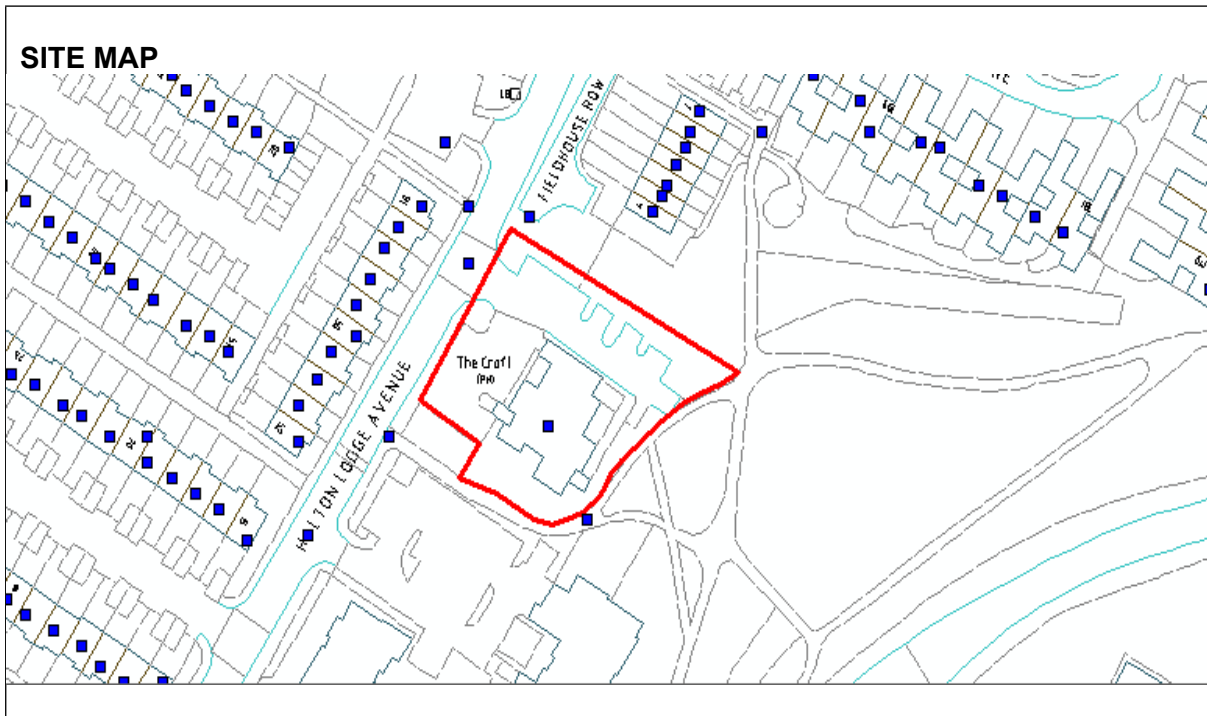


APPLICATION NO:	19/00506/FUL
LOCATION:	The Croft Public House, Halton Lodge Avenue, Runcorn
PROPOSAL:	Proposed development of 15 No.1 bed apartments for assisted living (use class C2) with associated communal amenity space, car/cycle parking, refuse storage and ancillary works
WARD:	Grange
PARISH:	
AGENT(S) / APPLICANT(S):	Hindle Property Investments Ltd, Hindle House, Tan House Lane, Parbold, Wigan WN8 7HG
DEVELOPMENT PLAN ALLOCATION: National Planning Policy Framework (2019) Halton Unitary Development Plan (2005) Halton Core Strategy Local Plan (2013) Joint Waste Local Plan ()	Primarily Residential Area
DEPARTURE	No
REPRESENTATIONS:	
KEY ISSUES:	Principle of development, loss of public house; loss of tree; highway, car parking and traffic issues; impact on bat habitat; design
RECOMMENDATION:	Refuse



THE APPLICATION SITE

The Site

The application site is an existing but closed public house which was built circa 1970's as part of the Halton Lodge new town estate. The public house appears to have been closed since November 2014. The site is adjacent to an adopted greenspace to the east of the site which includes several trees. The site is located with a Primarily Residential designation in the Halton UDP.

Planning History

The site has a planning history dating back to September 1984 pertaining to its use as a public house. None of the permissions are of particular relevance to determination of this current application.

THE APPLICATION

The proposal and Background

The proposal seeks permission to demolish the current building and replace it with a building containing 15 No. 1 bedroom apartments for assisted living use with associated communal amenity space, parking/cycle parking, refuse storage and ancillary works.

Documentation

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

- Design and Access Statement
- Planning Statement
- Noise Impact Assessment
- Tree Survey
- Preliminary Roost Assessment Survey
- FRA

- Transport Statement
- Phase 1 Site Investigation

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 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 to 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.

National Planning Policy for Waste

The National Planning Policy for Waste sets ambitious aims to work towards a more sustainable and efficient approach to resource use and management through positive planning in delivering sustainable development and resource efficiency including through the provision of modern infrastructure and by driving waste management up the waste hierarchy and by securing the re-use, recovery or disposal of waste without endangering human health or harming the environment.

Halton Unitary Development Plan (UDP) (2005)

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

BE1	General Requirements for Development
BE2	Quality of Design
BE22	Boundary Walls and Fences
GE21	Species Protection
H8	Non Dwelling House Uses
LTC5	Protection of Community Facilities
PR1	Air Quality
PR2	Noise Nuisance
PR4	Light Pollution and Nuisance
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

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
CS12	Housing Mix
CS15	Sustainable Transport
CS18	High Quality Design
CS19	Sustainable Development and Climate Change
CS20	Natural and Historic Environment
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.

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

United Utilities – Recommended conditions in relation to separate systems for foul and surface drainage and should follow sustainable drainage requirements.

Natural England – No objection.

Health & Safety Executive – Do Not Advise Against.

National Grid – no objection in principle and their comments will be added as an informative.

Council Services:

Local Highway Authority – outlined in report below.

Lead Local Flood Authority – No Objection subject to the following condition:-

“Details of the implementation, maintenance and management of the sustainable drainage (SuDS) scheme for the disposal of surface water in accordance with the SuDS hierarchy.”

Merseyside Environmental Advisory Service –outlined in report below.

HBC Environmental Health (Noise) -.The Council’s EHO Officer has provided the following comments:-

“The applicant has provided a noise report which applies the standards in BS8233:2014 to the internal noise environment within the residential units, and applies the standards within BS4142:2014 to the external plant, taking into account the impact on the surrounding residential properties.

The site is surrounded by housing and therefore the proposed development is consistent with the existing nature of the area. There are no known noise sources that would result in an adverse noise environment for residential use.

The report states that the internal noise levels within BS:8233:2014 can be achieved with double glazing and closed windows. Trickle vents are included to ensure that the required level of ventilation is obtained with the windows closed. The nature of the noise in the area is likely to be local road traffic, trees and birds, and therefore it is considered a suitable solution. With regard the external plant, the consultant has given the levels that the plant needs to achieve at the nearest window to prevent noise disturbance. The developer will need to ensure that these levels are adhered to, or exceeded when purchasing plant, and this can be conditioned.

Proposed Conditions

I would ask that the following conditions are included, to protect residential amenity, in any planning consent granted for this applications:

1- Prior to commencement of the development the applicant shall, provide a noise report demonstrating that all plant on site (to include but not limited to air conditioning, heating and refrigeration units) shall achieve the following noise levels 1m from the nearest noise sensitive or habitable room (bedrooms and living rooms):

a. Daytime (07:00-23:00 hours) 42dB(A)

b. Night time (23:00-07:00 hours) 36dB(A)

2- All habitable rooms shall be fitted with 6/16/6mm conventional double glazing.”

HBC Contaminated Land Officer – Raises no objections subject to conditions

Open Spaces – The Council’s Open Spaces Officer has commented as follows:-

“There are no trees afforded statutory protection on the site, and the site is not within a Conservation Area. I visited the site in relation to this application on 19/11/2019.

*It is stated in the document *Trees and Construction BS5837:2012 Tree Survey, Arbicultural Implications Assessment & Method Statement Ref 19446/A3 (hereafter: Doc Ref: 19446/A3)* that it is the applicant’s intention to remove and prune a number of trees around the site in order to facilitate the build; in these comments I will address the trees which fall on HBC Registered Land only, the applicant should contact neighbouring landowners in relation to trees which neighbour the site but are affected by the proposal. All trees are plotted on the submitted drawing *Tree Constraints Plan (hereafter; 19446/A1/TCP/01)*; I will reference the trees in these comments using the numbering system in *Doc Ref: 19446/A3* and *19446/A1/TCP/01*.*

Section 4.2 of Doc Ref: 19446/A3 states “Consideration for G1, T5 and T6 – 4.2.1 Both trees

will require removal to allow the proposal"; the works to remove both trees is acceptable in my opinion. It is stated in 19446/A1/TCP/01 that the removal of group G1, a group consisting of small Sycamore regeneration, is also required to facilitate the build; this would be acceptable.

Section 4.2.2 of *Doc Ref: 19446/A3* states that the applicant wishes to prune T7, T30, and T31 to accommodate the build: *"The crown will require pruning (selective reduction) to accommodate the proposed new block"*. These trees appear to be outside of the site boundary and so the applicant should consult the tree owners in regards to the proposals. It is stated within the submitted drawing 19446/A3/TCP/01 that trees T32 and T33 are to be removed, this work is acceptable.

The applicant also states in Section 4.2.2 of *Doc Ref: 19446/A3* that the applicant deems that T7 *"will require pruning (selective reduction to accommodate the proposed new block"*. I recommend that this work is acceptable providing the crown reduction is no more than 1.5 metres.

Clarification is required on whether the new development will use the existing hard standing and require no further earthworks around the foundations of the existing building.

Concerns in relation to encroachment into the Root Protection Area (RPA) of the trees situated on land adjacent to the proposed development are addressed by the measures in place within the submitted drawing 19446/A3/TCP/01 providing the construction makes use of the existing hard standing only, and that the works comply with *BS5837: 2012 'Trees in Relation to Design, Demolition and Construction – Recommendations'*.

No landscape designs have been submitted; Section 5.4 of *Doc Ref: 19446/A3* states *"The new tree planting illustrated on the 'proposed site plan' will need supplementary detail on species and nursery selection, planting method and maintenance."*

All tree works should be carried out in accordance with *BS 3998:2010 Tree Work Recommendations*.

We would recommend that all works comply with current bird nesting legislation.

Wildlife and Countryside Act 1981 Part 1 Section 1 (1)

Consult W&C Act 1981 (with amendments) for full details of protection afforded to wild birds."

REPRESENTATIONS

No representations have been received as a result of the public consultation.

ASSESSMENT

Particulars of Development

The applicant has provided the following information as background to the application:-

"The building, which is on a site of about 0.175 hectares, is of brick construction with a tiled roof. The property has been vacant since about 2014 and the windows and doors are currently boarded. The site has been the subject of anti-social behaviour and makes little contribution to the streetscene in terms of its design.

The Proposal seeks permission to demolish the existing building and to erect 15 no 1 bedroom apartments for supported living with communal areas and car park for 10 vehicles. The development will provide supported accommodation for people with disabilities and on

completion by the applicant it will be leased to Hilldale Housing Association who, working with 1st Enable (a social care provider), will take over full management responsibility. The primary function of the development will be to offer suitable, supported accommodation to people with learning disabilities and enduring mental health problems. Some adults will also have autism and / or physical disabilities.

Hilldale Housing Association is a specialist housing association. The sole purpose of the operation is to provide high quality supported living to people that need additional support. Formed in 2009, they are a Not for Profit Company, whereby any money made is put back into providing further quality homes or investing in better services for their residents. In 2013 they became a Registered Provider with the Homes and Community Agency (Registered Number 4760).

Each unit within the development provides living accommodation to include a bedroom, bathroom, living area and kitchen with residents being given personal support to help them live more independently. There are also internal and external communal areas for residents to socialise. There will be at least one member of staff on site at all times with the number of staff increasing dependant on needs. There is a dedicated staff room located within the development to enable staff to be available at all times. This includes sleeping accommodation and bathroom facilities.”

Principle of Development

The site is designated as a within a Primarily Residential Area. The proposed end use is C2, includes uses such as a residential care home. The type of property proposed is that of ‘supported living’ with one unit acting as an office and used for an on-site carer, with the remaining 15 units provided as self-contained apartments. As such UDP Policy H8 applies.

H8 allows for the provision of non-dwelling house uses are considered mainly with regard to their effect on residential amenity and this can be approved providing the following criteria are met:-

- a. The development itself would not detract from the character of the area or the amenity of residents.
- b. The development would not result in an over-concentration of non-dwelling house uses to the detriment of the character of the area or the amenity of residents.
- c. Where parking is to be provided in any area fronting a highway, one third of that area should be provided with soft landscaping and screening.”

Core Strategy Policy CS12: Housing Mix encourages proposal for new specialist housing for the elderly, including extra care and supported accommodation in suitable locations particularly those providing easy access to local services and community facilities.

Both these policies support the principles of the proposal subject to other matters of amenity being met and those are dealt with below.

Loss of Public House

The site is currently a disused public house, “The Croft” located in a former new town development of Halton Lodge. The Council agreed the sale of the freehold to this land in 2016.

In relation to the loss of public houses, these are classed as a ‘community facility’ in the NPPF which seeks to protect them. Halton UDP Policy LTC5 seeks to protect community facilities

were they serve an important local need unless a replacement facility or other facility of equivalent community benefit is provided in no less convenient location. In this instance, given that the public house has not functioned since its closure in 2014, it is not considered to have served an important local need and in fact the applicant has indicated that there is evidence to show that it was in decline before this time.

The NPPF paragraph 92 states planning decisions should :

“c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs;
d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and
e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.”

In addition paragraph 93 states that Planning decisions should consider the social, economic and environmental benefits of estate regeneration.

The applicant has provided the following statement:-

“The applicant recognises the importance given to meeting community needs and the role public houses can play in this as set out in paragraph 92 of the NPPF and the support LTC5 gives to community facilities.

However, in this case the public house has been vacant for many years and does not fulfil any community role. Indeed, it has been of detrimental impact with it being the location of anti-social behaviour and having a poor appearance. As such we do not consider that the closed public house serves an important local need.

Before its closure in 2014 The Croft, which was principally a wet led estate pub, suffered several years of decline in trade. This is a result of several factors common through the industry including: -

- 1. The general decline in the Estate pub associated with behavioural changes of customers and a reduction in the availability of spare cash.*
- 2. The smoking ban which led to a general decline in pub usage.*
- 3. The availability of other sources of entertainment including Sky Sports, Netflix, online streaming.*
- 4. The proportionate increase alcoholic consumption in the home and the lower cost of doing so compared to drinking in pubs.*
- 5. The high cost of living – mortgages, living expenses.*
- 6. The competing alternatives for expenditure including holidays.*

As a result of these competing forces the pub became uneconomic and was closed. It was then marketed through Colliers.

The closure of The Croft could also have been in part as a result of competition within the area. Trident Retail Park and Shopping City with its various attractions is a 9 minute walk

away. There are also further facilities including public houses accessible by bus in the centre of Runcorn, a 15 minute journey by bus, which runs every 30 minutes.

As such it is considered that the redevelopment of the site will not result in the detrimental loss of an existing community use, as the use has already ceased (and has been the location of anti-social behaviour), nor would it create a shortfall in the provision or quality of such uses as there are other facilities located nearby.”

The Council arranged for disposal of the site in 2016 and the following is an extract from the report to the Executive Board 15th December 2016:-

“ The Croft Public House was built in the early 1970’s on land owned by Runcorn Development Corporation. The RDC granted a 99 year lease of the land to Unique Pub Properties Ltd at a rent of £9,400 pa now succeeded by Enterprise Inns. The Council is the freeholder.

The Croft public house closed circa 2 years ago and the site has been the subject of anti-social behaviour and is visually unattractive.

A proposal has come forward via the agents for Enterprise Inns for development of the site for residential use as assisted living unit.”

The Executive Board approved the sale subject to contracts being agreed and planning permission.

It is on this basis that the loss of the building as a public house does not conflict with UDP Policy LTC5 nor the NPPF, as the redevelopment of a failed and redundant former new town public house, which is currently subject to vandalism and fly tipping, will result in betterment and a wider benefit to the amenity of the community.

Design and Character

The proposed front elevation of the proposed building is in the approximate position of the existing public house. This is 32m distance from the nearest affected residential occupiers directly opposite on Halton Lodge Avenue, numbers 53 to 61. The proposal is two-storey only therefore the Council’s minimum interface distance of 21m is more than achieved. There are no residential properties to the rear (east of the site).

To the south the existing building which is in use as a YMCA establishment which has residents living in the building as a multi-occupied unit. The building occupies a similar plot line on this side of the site. There are no habitable room windows which face this property and as such there are no significant impact on the occupiers in excess of that resulting from the existing building and the amenity of the occupiers of it is not significantly adversely affected.

The nearest affected occupiers to the north are those on the end terrace at 7 Fieldhouse Row. There are no windows on the side elevation of this property which faces the proposal and, given relative separation distances the proposals are not considered to impact unduly on occupiers of those properties.

The proposed design of the building is two storey brick face at ground floor and render at 1st floor with a profiled flat roof. The building is of a modern appearance with a good amount of glazing on the front and rear elevation, with window casements frames on the front elevation

at first floor. The proposal includes a feature porch and name plate. The side elevations (north and south facing) were quite blank and amended plans were requested to address this. The side elevations now include obscure and ghost windows to break up the elevation massing and to provide the perception of overlooking on both sides of the building.

Boundary treatment is provided to enclose the on-site amenity space in the form of close boarded fencing. This will result in a visually dominant structure that will close down an existing open area and provide opportunities for vandalism. The applicant has confirmed that they have amended the plans to provide for a metal railing type which will increase visual permeability of the site. This is considered acceptable.

Landscaping is proposed indicatively to the side and front of the building. A bin collection area is provided on the frontage of the property adjacent to the highway with secure bin storage provided closer to the building. Secure cycle parking is provided to the side of the car parking area and close to the building for adequate surveillance. Additional Sheffield cycle stands are provided for visitors. Two Electric vehicle charging points are provided within the car parking area as well as two marked out disabled parking bays. These are considered acceptable.

On balance and with the design improvements which have been submitted, it is considered that the proposal meets the design requirements of the Council and is appropriate for its location. On this basis it complies with Policy BE1, BE2, BE22 and CS18 of the Halton development plan and the NPPF.

Impact on Trees

The application was accompanied by a Tree Survey and Method Statement for construction. There are several mature trees that the proposal will affect and the Council's Open Spaces officer has been asked to comments on the submitted information.

The Council's Open Spaces officer has agreed with the proposed tree removal and reduction, albeit that the applicant is required to obtain the permission from adjacent land owners for some of the reduction work proposed.

The officer has raised questions in relation to the amount of additional hard standing proposed and requested a detailed landscaping scheme. The applicant has confirmed that there is no additional hard standing other than that already there and that a landscaping scheme could be the subject of a planning condition.

The Council's Open Spaces Officer has confirmed that there is no objection as follows:

"The confirmation that the earthworks will not extend further than the current hard standing is also acceptable.

All works (including the erection of the boundary fencing) should be compliant with BS5837: 2012 'Trees in Relation to Design, Demolition and Construction – Recommendations'."

On this basis the proposed impact on the existing trees at the site is acceptable and will not result in a significant detrimental impact on the amenity of the area. On that basis the proposal complies with Policy BE1 and H8 of the Halton UDP and NPPF.

The applicant has been requested to undertake a bat survey of the trees affected and this as yet has not been submitted. On this basis the proposal fails to comply with UDP Policy GE21, Core Strategy Policy CS20 and the NPPF.

Highway Safety

The Local Highway Authority initially raised an objection to the proposal which has since been addressed through the submission of an amended drawing and they have provided comments as follows:-

“Based on a C2 Nursing Home/ Care Home with 6 employees and 15 residents the required car parking provision would be 9 spaces therefore the current proposal is considered acceptable in terms of catering for the proposed development.

We would expect there to be robust conditions to secure the use and if possible employee and resident numbers to ensure that the approved parking provision is suitable for the life of the development.

With regards to the required parking study we would refer back to similar applications where existing informal/ unapproved car parking was present on a development site. This baseline information was supplied at application and it greatly assisted in the decision making process by demonstrating that the proposed development would not be detrimental to the surrounding residential area.

As noted in the Highway Officers previous response there was high demand in the surrounding area during site visits and it was unclear where the existing users of the car park associated with the former public house would be displaced to. We would reference NPPF 108 (c) when considering the potential impact of the scheme on the surrounding area and would look to the developer to carry out a suitable parking study to demonstrate that no detrimental issues would arise. This study would be a simple practical exercise of viewing the area throughout a non-conflicting day to establish parking habits and capacity at key times i.e. early morning, peak hours and night time (the Highway Officer would be happy to scope the survey to agree study area and times etc.).

The inclusion of EV charging within the scheme is welcomed and we trust the full details will be secured by condition.

The Highway Officer would disagree with the supplied information regarding cycle parking for short dwell times and consider the addition of 2 Sheffield type stands to be practical and proportionate measure to cater for visitors. It remains the Highway Officers opinion that space could be made available within the curtilage of the development to provide this cost effective solution. If the applicant could demonstrate that the relatively small footprint of the stands cannot be located suitably within the development we could consider a trade off by losing the equivalent long stay provision within the covered bike store. We would stress the importance of providing suitable facilities to meet the needs set out in NPPF to promote cycling as an attractive, sustainable mode of travel.

We note the applicant is to be informed of the potential issue surrounding the informal path to the rear of the site and would recommend seeking appropriate advice on both this issue and the informal parking prior to commencement on site.”

The applicant has been requested to undertake the car parking study and their response will be reported to committee. However, given that the use of the car park is on what is private

land and is currently unauthorised, the Council cannot insist on the study being undertaken, The use of the site for this current car parking could easily be terminated should the land owner decide to do so.

In addition, it would be unreasonable for the decision to be dependent on a planning condition to restrict staff numbers, the Council should assess the scheme before them based on the use applied for. However, a condition restricting the use to class C2 – assisted living accommodation is reasonable and will ensure that the car parking provision is appropriate for this use.

As such the proposal is acceptable based on NPPF, and UDP Policies TP6, TP7, TP12, TP15 and TP17.

Ecology

The application is accompanied by a Preliminary Bat Roost Survey. The Council's retained adviser for ecology have provided the following comments:-

“Priority Habitat

Trees adjacent to the north and east boundaries are Priority Habitat deciduous woodland (Natural Environment and Rural Communities (NERC) Act 2006/Habitats Regulations 2017) and Local Plan policy CS20 applies. This habitat is a material consideration. I advise that tree protection and construction exclusion zone measures recommended by the submitted Arboricultural Implications Assessment are sufficient to protect the woodland during construction and can be secured by a suitably worded planning condition.

Bats

The applicant has submitted a Preliminary Bat Roost Assessment Survey report in accordance with Local Plan policy CS20 (Preliminary Bat Roost Assessment Survey v2, Arbtech, 1st October 2019). The survey identified potential roost features including loose and missing tiles and the report concludes a categorisation of low bat roost potential. This is accepted. However, to prevent significant delay in determining the application the report recommends reasonable avoidance measures rather than emergence survey. This is not in line with BCT (Bat Conservation Trust) guidance¹ or BS 42020:2013 and is not sufficient to determine absence of a roost during the active bat period. The report is not accepted.

*An emergence bat survey is required **prior to determination**. Bats are protected species and Local Plan policy CS20 applies. Protected Species are a material consideration.*

The survey and report are essential to determine if bats are present. If present, the Local Planning Authority is required to assess the proposals against the three tests (Habitats Regulations) and determine whether an EPS (European Protected Species) licence is likely to be granted. Surveys must follow Standing Advice and best practice guidance¹. Any deviation from these guidelines must be fully justified. The applicant should note that timing for this survey is May to August inclusive.

*The Preliminary Bat Roost Assessment Survey report does not contain assessment of trees. The Arboricultural Implications Assessment states a total of three mature sycamore, two mature ash and a group of young self-seeded trees are to be lost to development. I advise preliminary roost assessment of mature trees is required **prior to determination** and can be*

undertaken immediately before the emergence survey and submitted as part of an updated bat report.

Breeding birds

Trees on site may provide nesting opportunities for breeding birds, which are protected and Local Plan policy CS20 applies. The following planning condition is required.

CONDITION

No tree felling is to take place during the period 1 March to 31 August inclusive. If it is necessary to undertake works during the bird breeding season then all affected trees are to be checked first by an appropriately experienced ecologist to ensure no breeding birds are present. If present, details of how they will be protected are required to be submitted for approval.

Biodiversity enhancements

In line with NPPF paragraph 175 and the NERC biodiversity duty I advise that bird boxes should be provided on site.”

Following further discussion with the Council, the ecological adviser has maintained his advice with regard to bats. As a protected species, bats are a material consideration in the planning process and bat use on site has not yet been determined. At present, there is insufficient information with which to conclude an absence of bats on site or to allow the Council to assess the proposal against the three test of the Habitats Regulations 2017.

The applicant is currently not in a position to undertake an emergence bat survey as this can only be achieved between May and September. The applicant has provided the following in response:-

Bats

We acknowledge the requirements imposed by paragraph 175 of the NPPF and Circular 06/2005. Unsurprisingly, my client and I also accept that the potential presence of a protected species is a material consideration when considering our proposal. However, we are less convinced that there is strong evidence that illustrates that material harm will occur in the future to protected species caused by this scheme, based on our earlier work. Nevertheless, my client is keen to progress his planning application to the satisfaction of all interested parties and to work in a co-operative way with the Council to achieve a positive outcome. Consequently, my client has agreed to provide the relevant Bat Survey to be helpful and to aid all parties, as much as he can, in the proper consideration of this application. However, because of the time this bat survey would take, he considers that this matter can reasonably be conditioned to ensure this survey work and mitigation takes place before any other works are undertaken on the site, thus allowing the principle of the proposal to become established, but ensuring that no harm occurs to protected species. To be clear, my client is happy to be tied to a pre-commencement condition that requires that the bat survey work, and any subsequent mitigation, is carried out before any works commence on site. He hopes that this offer will allow you to deal with MEAS's current objection and this application to be determined, as no harm can possibly occur because of the restrictive nature of this condition.

To be clear, whilst not encouraged in most instances, Paragraph 99 of Circular 06/2005 does state that, in exceptional circumstances, a permission “may also impose a condition preventing the development from proceeding without the prior acquisition of a (bat) licence...”

The exceptional circumstances here are that a delay to this application, by not imposing a pre-commencement condition, could potentially:

- *affect the funding of this project detrimentally. To be clear, my client has advised that he could lose his funding and this could subsequently leave the site undeveloped, increasingly becoming derelict, looking unattractive and a potential genesis of ASB behaviour.*
- *delay a decision on the application unnecessarily or even produce an unnecessary refusal; and,*
- *delay the delivery of this sustainable scheme, that would provide much needed assisted living accommodation in a Borough where this type of accommodation is not plentiful and there is a strong demand for such accommodation.*

Additionally, there is no evidence, to date, of protected species actually being on this site, rather there is just potential for it.”

It is the Council's responsibility to demonstrate compliance with the requirements of the Habitat Regulations 2017 and until such time that the evidence of bat habitat has been fully assessed, the Council is therefore unable to exercise that function.

In reaching this decision the Council considers that the 2017 European regulations would have primacy over the 2005 Circular and disagrees that this proposal qualifies as an 'exceptional circumstance' that would override the requirement to undertake the emergence bat survey prior to decision.

It is on this basis that the proposal is recommended for refusal due to insufficient information in relation to the habitat of a protected species (Habitat Regulations 2017) and conflicts with NPPF Chapter 15 and Halton development plan policies GE21 and CS20.

Flood Risk and Drainage

The proposal has satisfied the requirements of the Lead Local Flood Authority subject to their recommended conditions and on this basis the proposal satisfies UDP Policy PR16 and the NPPF. United Utilities raise no objections subject to conditions.

Contaminated Land

The Council's Land Contamination Officer has raised no objection to the proposal subject to further detailed phase 2 investigation which can be secured by approximately worded planning condition. On this basis that the proposal satisfies UDP Policy PR14 and the NPPF.

Sustainable Development and Climate Change

Whilst the design of the building had regard to a wide ranging issues, which included passive design and energy efficiency, the provisions were limited given the small scale nature of the proposal and the end use.

The applicant has therefore ensured that the building is flexibly designed, will meet Building Regulations across several areas. It is considered that the imposition of conditions to require further installations is not at this time supported by policy.

Equality Act 2010

The applicant has provided confirmation within their submitted Design & Access Statement Addendum that the proposed development will not result in any discrimination in relation to

age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

On this basis the applicant has shown that the proposal meets the requirements of the Equality Act 2010.

CONCLUSIONS

Whilst it is accepted that the principle of the use as a C2 assisted living apartments is appropriate for the location and site, it relies on the removal of a derelict building which has the potential for bat habitat. The applicant has provided insufficient evidence to establish whether or not the site is habitat for bats and thus provide appropriate mitigation. As such the Council is unable to assess the proposal under the terms of the Habitat Regulations 2017 and could result in the loss of protected species habitat and is therefore contrary to national and local planning policy.

RECOMMENDATION

That planning permission is refused on the basis that:

The application presents insufficient information on bat population and ecology data to demonstrate that there would not be a detrimental impact on bat species and other species protected under the Wildlife and Countryside act 1981 (as amended) and under the Conservation of Habitats and Species Regulations 2017 and as such is contrary to CS20 of the Halton Core Strategy and GE21 of the Halton UDP and the NPPF in particular paragraph 170(d) and Circular 06/2005.