.

Health Impact Assessment:-

The applicant has submitted a Health Impact Assessment - GM10791/FINAL – September 2019. In accordance with Policy CS22.

Future Allocations Affecting the Site:-

Planning permission was granted in 2010 for a municipal waste site for the recycling and sorting of 200,000 tonnes of waste on the eastern side of Unifrax which showed two accesses through Unifrax to Tanhouse Lane. This permission expired in 2014. However, the site is included in the current Merseyside and Halton Waste Local Plan (MWLP) as a waste site allocation. The Council has included this site as a future waste allocation in the draft Delivery and Allocations Local Plan. Given the allocation in the MWLP, consideration needs to be given as to how that could impact upon the future occupiers of this proposal. The Council to some extent, exercises control over how the future waste development at this site will take place and will require it to minimise any impacts on the future occupiers of the residential properties. In terms of this current application, this consideration has influenced the layout of the residential proposal and the applicant has included a buffer along the eastern side of the site in the form of car parking for the proposed apartments and a robust dense boundary landscaping will be required in addition to the wall/railing proposed. Measures incorporated into the apartments in relation to noise will also serve to mitigate any impacts from the use of the access onto Tanhouse Lane from the potential waste site.

On this basis whilst there is neither an extant planning permission for the waste site, nor is the Delivery and Allocations Local Plan adopted, due consideration has been given on the basis of the site's inclusion in the MWLP. It is considered that the proposal has taken appropriate steps to mitigate future impacts from the potential use of this site and this is not indicated as a reason for refusal by the Council's Environmental Health Officer.

Planning Balance

Members are reminded of the requirement to determine the application in accordance with the development Plan unless material considerations indicate otherwise.

Subject to the technical issues in relation to highways, etc outlined above being resolved and subject to noise mitigation measures being conditioned the proposal is considered to comply with the development plan.

The benefits resulting from the scheme to be weighed in favour of the development are:-

- The remediation of a contaminated brownfield site and the re-use of previously developed land;
- It will achieve the aims of the South Widnes Key area of change and Action Area 3 Widnes Waterfront from CS9 and RG3
- The proposal would deliver 243 dwellings which represents a valuable contribution to Widnes's housing needs.
- The provision on the site of a 1.75 ha area of public open space;
- The provision of off-site financial payment for the provision of other open space infrastructure;
- Successful linkage of this previously developed land to the already developed Widnes Waterfront 'Hive' area of leisure uses and beyond;
- The delivery of a mix of housing of varying sizes - approximately two thirds of which are 3 and 4 bed dwellings, across the apartment provision there are 1 and 2 beds, eighteen of which are provided for over 55's;
- The successful delivery of a diversity of tenure and community;
- The quality of the development in terms of dwelling size, design, mix, landscaping and boundary treatments.
- Successful delivery of affordable and market homes that would add to the overall delivery of housing in the Borough.

The proposal will result in the regeneration of an existing brownfield site, achieving the aims of the South Widnes Key Area of Change. It will result in a significant new residential development with a strong sense of identity and purposeful linkages to the supporting leisure and access to the Waterfront.

The above benefits need to be balanced in relation to:-

- The potential harm resulting from noise on future occupiers
- The impact on surrounding business as a result of that harm
- The as yet unresolved matters where there is outstanding information relating to the above.

The above benefits and disbenefits must be the subject of a balancing exercise before determining the application.

Taking each of the disbenefits in turn the following points can be made:

With respect to noise it is clear that the application presents fundamental problems which would result in a refusal of the application. However, the LPA is under an obligation to consider whether mitigation measures could overcome this fundamental issue. It has been established that certain measures could be taken to alleviate the noise nuisance issue which could be imposed by condition. Specifically the bedroom windows in the most effected elevations could be subject of a condition requiring that they are non-opening type. Due to non-opening

windows mechanical ventilation would also be required. It follows that this fundamental noise problem can be alleviated.

With respect to the potential harm to surrounding businesses from the proximity of the proposed development. The first point to make is that any business which is the source of pollution has no right to export that pollution on to the land of a third party. Where it is considered to be in the public interest, polluting industries can be protected under the planning system as stated above in the context of UDP policy PR7. It is not considered that protecting existing sources of pollution would be in the public interest. In any event the imposition of conditions should substantially mitigate the effects of existing sources of pollution on the proposed development. Nevertheless the LPA cannot guarantee that there would be no impact on surrounding sources of pollution if the proposed development is approved.

With regard to the third dis-benefit there are a number of outstanding matters mentioned in the report. These include highways, Flood risk, and ecology. The LPA must not make a determination until all material considerations have been properly addressed. It follows that the Recommendation is not to make a determination but to delegate the decision to officers.

PREVIOUS RECOMMENDATION

That authority is delegated to the Operational director – Policy, Planning and transportation in consultation with the Chairman or Vice Chairman of the Committee to determine the application and if the determination is to approve the application subject to appropriate conditions and legal obligation.

UPDATE SINCE NOVEMBER COMMITTEE REPORT

Introduction

Members will be aware that the above report was originally prepared for the November Development Control Committee in relation to this application but was not considered due to receipt of a late detailed objection. The following is an update to that report, which sets out the review of the proposal that has been undertaken by the applicant since then, including amendments to the layout/ apartment design to improve the methods to mitigate the impact on future residents from noise and address those matters that were identified as outstanding.

Summary Of Submissions Intended for Reporting at the November Committee

Objector submission

Following the publication of the November committee report, an objection was received on the day of the Committee from ICoNiChem as follows:-

“NOVA Acoustics Ltd have been commissioned to provide an appraisal of the second acoustic report provided by e3p report reference: 50 – 033 0 R1 – 3 (07/10/2019). There are still very serious concerns that the issue of noise from ICoNiChem and the effect of these industrial premises on the surrounding noise environment has not been addressed in sufficient detail or adequately mitigated in order to protect the future position and viability of the business. These concerns are outlined below:

1) Firstly, it is pertinent to outline the policy in which the proposed development is required to adhere to. The NPPF 2019 contains the following paragraph which is highly relevant to the consideration of this application:

Paragraph 182 - Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of

development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

The amended report addresses noise generated by the surrounding industrial and commercial premises including ICoNiChem, but it is disputed that enough evidence has been presented that the proposed mitigation measures have the capability of reducing the likelihood of noise complaints from the future occupants of the proposed site.

2) In section 3.1 of the report, it is outlined that an unattended background sound survey was undertaken at NMP 1, the background sound levels measured are outlined in Table 3.1. The location of the measurement is described in the text, however it is unclear as to the exact location of this unattended measurement. Some of the surrounding commercial premises operate 24 hours per day, including Iconichem. The purpose of ascertaining a background sound level is to measure the prevailing background sound level during a period where the source of noise under assessment is not operational or at a location where comparable background sound levels can be justified. It is unclear how this has been done. As the measurements were unattended, we are unsure how the author can justify that the unattended measurement location was not affected by the surrounding industrial noise sources and is truly representative. Therefore, the baseline for the BS4142 assessment is questionable.

3) The background sound levels during the day range from 41.6dB LA90,t to 55.1dB LA90,t and during the night they range from 41.5dB LA90,t to 54.5dB LA90,t. In section 4.2.1 and 4.2.2 the report outlines that values of 47.0dB LA90,t is representative of the daytime (07:00 – 23:00 and 45.0dB LA90,t is representative of the night time (23:00 – 07:00) both are described in the report as the "lowest median measured background sound level". The purpose of ascertaining the background sound level is not to choose the lowest background sound level but a level that would be deemed typical. No statistical analysis of the background sound levels has been conducted and the background sound levels have been averaged thus it is unknown if the majority of the measurement period was lower or higher than the average background sound levels presented. Statistical analysis should be undertaken to ensure the background sound levels used are representative of what would be deemed typical.

4) An adequate background sound level for the assessment should be based upon the level of risk associated with the proposed development, we would deem that introducing a large residential development adjacent to a primarily industrial area with 24-hour operation poses a 'High Risk' development. Thus, it is important that the baseline for the assessment is stringently considered and we would consider it pertinent to take consideration for the lowest typical measured background sound level rather than the averaged. This would inform a robust baseline for the BS4142 assessment.

5) Section 3.2 of the report outlines attended measurements that were conducted to assess "all existing operations surrounding the site". Multiple periods during varying times of the day have been chosen to attend site to measure the noise emissions from the surrounding industrial noise sources. There is no map outlining where the monitoring locations were, or description of the activities being monitored from the surrounding businesses. There is also no subjective impression of the sources of noise. It is unclear what noise sources were included during the measurements defined as 'ICoNiChem on Boundary', the noise emissions from ICoNiChem specifically are complex and vary significantly throughout the day and night, some very noisy operations only operate sporadically through the week. It is unclear if these sources of noise were included in the measurements.

6) Table 3.2 outlines a measurement 'ICoNiChem Plant Item – at source' taken at 7m from the source. The exact source has not been defined and no description of what has been

measured has been provided, thus it is unclear if this measurement is truly representative of the noise emissions from the site including all noise sources that could be active.

7) The report goes on to explain that “the up-close source measurement has been used to inform the model and the boundary measurements used to calibrate”. The potentially unrepresentative measurements outlined above, have then reportedly been used to “model” industrial noise emissions across the site. It is unclear how ICoNiChem has been input into the models as a noise source, but the models have, it is suggested, been built by being “calibrated” to produce an industrial sound level which matches the measured sound levels at the source and boundary. This is a very crude, and highly flawed approach, which assumes that the measured specific sound levels are correct and makes no allowance for discrete noise sources, mobile sources, intermittent sources, different propagation distances from individual sources or characteristics of any particular source. Given the complexity of the industrial noise sources, which includes multiple noise sources, buildings containing high level noisy machinery, external extraction equipment, external HGV and forklift movements and various other sources of activity noise, these crudely produced and technically flawed computer models cannot be relied upon in any way to provide a detailed analysis of noise from ICoNiChem or the other surrounding industrial noise sources. In order to accurately measure the noise emissions from a site such as ICoNiChem and accurately model the noise emissions a visit to ICoNiChem would be required to conduct a review and measurement of all activities conducted on-site.

8) Section 4.2 outlines the resultant BS4142 assessment that has been compiled. This outlines penalties that have been applied to the different industrial noise sources, it is unclear how these have been arrived at as there is no description of the nature of the noise measured. It is also unclear at what point on the development site the noise emission has been assessed. Considering the size of the site and size of the surrounding industrial premises it would be prudent to clearly outline the specific noise levels across the site and how they vary.

9) Section 4.2.1 states that in the garden areas of plots 7 – 12 the rating level exceeds the background sound level by 0.5 – 2.0dB. Considering the points raised above this outcome cannot be relied upon.

10) Section 4.2.2 states that they have not deemed it appropriate to conduct a BS4142 at night because “Given the likeliness for residents to be in bed asleep at night, it is considered more prudent to assess internal specific noise levels due to commercial sound in bedrooms”. There is no real justification for not applying the appropriate standard (BS4142) and BS4142 does not state that the criteria should be altered to a criterion that will clearly benefit the developer of the proposed site. The night-time BS4142 assessment is particularly prudent to the assessment as this is the period of time where the background sound levels will be lowest, and any industrial and commercial noise sources will be clearly definable. The advice in the report presents double glazing and ventilation to mitigate noise from industrial noise sources. The provision of a sound insulation scheme at the development does not reduce the likelihood of complaints and thus does not apply the ‘agent of change’ principle in accordance with the NPPF.

11) The assessment goes on to explain that the occupant will be protected from industrial and commercial noise because they will have appropriate glazing and ventilation installed which will lead to adequate internal noise levels in accordance with BS8233:2014. This standard is applicable to steady-state anonymous noise sources and does not take account for the character of industrial noise sources. Thus, additional consideration needs to be taken for the character of the noise source.

12) The provision of glazing and ventilation to the future dwellings outlines a reliance on closed windows. This is of concern where the noise for residents is unpredictable and not continuous (i.e. sporadic industrial noise, especially external machinery and yard activity). On nights when the surrounding industrial noise sources do not currently operate, or have a lower level of

activity, for example, the urge may be to open windows for ventilation to bedrooms. The following night, with the surrounding industrial noise sources operating at a higher level, windows are then expected to be closed to control the higher levels of noise. The unpredictability of this is highly likely to be tiresome to residents, leading to complaints about noise from and pressure to curtail the business.

13) The provision of appropriate glazing and ventilation (a sound insulation scheme) does not reduce the likelihood of the future occupants of the development complaining due to the surrounding industrial noise sources. The assessment has not considered the fact that the occupants of the proposed development still have the right to open their windows thus removing the effect of the sound insulation. At which point the occupants would be exposed to industrial noise and likely to complain, which subsequently would affect the viability of ICoNiChem's business. The site should be designed to ensure that industrial and commercial noise is defined as 'Low Impact' across the entire site for both internal and external areas, thus removing the likelihood of complaints.

14) A large proportion of local authority's base acceptable noise criteria on a BS4142:2014 excess of rating level over the background sound level. Neither the NPPF or BS4142 prescribe a definitive noise level for this type of development but most local planning authorities tend to set a rating level limit equal to the background sound level or up to 5dB above that point. Commonly an excess rating, termed the 'complaint prediction level', of between 0 – 3dB above the background sound level is used and this is the level applied by the Environmental Agency in their horizontal guidance. In this case it would be deemed suitable to assess the worst-case noise emissions from the surrounding industrial noise sources against a typical worst-case background sound level to a criterion of a maximum of 3dB above the background sound level. This would provide the Local Authority confidence that the proposed development would not lead to future complaints due to all business's including ICoNiChem.

15) In summary, the noise assessment: a. does not properly consider the "agent of change" principle in the NPPF

b. does not consider the risk of complaints from residents

c. does not contain adequate justification that the background sound level measured was not influenced by the industrial activity under assessment

d. does not contain adequate statistical analysis of the background sound level to quantify a typical worst-case background sound level

e. does not present a background sound level that is robust of a typical worst-case scenario

f. does not contain adequate measurements or subjective observations on the effect of ICoNiChem and other industrial noise sources on the noise environment across the site;

g. contains flawed measurements of specific (industrial) noise;

h. contains flawed noise modelling of industrial noise based on those flawed measurements;

i. does not contain site-specific noise modelling of multiple noise sources across the ICoNiChem site;

j. contains an BS4142 daytime assessment that cannot be relied on and no BS4142 night time assessment

k. places reliance on residents closing (acoustically glazed) windows to control unpredictable and variable industrial noise.

16) There is a very serious risk that allowing such a development in its current form will lead to an undesirable noise climate for future residents, ultimately leading to significant adverse impacts, likely complaints and pressure to curtail or control Iconichem and surrounding business' legitimate and long-standing business activities. The noise assessment which

accompanies the application does not go far enough to even begin to properly consider, in the design of the development, the multiple significant noise sources, or the protection of this legitimate and important local business.

17) Further detailed investigations are necessary and should be required of the applicant, in order to properly address this very significant issue. I am of the view that the Council cannot properly determine the application without such an assessment being undertaken in sufficient detail, and it should be refused.”

Applicant Response to Objection

The applicant provided the following response to this objection as follows:

“E3P have been asked to provide a written response to an objection letter completed by Nova Acoustics on behalf of ICoNiChem in relation to the planning application 19/00235/FUL for a proposed development of 243 dwelling houses including access, open space and associated infrastructure at land to the north of the railway and west of Tan House Lane in Widnes. This letter is in response of this objection letter on behalf of the client, Mulbury Homes.

This Letter has been completed by Lee Faulkner, Associate Director at E3P, who holds the Post Graduate Diploma in Acoustics and Noise Control and is a full member of the Institute of Acoustics (MIOA). I have over 8 years’ experience in the measurement and assessment of noise and vibration for various clients, sites and applications.

The Letter will consider each point, in turn, and provides my professional opinion on the objection and its contents in relation to the work completed by E3P and detailed in the most recent Noise Impact Assessment (50-033-R1-3 dated 7th October 2019). The points from the objection letter are not repeated here, given their length, and so the reader should refer to the Nova Acoustics Letter of Objection dated 30th October 2019.

1. The author suggests that insufficient evidence has been provided to show that the proposed mitigation is sufficient. With regards evidence, E3P would highlight the detailed break-in calculations undertaken for all affected habitable rooms to the rear of the report within Appendices IV and V.

The author then suggests that the report is not sufficient in determining the likelihood for complaints. E3P suggest that a Noise Impact Assessment for planning purposes cannot determine the likelihood of complaints. Only an Environmental Health Officer can determine this, following occupation, with regards to Statutory nuisance. Likelihood of complaints, in planning terms, only relates to the 1997 version of BS4142, which has now been superseded with the advice given to avoid adverse impact rather than reduce the likelihood of complaints.

2. I would point the author in the direction of Figure 1 within Appendix II which details the position of all Noise Measurement Positions (NMPs) so I am unclear as to why they state there isn’t. This suggests that the author has not fully reviewed the report which is apparent in further points below.

Also, they suggest that the background sound levels cannot be relied upon due to the unattended nature of the measurements. We attended at different positions, across various days and periods while NMP1 was active, these periods are detailed in Section 3.0 of the report but we also attended site walkovers prior to the measurement to determine the measurements that were required. An unattended measurement of this length of the time is standard and adopted by most consultants in order to provide a wider range of data.

3. The author questions that we haven’t undertaken a statistical analysis of the background sound data. We took the lowest measured median noise levels as typical, i.e. middle value. In fact, upon analysis, the median levels used are lower than the modal (most frequent) values by some 1- 2 dB. As such, our assessment is considered worst case and more robust than using the modal value.

4. The lowest typical background sound level was used. We took the lowest measured median level for day and night.

5. Again, Figure 1 details the NMPs.

Subjective analysis of the sound sources was undertaken but, where possible, objective analysis was used for accuracy. The author states that ICoNiChem sound sources are complex and vary significantly. During all our visits, across multiple days, the main sound source was a steady state hum that originated from the items at the roadside, as measured close up. No access to ICoNiChem was available and this is not considered standard practice. We are confident that the main sound source from ICoNiChem, which was clearly audible and dominant along the eastern boundary, has been accounted for. Any other sources associated with ICoNiChem were either masked or not operational at the times of our attendance. Given the dominance and importance of the sound from ICoNiChem we made absolute sure that all sources were accounted for. During all walkovers, surveys and attendance at the side of ICoNiChem, the main source was noted to be the hoppers/pipes on the side of the building adjacent to Moss Bank Road.

6. Again, this information is provided in the report, as follows from Page 14:

"It was noted that the source of the noise was from the hopper-like items and the pipes that feed them."

7. ICoNiChem was inputted as point sources for the dominant source at the correct height.

Without access to ICoNiChem, we can only make reasonable assumptions based on numerous site visits. Given the distance from the source and that the model is calibrated to achieve the noise level measured up-close and the boundary measurements, it is reasonable to assume a significant level of accuracy from the noise model.

8. This information is in the report in the detailed Table 4.3 of page 18.

9. Previous points address this suggested lack of accuracy and reliability.

10. It is considered reasonable to assess internally at night and this approach has been adopted, and accepted by the Local Planning Authority, for numerous other sites across the Country. Given the residents will be inside, asleep, it is considered reasonable to assess internally given the steady state nature of the sound source. Any acoustic features are accounted for here given the tonal nature of the sound source; the detailed break-in calculations have ensured any tonal noise is mitigated by way of the façade insulation. BS 8233:2014 states the following:

Noise levels generally apply to steady sources, such as those due to road traffic, mechanical services or continuously running plant, and should be the noise level in the space during normal hours of occupation but excluding any noise produced by the occupants and their activities.

The sound measured from ICoNiChem is considered steady state and from continuously running plant and so it is considered perfectly reasonable to apply internal noise criterion at night as per BS 8233:2014.

11. This goes against the advice given in the quoted guidance.

12. The suggestion that the provision of alternative ventilation to achieve internal noise levels is unacceptable is considered an incorrect statement. This is considered standard practise, following good acoustic design. As an experienced acoustic consultant, I am confident in stating that it is a rarity that alternative ventilation is not required for a proposed residential scheme due to a nearby noise source, whether that be industrial/commercial, road or rail traffic.

Higher specification glazing and alternative ventilation is considered completely reasonable and a standard mitigation measure to achieve internal noise criterion. Indeed, the ideal situation would be to have no habitable rooms facing the sound sources but with modern homes and developments, this is not always possible. Here, good acoustic design has been followed, in accordance with ProPG, with apartments providing a barrier to the development and a stand-off from the boundary incorporated into the design. Furthermore, the assessment

and detailed break-in calculations have shown compliance with the applicable criterion, most importantly to protect against sleep disturbance.

13. Again, at the planning stage, the likelihood of complaints cannot be determined, especially by an independent noise consultant. The residents will have the right to open windows but will be provided with a mechanical system that negates the need of this. Which is standard practice. The means to provide background ventilation and summer cooling will be provided to ensure internal noise criteria can be achieved by way of mitigation.

14. The E3P report achieved the more robust criterion of not exceeding the background sound level during daytime periods.”

CONSULTEE RESPONSES NOT ADDRESSED THROUGH THE ORIGINAL REPORT:-

In addition, further comments were received prior to the November committee but not included in that report, from statutory consultees as set out below.

Network Rail have commented as follows:-

“The proposal area is adjacent to Carterhouse Junction Level Crossing.

Given the 243 dwellings to be delivered within the development area adjacent to the level crossing, Network Rail believes that the developer and council must include consideration of the impact of the proposal on the level crossing as part of the planning application process.

The NPPF underpins this requirement stating:

“Considering Development Proposals:

108. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

b) safe and suitable access to the site can be achieved for all users;

110. Within this context, applications for development should:

c) create places that are safe, secure...which minimise the scope for conflicts between pedestrians, cyclists and vehicles.”

“182. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use), in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.”

The Halton Core Strategy (adopted 2013) states:

Policy CS18: High Quality Design

Development proposals, where applicable, will be expected to:

- *provide safe, secure and accessible routes for all members of society, with particular emphasis on walking, cycling and public transport;*

Network Rail believes that the development will have an adverse impact on risk on Carterhouse Junction Level Crossing. Assessment of the impact upon the level crossing would need to consider both the increase in the volume and the change in character of users (including vulnerable users, which are defined below in Appendix 1). Network Rail is submitting a Narrative Risk Assessment (NRA) for Carterhouse Junction Level Crossing.

As part of the proposal, and in order to comply with the NPPF, Network Rail would seek specific wording in the planning consent to ensure that the developer fully funds installation of a VAMOS system at the level crossing, in order to mitigate the increased risk posed by the development.

As a publicly funded organisation, Network Rail is not funded to mitigate the impact of new development proposals on its infrastructure.

Also attached in Appendix 2 are a list of asset protection requirements.”

The Council’s view is unchanged from the earlier report. This objection from Network Rail is acknowledged, with regard to the proximity of the site to assets in the ownership of Network Rail. The majority of this objection is based on the potential for the developer to damage or adversely affect their assets. These are matters that are to be resolved between the developer and Network Rail and are not matters material to the determination of this planning application.

A further issue raised is that of the proximity of the site to the Carter House Junction Level Crossing and the potential for an increase in pedestrians to cross the railway at this point. The intention of the Council's adopted policy CS9 is to improve access to the waterfront and this is the main access point identified in the accompanying diagram to access Widnes Warth and the Trans Pennine Trail (Route 62). It is acknowledged that there is likely to be an increase in crossings as a result of the new residential development, however this is completely in accordance with adopted development plan policy. There is an existing level crossing that is currently used for access onto the Trans Pennine Trail along the St Helen Canal and this is encouraged as part of the overall green network system. The safety of this level crossing is a matter for Network Rail to deliver.

Whilst the existence of the level crossing is welcome to facilitate access to the wider area for future occupiers, it is not a necessity. The maintenance of this level crossing is the responsibility Network Rail and is not material in considering this application. The Council can make a decision in favour of the development in accordance with the NPPF paragraph 11 as in this regard, it accords with an up to date development plan, and there are no material considerations to indicate otherwise.

HBC Open Spaces have commented as follows:-

"A financial contribution (S106) to provide four bird viewing screens and improvements to the path at that location, two to the east and two to the west of the site designed to match the existing screens already in use along Widnes Warth. Mersey Gateway Environmental Trust have been part of discussions. Halton Borough Council as land manager would undertake the installation and manage the assets."

Cheshire Police Designing Out Crime Officer has commented as follows:-

"The proposed site currently suffers from off road biking which is difficult for the local officers to combat. With this in mind having this land developed will help reduce this problem and improve the area. A residential dwelling will also increase natural surveillance of the commercial area which currently suffers from crime due to being so quiet. Undesirables and drug users do tend to use the canal path as they feel they are currently out of sight, the proposed houses will mean they are more likely to be seen which may reduce the attraction of the area for them."

The apartments must be fitted with good quality access control to UL 293 and defensible space should be clearly defined so unauthorised people do not get access to areas belonging to the apartments. Antisocial behaviour and criminal damage is a significant issue in other apartment blocks across Widnes.

The site is highly permeable due to the number of footpaths leading from the public open space (as indicated on the above section of the plan). I appreciate the need for permeability in communities but strongly feel that given previous issues in the area the number of links could promote crime and antisocial behaviour. With this in mind I would recommend a minimum of a 1.2 metre fence is installed along path as represented by black line and I would also recommend consideration is given to fitting the entrance of the footpaths with chicanes or A frames to reduce the speed at which off road bikes and cyclists could enter the estate, while this will not stop them it will slow them down and make them more likely to be seen (or worry about being seen).

The footpath adjacent to plot 4 (as shown above) seems a little excessive given how close it is to the main entrance to the site and this could lead to this plots being vulnerable from crime and antisocial behaviour especially given the front of the house faces on to the footpath. It is going to be difficult to appropriately fence this without making the footpath too enclosed.

The section of the plan above shows a great deal of ambiguous open space particularly between the apartments and plot 123. Plot 123 may be vulnerable to criminal damage / ASB as there is limited natural surveillance or defensible space at the front of the property. I would suggest that the 1.2 metre fence is continued round apartment blocks O, P and N. I would

also recommend that a minimum of 0.5-metre-high fence is installed round the front of plot 123 and the path leading to the front of the property.

I would recommend additional fencing is planned to protect property 4 and plot 232 above, while these properties are providing excellent natural surveillance of the footpath they lack defensible space and it would be easy for an offender to gain easy access to these properties. I would recommend that the covered footpath from the car park through the apartment blocks to the rest of the estate is fitted with access controlled gates to prevent these being areas where people could loiter and commit antisocial behaviour. I would also recommend that the parking spaces are covered by CCTV and a perimeter fence is installed round the area.

This development could enhance the local area if the following points are considered: -

- Reduction in permeability
- Chicanes or similar put on footpaths to slow down access
- Development to be designed to the principles of Secured by Design

However, if appropriate target hardening is not put in place this area may become vulnerable to crime and antisocial behaviour.

I would welcome a Secured by Design Application for the scheme, which would enhance the development and provide greater benefits. Applicants can get more information about Secured by Design (including Design Guides) available at www.securedbydesign.com. Research has shown that this can reduce burglary by up to 75 % and criminal damage by up to 25%."

Merseyside Environmental Advisory Services, the Council's Retained Adviser in relation to ecology has commented as follows:-

"Habitats Regulations

3. The applicant has submitted a shadow Habitats Regulations Assessment Report in accordance with Local Plan policy CS20 (Habitats Regulations Assessment Report, Tyler Grange, 30th September 2019, report ref: 12535_R01_LC_GP) which meets BS 42020:2013. I advise the report is acceptable.

4. Previous MEAS advice (HA19-016, 3rd July 2019) had discounted ecological receptors on site due to clearing in relation to future development. An updated site visit in August 2019 has confirmed a lack of ecological value in relation to qualifying bird species of the Mersey Estuary due to site composition of hardcore, bare ground and small areas of ruderal vegetation. The ALSE of the shadow HRA determines the following impacts to constitute likely significant effects:

- Noise impacts during construction (alone and in-combination); and
- Recreational pressure during operational phase (in-combination).

5. I agree with the potential for the above alone and in-combination impacts and this is consistent with previous MEAS advice. As a result, the identified impacts the project requires Appropriate Assessment (AA), which is also included within the shadow HRA Report.

6. With reference to recreational pressure, the shadow AA includes the following mitigation:

- A CEMP to include location of toolbox talk for sensitive working approach, noise reduction apparatus, and screening along the southeast boundary;
- 1.68ha of public open space located between proposed housing and Widnes Warth LWS;
- Planting of hedgerow and 'gapping up' existing vegetation along the Trans Pennine Trail coastal path to reduce opportunities for access onto the saltmarsh;
- Erection of signage at the location of the stock gate, which provides access onto the saltmarsh via level crossing and bridge;
- Information leaflet within sales packs which includes information on SANG to direct residents away from the coast;

- A financial contribution (S106) to provide four bird viewing screens, two to the east and two to the west of the site designed to match the existing screens already in use along Widnes Warth. Mersey Gateway Environmental Trust have been part of discussions and have agreed to manage installation of the bird screens as the current land managers on behalf of Halton Council.

7. The above mitigation measures are consistent with those determined during previous discussions. In addition, I have completed my own assessment of potential construction noise impacts using DEFRA's construction noise database¹ and Inverse Square Law to calculate potential disturbance to birds on the saltmarsh and have reached the same conclusions regarding appropriate mitigation. This can be provided upon request.

8. The Appropriate Assessment within the shadow HRA Report concludes that, with mitigation measures, there will be no adverse effect upon the integrity of European sites and I am in agreement with this conclusion.

9. In order for the conclusions of the HRA to be upheld the following mitigation is required to be secured by a suitably worded planning condition(s):

- The CEMP to include detailed information in relation to toolbox talk for sensitive working approach, noise reduction apparatus, and screening along the southeast boundary;
- Planting of hedgerow and 'gapping up' existing vegetation along the Trans Pennine Trail coastal path to reduce opportunities for access onto the saltmarsh;
- Erection of signage at the location of the stock gate, which provides access onto the saltmarsh via level crossing and bridge; and
- The design of an information leaflet to be distributed within sales packs.

10. The financial contribution to provide four bird screens must be **secured by Section 106** (or other) legal agreement.

11. I advise that both the ALSE (Assessment of Likely Significant Affects) and Appropriate Assessment within the HRA Report are accepted and can be adopted by the Council to demonstrate its duties under the Habitats Regulations. Natural England must be consulted on the outcome of the Appropriate Assessment **prior to determination and any points which may arise should be addressed**. Its views, together with the outcome of the Appropriate Assessment, are required to be included within the Planning Committee/Delegated report."

Natural England have commented as follows:-

"No objection subject to appropriate mitigation being secured.

In summary, Natural England advises that the proposed development will not result in adverse effects on the integrity of any of the sites in question, providing that appropriate mitigation is secured through the planning permission. We advise that the identified impacts on the designated sites can be appropriately mitigated with the measures outlined within the shadow HRA and with additional information to be provided as highlighted in our advice below. Therefore, we have no objections to the proposed development."

Followed by:-

"Thank you for sight of the comments from MEAS. We have nothing further to add and are satisfied that providing the listed mitigation in the response is secured there will be no impacts on designated sites."

The Lead Local Flood Authority have commented as follows:-

"After reviewing 19/00235/FUL planning application which included the 'Flood Risk Assessment and Drainage Strategy' LLFA found the following:

- The site is approximately 7.6ha, it is a Brownfield development site which has been demolished to slab level. The proposed development is a residential site which would likely increase the area of hardstanding land.

- *The Environment Agency Flood Map for Planning shows the site to have a low Fluvial Flood risk. The site does not benefit from flood defences.*
- *The Environment Agency Long Term Flood Map shows the majority of the site to be at very low Surface Water Flood Risk. However there are three distinct Surface Water flow paths through the site, one along the Northern boundary of the site and one from Carter House Junction to Tan House Lane and one along Tan House Lane. The current and future surface water flood risk has not been considered through the drainage strategy.*
- *The Drainage Statement submitted in November 2019 (OTH_2019.11.01 Drainage Statement.pdf) states there is an existing publically adopted system on the site which is to be utilised for the disposal of foul drainage. The developer has been in discussions with United Utilities regarding a Section 104 agreement under the Water Industry Act 1991.*
- *The updated strategy for surface water is for the water to be collected from the development and connected to an oversized surface water attenuation system, which would discharge through a surface water culvert within Tan House Lane to the River Mersey.*
- *The Drainage Statement submitted in November 2019 states the proposed development has been calculated to generate a flow of 245l/s, which is 60% to 70% less than the original flows emanating from the site previously. The site is 7.6ha, however the Micro drainage surface water drainage calculations only discuss the road network (1.76ha) on the existing site giving a discharge rate of 245l/s. The applicant does not demonstrate the pre and post impermeability of the site with associated surface water drainage calculations. Therefore, the 245l/s will be an underestimation of the surface water draining from the site. The Micro drainage calculations do not include the parameters used for the calculations.*
- *There are ongoing works to ascertain the condition and structural integrity of the existing 600mm connecting pipeline that has been identified on a recent CCTV survey for its intended reuse. The LLFA is still unclear whether this is either a private sewer or a culverted watercourse and its ownership. Therefore, further information is required if the applicant wishes to discharge into this*

If the applicant is not clear about the proposed outfall arrangement for surface water, LLFA will object to the proposed application.

Based on the information above LLFA request the following;

- I. *Further information of the private sewer/ culverted watercourse arrangement if the applicant wishes to discharge into this. This should include the ownership of the asset and arrangement at Tan House Lane/ Moss Bank Road junction and St Helens Canal.*
- II. *As the canal is adjacent to the site, with the private sewer going underneath the canal, consideration of the feasibility of connecting and discharging into St Helens Canal. This part of the canal is located between Ferry and Widnes Lock and is hydraulically independent with water supplied from the Ferry Power Station at a rate of 9.09Ml/d. Further information of St Helens Canal is located within, 'Sankey Interlocks Project HLF Grant Feasibility Study Part II – Hydrology Study,' 2016 which can be requested from LLFA.*
- III. *Based on the revised surface runoff calculations and culvert information, confirmation that the capacity of the proposed outfall to the private sewer is sufficient for the proposed discharge.*
- IV. *Flow Routes/ pathways of surface water at the site.*

LLFA would recommend the following conditions, should the planning authority be minded to approved on this basis:

No development shall take place until details of the implementation, maintenance and management of a SuDS for the disposal of surface water in accordance with the SuDS hierarchy have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- I. Interceptors, attenuation structures and calculations to demonstrate a reduction in surface water runoff, comparing pre and post development calculations. Calculation should demonstrate no flooding to buildings in the NPPF design event (1 in 100 year + climate change allowance). Calculations should be based on the entire site (7.6ha).*
- II. A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption or connection to any system adopted by, any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.*

No development shall be occupied until a verification report confirming that the SuDS system has been constructed in accordance with the approved design drawings (including off site alterations) and in accordance with best practice has been submitted to and approved by the local planning authority. This shall include:

- i) Evidence that the SuDS have been signed off by an appropriate, qualified, indemnified engineer and are explained to prospective owners & maintainers plus information that SuDS are entered into the land deeds of the property.*
- ii) An agreement that maintenance is in place over the lifetime of the development in accordance with submitted maintenance plan; and/or evidence that the SuDS will be adopted by third party.*
- iii) Submission of 'As-built drawings and specification sheets for materials used in the construction, plus a copy of Final Completion Certificate.'*

The LLFA has been consulted further on the basis of the additional drainage information that has been submitted.

The Canals and Rivers Trust had no further comments to make.

SUMMARY OF APPLICATION/ PROGRESS FOLLOWING NOVEMBER COMMITTEE

Introduction

The previous officer report was based on a method to mitigate future occupiers from the impact of noise which relied on methods including non-opening windows and mechanical ventilation. On further discussion with the applicant, it was agreed that a review of the layout and apartment house types should take place to enable better living conditions for future occupiers and to provide a more robust scheme in response to objections received from adjoining business'.

Following the November Committee the applicant provided amended drawings and an accompanying updated Noise Report 50-033-R1-4 Dated December 2019. The amended layout Drawing 17083 01 Rev H and amended apartment types on Drawings 17083 HT 23 Rec C – Block A and 17083 HT 24 B provide an improvement in how the impact from identified noise sources could be addressed. In addition, more information has been submitted in relation to outstanding matters raised by the Lead Local Flood Authority.

Since receipt of the above amended plans and updated noise report_The Council has undertaken a full public consultation and as a result has received the following subsequent responses:-

The Coal Authority has informed the Council that their standing advice should be provided to the applicant.

Any further responses will reported orally to the Committee.

FURTHER CONSIDERATION OF ISSUES ARISING

In addition to matters addressed through the original report the main issues to be considered on the basis of the submission of the amended plans and updated noise assessment are;- Impact from noise; impact on flood risk; provision of appropriate boundary treatment; open space accessibility improvements.

Noise:-

Additional information in relation to noise impact has been submitted to the Council and is under further consideration by the Council's Environmental Protection Officer, the Committee will be updated and advice in relation to their conclusions will be provided.

However it should be noted that the amended drawings have been submitted in direct response to the guidance given by officers to the applicant and it considered that the amendments respond appropriately to the noise issue previously identified.

Flood Risk:-

Additional information in relation to flood risk has been submitted to the Council and is under further consideration by the Lead Local Flood Authority, the Committee will be updated and advice in relation to their conclusions will be provided.

Other Amenity Issues:-

The layout has introduced an apartment block arrangement which proposes seven blocks arranged in two ranks on the eastern edge of the site. The blocks are internally designed to avoid the need for the future occupiers to rely on mechanical ventilation so as to allow windows to habitable rooms, especially bedroom windows, to be opened without the occupiers suffering significant impact from external noise. This has resulted in the following design changes:-

- The proposed Block B has no habitable room windows facing east i.e. the direction of the identified noise sources.
- The east facing elevation comprises the apartment corridor access and electric and service metres.
- All habitable room windows face west, into the wider site.
- End units have only a kitchen and bathroom windows facing east, with a single dining or secondary habitable room window facing north and south at each end.
- A reduction in interface between apartment blocks and between apartment blocks some dwellings which would not comply with the normal separation distances as set out within the Council's adopted New Residential Development SPD. Where such reductions exist these are not considered to result in unacceptable impacts on the amenity of future occupiers or so significant to justify refusal on this basis when considered in the context of the wider benefits of the scheme.

Boundary Treatment:-

The amended drawings have addressed the concerns of Cheshire Police and Council officers with the introduction of changes to boundary types and the enclosure of spaces around the apartment to ensure that defensible space is provided.

Open Space Accessibility:-

The amended drawings have addressed the concerns of Cheshire Police with the introduction of chicanes onto the open spaces and realignment of some of the plot houses.

Other Material Considerations:-

There are some outstanding technical highway matters which can be resolved through minor alterations to the layout. Members will be updated with the latest comments from the Highway Authority.

All other matters have been dealt with in the earlier attached report.

CONCLUSION:-

Subject to the technical issues in relation to highways, flood risk and landscaping being resolved and subject to any noise mitigation measures required that may be required by condition, the proposal is considered to comply with the development plan.

The benefits resulting from the scheme to be weighed in favour of the development are:-

- The remediation of a contaminated brownfield site and the re-use of previously developed land;
- It will achieve the aims of the South Widnes Key area of change and Action Area 3 Widnes Waterfront from CS9 and RG3
- The proposal would deliver 243 dwellings which represents a valuable contribution to Widnes' housing needs.
- Successful linkage of this previously developed land to the already developed Widnes Waterfront 'Hive' area of leisure uses and beyond;
- The delivery of a mix of housing of varying sizes - approximately two thirds of which are 3 and 4 bed dwellings, across the apartment provision there are 1 and 2 beds, including provision for over 55's;
- The successful delivery of a diversity of tenure and community;
- The quality of the development in terms of dwelling size, design, mix, landscaping and boundary treatments.
- Successful delivery of affordable and market homes that would add to the overall delivery of housing in the Borough.

The proposal will result in the regeneration of an existing brownfield site, achieving the aims of the South Widnes Key Area of Change

The above benefits need to be considered in relation to the remaining two dis-benefits:-

- Any potential remaining impact resulting from noise on future occupiers
- The potential impact on surrounding business as a result of any such impacts

With respect to noise it is clear that the revised application represents a significant improvement on the earlier scheme. The fundamental problems identified, which would result in a refusal of the application, now no longer exist, with the revision of apartment types and layout to ensure that no habitable room windows face the identified source of noise to the east. Importantly there are no bedroom windows in the most effected elevations which will as a result benefit from being able to ventilate by opening windows.

With respect to the potential harm to surrounding businesses from the proximity of the proposed development, it should be noted that any business which is the source of pollution has no right to export that pollution on to the land of a third party. Where it is considered to be in the public interest, polluting industries can be protected under the planning system as stated above in the context of UDP policy PR7. It is not considered that protecting existing sources of pollution would be in the public interest. In any event the amendments made to the apartment types and layout will substantially mitigate the effects of existing sources of pollution on the proposed development. Nevertheless, the LPA cannot guarantee that there would be no impact on surrounding sources of pollution if the proposed development is approved.

Whilst there are a number of outstanding matters mentioned in the report including highways and flood risk, the LPA must not make a determination until all material considerations have been properly addressed. It follows that the Recommendation is not to make a determination but to delegate the decision to officers. Members will be updated orally at the Committee.

RECOMMENDATION:-

That authority is delegated to the Operational director – Policy, Planning and transportation in consultation with the Chairman or Vice Chairman of the Committee to determine the application and if the determination is to approve the application subject to appropriate conditions and legal obligations in relation to the payment of a commuted sum for on-site open space; payment of financial contribution towards off-site open space; off-site provision of a bird hide; off-site hedgerow improvement works.

Background Papers

The submitted planning applications are background papers to the report.

Other background papers specifically mentioned and listed within the report are open to inspection at the Council's premises at Municipal Building, Kingsway, Widnes, WA8 7QF in accordance with Section 100D of the Local Government Act 1972

SUSTAINABILITY STATEMENT

As required by:

- The National Planning Policy Framework;
- The Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2015; and

This statement confirms that the local planning authority has worked proactively with the applicant to secure developments that improve the economic, social and environmental conditions of Halton.