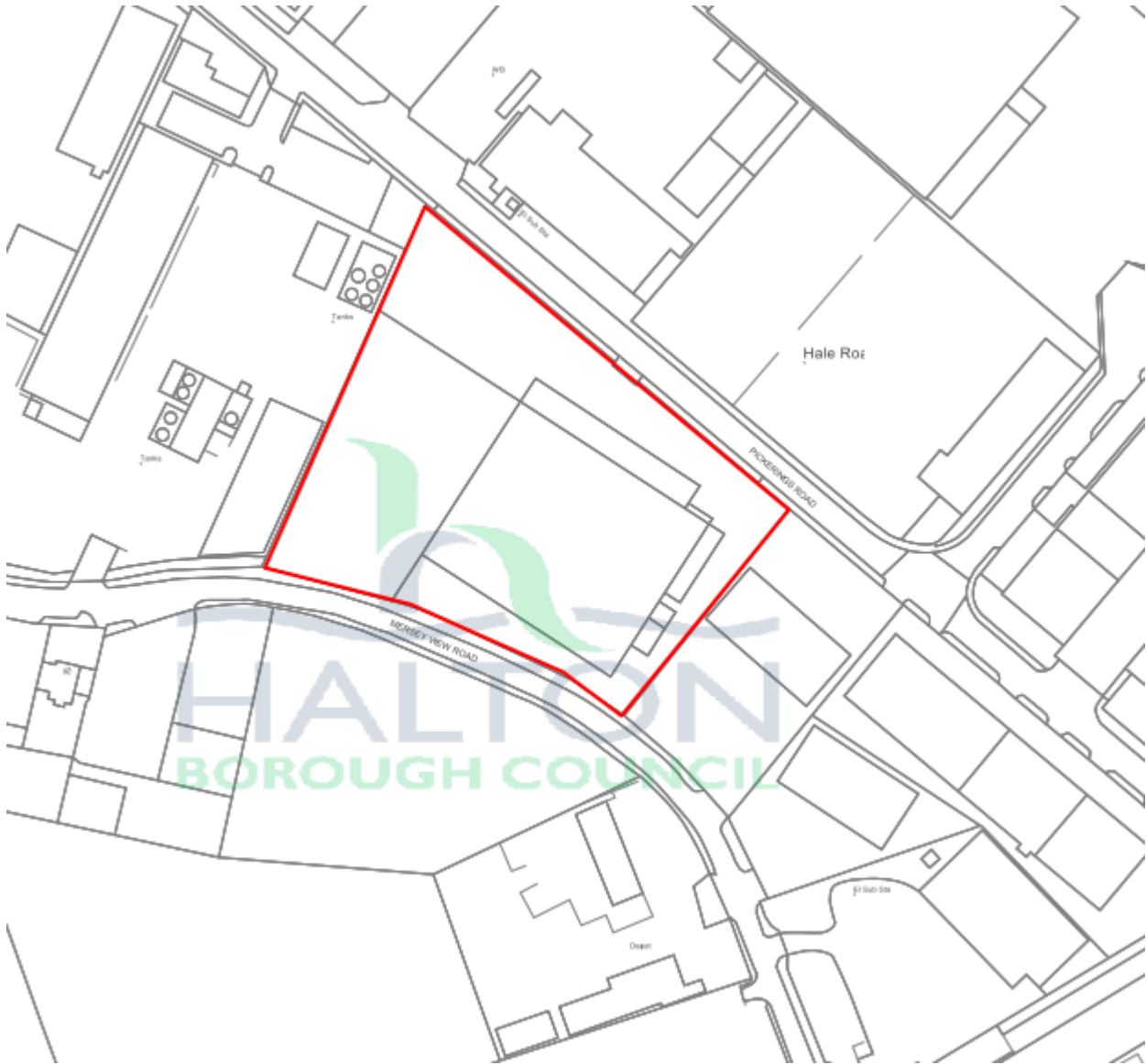


APPLICATION NO:	20/00479/FUL
LOCATION:	Brenntag UK Limited, Pickerings Road, Widnes, Cheshire, WA8 8XW.
PROPOSAL:	Proposed extension to existing warehouse, small two storey office extension for warehouse and canopy extension above loading doors
WARD:	Ditton, Hale Village & Halebank
PARISH:	Halebank Parish Council
APPLICANT:	Brenntag UK Limited
AGENT:	HB Projects Ltd, Merrydale House, Roydsdale Way, Bradford, BD4 6SE.
DEVELOPMENT PLAN: Halton Unitary Development Plan (2005) Halton Core Strategy (2013) Joint Merseyside and Halton Waste Local Plan (2013)	ALLOCATIONS: Action Area 5 Halebank – Unitary Development Plan Proposals Map.
DEPARTURE	Yes.
REPRESENTATIONS:	No representations have been received from the publicity given to the application.
KEY ISSUES:	Development in Action Area 5 Halebank, Highways and Transportation, Drainage, Impact on Wastewater Infrastructure, External Appearance.
RECOMMENDATION:	That delegated powers are given to the Operational Director – Policy, Planning & Transportation in consultation with the Chair or Vice Chair of the Development Management Committee to approve the application subject to conditions once the following has occurred: A Habitats Regulations Assessment has been adopted by the Council as the competent authority to show how the Council has engaged with the requirements of the Habitats Directive and the attachment of any additional conditions necessary following further observations from Natural England;
SITE MAP	



1. APPLICATION SITE

1.1 The Site

The site subject of the application is Brenntag UK Limited which is located on Pickering's Road in Widnes.

The site is located in Action Area 5 Halebank as designated by the Halton Unitary Development Plan.

The area in which the application site is located is predominantly commercial in nature.

The Council submitted the Submission Delivery and Allocations Local Plan to the Planning Inspectorate (DALP) for independent examination on 5th March 2020. This will replace the existing Unitary Development Plan Proposals Map in due course. This proposes to designate the site as Primarily Employment Area. This is now a

material planning consideration, however at this point carries little weight in the determination of this planning application.

1.2 Planning History

The only recent planning history for this site is as follows:

- 18/00152/FUL – Proposed erection of wind turbine on 15 metre tower for generation of electricity – Application Withdrawn.

2. **THE APPLICATION**

2.1 The Proposal

The application proposes the extension of the existing warehouse, small two storey office extension for warehouse and canopy extension above loading doors.

2.2 Documentation

The application is accompanied by the associated plans (all viewable through the Council's website) in addition to a Daytime Bat Survey & Nesting Bird Survey and a Flood Risk Drainage Strategy.

3. **POLICY CONTEXT**

Members are reminded that planning law requires for development proposals to be determined in accordance with the development plan, unless material considerations indicate otherwise.

THE DEVELOPMENT PLAN

3.1 Halton Unitary Development Plan (UDP) (2005)

The site is designated as Action Area 5 – Halebank on the Halton Unitary Development Plan Proposals Map.

The following policies within the adopted Unitary Development Plan are considered to be of particular relevance;

- BE1 General Requirements for Development;
- BE2 Quality of Design;
- E5 New Industrial and Commercial Development;
- GE21 Species Protection;
- PR5 Water Quality;
- PR16 Development and Flood Risk;
- RG5 Action Area 5 – Halebank;
- TP1 Public Transport Provision as Part of New Development;
- TP6 Cycle Provision as Part of New Development;
- TP7 Pedestrian Provision as Part of New Development;
- TP12 Car Parking;
- TP17 Safe Travel For All.

3.2 Halton Core Strategy (2013)

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

- CS1 Halton's Spatial Strategy;
- CS2 Presumption in Favour of Sustainable Development;
- CS4 Employment Land Supply and Locational Priorities;
- CS18 High Quality Design;
- CS19 Sustainable Development and Climate Change;
- CS20 Natural and Historic Environment;
- CS23 Managing Pollution and Risk;
- CS24 Waste.

3.3 Joint Merseyside and Halton Waste Local Plan (2013)

The following policies, contained within the Joint Merseyside and Halton Waste Local Plan are of relevance:

- WM8 Waste Prevention and Resource Management;
- WM9 Sustainable Waste Management Design and Layout of New Development.

MATERIAL CONSIDERATIONS

Below are material considerations relevant to the determination of this planning application.

3.4 Halton Borough Council – Design of New Commercial and Industrial Development Supplementary Planning Document.

The purpose of this Supplementary Planning Document (SPD) is to complement the Halton Unitary Development Plan (UDP), to provide additional practical guidance and support for those involved in the planning of new development within Halton Borough to: -

- a. Design new industrial and commercial developments that relate well and make a positive contribution to their local environment;
- b. Seek the use of quality materials which respond to the character and identity of their surroundings and reduce environmental impact such as through energy efficiency; and
- c. Create better, more sustainable places

3.5 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.

Achieving Sustainable Development

Paragraph 7 of the NPPF states that *the purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the*

objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Paragraph 8 states that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

*a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*

*b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*

*c) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

Paragraph 9 states that these objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

Paragraph 10 states so that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development. As set out in paragraph 11 below:

The Presumption in Favour of Sustainable Development

Paragraph 11 states that for decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Decision-making

Paragraph 38 states that *local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.*

Determining Applications

Paragraph 47 states that *planning law requires for planning permission to 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.*

3.6 Other Considerations

The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a persons rights to the peaceful enjoyment of property and Article 8 of the Convention of the same Act which sets out his/her rights in respect for private and family life and for the home. Officers consider that the proposed development would not be contrary to the provisions of the above Articles in respect of the human rights of surrounding residents/occupiers.

4. CONSULTATIONS SUMMARY – FULL RESPONSES CAN BE LOCATED AT APPENDIX 1.

Highways and Transportation Development Control – No objection.

Lead Local Flood Authority – No objection.

Regeneration – No comment.

Merseyside Environmental Advisory Service – No objection.

Halebank Parish Council – No observations received.

Natural England – Further information required. Awaiting observation on Habitats Regulations Assessment.

Health and Safety Executive – Do not advise against the granting of planning permission.

United Utilities – No objection.

5. REPRESENTATIONS

5.1 The application was advertised by a press advert in the Widnes and Runcorn Weekly News on 24/09/2020, a site notice posted on 17/09/2020 and eleven neighbour notification letters sent on 17/09/2020.

5.2 No representations have been received from the publicity given to the application.

6. ASSESSMENT

6.1 Principle of Development

The site forms part of the Action Area 5 Halebank designation on the Halton Unitary Development Plan Proposals Map. Policy RG5 of the Halton Unitary Development

Plan states that within the Halebank Action Area, the following uses will be acceptable: -

- Business uses (B1);
- Residential institutions (C2);
- Dwelling houses (C3);
- Community facilities (D1);
- Shops serving the local community (A1);
- Food and drink outlets serving the local community (A3);
- Recreation and leisure facilities serving the local community (D2);
- Open space and public spaces.

The application site is an existing warehouse falling within Use Class B8 to which an extension is proposed. Whilst a B8 use is not referenced in the above policy, this is an established use and is also considered to be sympathetic to surrounding land uses which are commercial in nature. The principle of development is considered to be acceptable.

6.2 Highways and Transportation

The Highway Officer has considered the proposed layout and whilst the tracking for HGV access is tight, it is as existing and improvements are not being insisted on as part of the proposed development. The proposed car parking, cycle parking and pedestrian routes through the site are considered to be acceptable and their detailing, implementation and subsequent maintenance thereafter should be secured by conditions.

The Highway Officer has suggested that a construction management plan should be implemented, however it is considered that this can be appropriately dealt with by an informative referencing the need for considerate construction and the Considerate Constructor Scheme.

The Highway Officer notes that the land proposed for the extension was earmarked within the Halebank Regeneration Action Area Plan - Draft Supplementary Planning Document as a relief road. It should be noted that this document has now been deleted as agreed by Executive Board in November 2020.

From a highway perspective, the attachment of the suggested conditions would ensure that the proposal is considered to be compliant with Policies BE1, TP1, TP6, TP7, TP12 and TP17 of the Halton Unitary Development Plan.

6.3 Site Layout and External Appearance

With regard to site layout, a large pressurised sewer lies within the site and United Utilities initially objected to the application. Based on further submissions made by the applicant in respect of the location of the sewer, United Utilities have now removed their objection subject to the attachment of a condition which requires the

submission of construction details prior to commencement of development, to ensure the protection measures are agreed for this strategic asset.

The approach taken with regard to site layout is considered to be acceptable and allows for functionality. The proposed extensions have regard for the appearance of the existing building and would integrate into this particular locality. The specified materials on the submitted plans are considered to be acceptable and their implementation should be secured by condition.

Based on the site layout, there is very limited scope for additional soft landscaping. The existing site is already enclosed by palisade fencing and the applicant is not proposing to amend this other than the necessary gates serving the development as shown on the submitted plans will be proposed to match existing. This approach is considered acceptable.

In respect of layout and external appearance the proposal is considered to be compliant with Policies BE1, BE2 and E5 of the Halton Unitary Development Plan and the Design of New Commercial and Industrial Development Supplementary Planning Document.

6.4 Flood Risk and Drainage

The site subject of the application is located in Flood Zone 1 and is approximately 1ha in area. The application was not accompanied by a Flood Risk Assessment or Drainage Strategy at the time of submission. More recently, a Flood Risk Drainage Strategy has been submitted by the applicant. The Lead Local Flood Authority have now confirmed that the development is considered to be appropriate in terms of flood risk and the applicant has a clear strategy for the disposal of surface water from the site and suggest that conditions be attached.

It is considered that the attachment of appropriate conditions securing the implementation, maintenance and management of a sustainable drainage scheme would ensure that the proposal is acceptable in terms of flood risk and drainage in compliance with Policy PR16 of the Halton Unitary Development Plan, Policy CS23 of the Halton Core Strategy Local Plan and the National Planning Policy Framework.

6.5 Ecology

The application site has limited biodiversity, however, as it is considered to have potential to provide habitat for bats and breeding birds which are protected species, the application is accompanied by a preliminary risk assessment. This states that no evidence of bat use, or presence was found. The Council's Ecological Advisor has stated that the Council does not need to consider the proposals against the three tests set out in the Habitats Regulations. In respect of breeding birds, a condition to ensure appropriate protection during breeding bird season is suggested.

The development site is near to the following European sites. These sites are protected under the Conservation of Habitats & Species Regulations 2017:

- Mersey Estuary SPA; and
- Mersey Estuary Ramsar site.

Due to the development's potential pathways and impacts on the above sites, this proposal requires Habitats Regulations Assessment for likely significant effects. The Council's Ecological Advisor has produced a Habitats Regulations Assessment report (set out in APPENDIX 1 - Full Consultation Responses) which concludes that there are no likely significant effects. Natural England have been consulted on the Habitats Regulations Assessment and observations are awaited. The Habitats Regulations Assessment will be adopted at the point that Natural England confirm their acceptance to the assessment. Members will be updated on this.

The proposal will be considered acceptable in respect of Ecology subject to the attachment of the suggested condition along with Natural England confirming that they raise no objection to the proposed development. This would ensure compliance with Policy GE21 of the Halton Unitary Development Plan and Policy CS20 of the Halton Core Strategy Local Plan.

6.6 Sustainable Development and Climate Change

Policy CS19 of the Halton Core Strategy Local Plan outlines some principles which will be used to guide future development in relation to sustainable development and climate change.

NPPF is supportive of the enhancement of opportunities for sustainable development and it is considered that any future developments should be located and designed where practical to incorporate facilities for charging plug-in and other ultra-low emission vehicles.

The incorporation of facilities for charging plug-in and other ultra-low emission vehicles for this development is considered reasonable. The applicant proposes electric vehicle charging points which serve four of the parking bays which is considered acceptable. The detailing along with implementation and maintenance of this provision should be secured by condition.

Based on the above, the proposal is considered compliant with Policy CS19 of the Halton Core Strategy Local Plan.

6.7 Risk

Policy PR12 of the Halton Unitary Development Plan states that development on land within consultation zones around notified COMAH sites will be permitted provided that all of the following criteria can be satisfied:

- a) The likely accidental risk level from the COMAH site is not considered to be significant.

b) Proposals are made by the developer that will mitigate the likely effects of a potential major accident so that they are not considered significant.

Whilst being within the consultation zone, the individual accidental risk level does not exceed 10 chances per million in a year. The proposal is therefore considered to accord with Policy PR12 of the Halton Unitary Development Plan.

It should also be noted that the HSE does not advise against the granting of planning permission on safety grounds in this case.

6.8 Waste Management

Policies WM8 and WM9 of the Joint Merseyside and Halton Waste Local Plan are applicable to this application along with policy CS24 of the Halton Core Strategy Local Plan. In terms of waste prevention, construction management by the applicant will deal with issues of this nature.

In terms of on-going waste management, the proposed layout ensures that sufficient space is available for such provision.

The proposal is considered to be compliant with policies WM8 and WM9 of the Joint Merseyside and Halton Waste Local Plan and policy CS24 of the Halton Core Strategy Local Plan.

6.9 Planning Balance

There is a presumption in favour of granting sustainable developments set out in NPPF where the proposal is in accordance with an up-to-date development plan.

Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

It is considered that the development plan policies referenced are in general conformity with the NPPF, therefore up-to-date and full weight should be given to these.

The proposal would allow the expansion of an existing business in a commercial area which is considered sympathetic to surrounding land uses as well as securing potential future jobs for the Borough. It is considered that the proposal is acceptable for the reasons set out in the report and that this proposal represents sustainable development which is in accordance with an up-to-date development plan.

7. CONCLUSIONS

The proposal would allow the expansion of an existing business in a commercial area which is considered sympathetic to surrounding land uses as well as securing potential future jobs for the Borough.

The site is served by existing access points from Pickerings Road which are considered acceptable. The layout demonstrates an appropriate level of car parking, cycle parking and pedestrian routes through the site and its implementation and subsequent maintenance should be secured by condition.

The proposed extensions are considered to be functional in appearance reflecting their location within this commercial location.

The proposal is therefore considered to be acceptable.

8. RECOMMENDATION

That delegated powers are given to the Operational Director – Policy, Planning & Transportation in consultation with the Chair or Vice Chair of the Development Control Committee to make the decision subject to conditions once the following has occurred:

A Habitats Regulations Assessment has been adopted by the Council as the competent authority to show how the Council has engaged with the requirements of the Habitats Directive and the attachment of any additional conditions necessary following further observations from Natural England.

9. CONDITIONS

1. Time Limit – Full Permission.
2. Approved Plans.
3. Implementation of External Facing Materials (Policies BE1 and BE2)
4. Parking and Servicing – (Policy BE1)
5. Electric Vehicle Charging Point Scheme – (Policy CS19)
6. Cycle Parking – (Policies BE1 and TP6)
7. Breeding Birds Protection – (Policies GE21 and CS20)
8. Evidence of Infiltration Testing – (Policies PR16 and CS23)
9. Verification Report for Sustainable Urban Drainage System – (Policies PR16 and CS23)
10. Foul and Surface Water on a separate system – (Policies PR16 and CS23)
11. Waste Water Infrastructure Protection Scheme – (Policies PR5 and CS23)

Informatives:

1. Highway Informative - Considerate Constructor Scheme.
2. United Utilities Observations.

10. 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 by contacting dev.control@halton.gov.uk

11. SUSTAINABILITY STATEMENT

As required by:

- The National Planning Policy Framework (2019);
- The Town and Country Planning (Development Management Procedure) (England) Order 2015; and
- The Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2015.

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.

APPENDIX 1 - Full Consultation Responses.

1. Highways and Transportation Development Control.

The proposals appear to be well thought out and practical in their approach.

We would point out that the tracking for the HGV access/ egress seems tight but is much the same as existing. There is however an opportunity to improve the situation as part of this application but it is not something we would insist on at this time.

Car parking provision is acceptable and the applicant has demonstrated how the site can be serviced and we would be pleased to remove our objection and instead ask that suitable conditions be employed to secure the car parking and access arrangements as per the plans.

There should also be a construction management plan to ensure the development can be delivered without impacting on other users in the area.

The final point I would raise is that the land proposed for the extension was earmarked within the draft area action plan as land reserved for a potential highway route. I am unsure how much weight this document carries but would advise seeking clarification from colleagues.

2. Lead Local Flood Authority.

After reviewing 20/00479/FUL planning application the LLFA has found the following:

- The site area is approximately 1ha and comprises a brownfield site.
- The proposed development is for the extension of an existing warehouse. The land use vulnerability classification defined in Planning Practice Guidance would not change and would remain 'Less Vulnerable'.
- The development would increase the impermeable area of the site.
- The applicant has provided a flood risk assessment (OTH_3132_FRA_Pickerings Road, Widnes_[June21]_Report-.pdf) and also a drainage strategy report (OTH_SL07105 Drainage Strategy - Issue 1.pdf)
 - o The FRA identifies that the site is within Flood Zone 1 and is remote from any watercourses, flood risk from all other sources has been assessed and concluded to be low.
 - o The drainage strategy identifies how the proposed use of underground attenuation would mitigate for the increase in impermeable area and achieve a reduction in runoff rates down to a maximum of 15 l/s during rainfall events up to the 1% AEP +40% increase for climate change.
 - o Calculations have been provided to support the statements made within the report.
 - o The location of discharge is proposed to be the existing public surface water sewer.
 - o The strategy concludes that discharge of surface water to the ground would be unfeasible due to the underlying geology and discharge to watercourse would not be feasible due to the distance from the nearest watercourse.
 - o Details of the maintenance and management strategy have been provided.
- The LLFAs comments on the drainage strategy information provided are:
 - o The LLFA notes that the development would be classified as 'Less Vulnerable and that the location of the development within Flood Zone 1 is consistent with the NPPF.
 - o The site is located within a critical drainage area as identified within the Halton SFRA and the proposed reduction in runoff achieved from the site would help to ensure that flood risk would be reduced in this area.
 - o The applicant has presented evidence to demonstrate the proposed drainage system would ensure that the site would be safe from flooding and would reduce the risk elsewhere.
 - o However, the applicant has not provided detailed evidence to demonstrate that infiltration drainage would not be feasible. Infiltration testing has not been undertaken and the ground investigation report was not appended to the report submitted.

As the development is considered to be appropriate in terms of flood risk and the applicant has a clear strategy for the disposal of surface water from the site, the LLFA would recommend the following conditions should the planning authority be minded to approve on this basis:

- No development shall take place until evidence of infiltration testing is presented to demonstrate whether soakaway drainage is feasible.
- No development shall be occupied until a verification report confirming that the SUDS system and treatment system has been constructed in accordance with the approved design drawings and in accordance with best practice has been submitted to and approved by the local planning authority. This shall include:
 - o Evidence that the interceptors and 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.
 - o An agreement that maintenance is in place over the lifetime of the development in accordance with submitted maintenance plan; and/or evidence that the treatment plant and the SuDS will be adopted by third party.
 - o Submission of 'As-built drawings and specification sheets for materials used in the construction, plus a copy of Final Completion Certificate.

3. Regeneration – No comment.

4. Merseyside Environmental Advisory Service – No objection.

ORIGINAL RESPONSE – 27.01.2021

Due to the limited biodiversity within the proposed site, on this occasion a full ecological appraisal is not required. However, the proposed site may provide habitat for protected species and surveys for these would be required prior to determination. Further information is provided below.

Bats

Preliminary Roost Assessments

The existing trees, building, and structures on site may provide potential roost features for bats. Bats are protected species and a material Local Plan Policy CS20 applies. I advise that a preliminary roost assessment is required prior to determination.

A preliminary roost assessment assesses the trees, building, and structures on site for their suitability for roosting bats and the value of the habitats for foraging and commuting. The survey and report are essential to determine if the Local Planning Authority needs to assess the proposals against the three tests (Habitats Regulations) and whether an EPS licence is likely to be granted. Surveys must follow Standing Advice and best practice guidance¹. Any deviation from these guidelines must be fully justified.

If the preliminary roost assessment categorises the buildings as having a greater than negligible suitability for buildings, or low suitability for trees, further surveys will be required. These can only be carried out between May and August/September.

Breeding Birds

Built features may provide nesting opportunities for breeding birds such as House sparrow, Swallow or House Martin. These species are site faithful and loss of breeding habitat may harm local populations. An assessment of the building for breeding birds is required. The results of the breeding bird assessment can be included within the preliminary bat roost assessment report.

Designated Sites

The development site is near to the following European sites. These sites are protected under the Conservation of Habitats & Species Regulations 2017 and Local Plan Policy CS20 applies:

- Mersey Estuary SPA; and
- Mersey Estuary Ramsar site.

Due to the development's potential pathways and impacts on the above sites, this proposal requires Habitats Regulations Assessment for likely significant effects. Local Plan policy CS20 applies. I attach a Habitats Regulations Assessment report (Appendix 1) which concludes that there are no likely significant effects. The outcome of the Habitats Regulations Assessment report must be included within the Planning Committee Report to show how the Council has engaged with the requirements of the Habitats Directive.

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

Appendix 1: Habitats Regulations Assessment Source-Pathway-Receptor table

20/00479/FUL

Extension to existing operational warehouse, a small 2 storey office, and canopy over existing doors.

The source-pathway-receptor model is used to assess individual elements of the project likely to give rise to effects on the Natura 2000 sites. In using this method all potential effects are assessed to determine whether there is a pathway which could lead to an effect on the Mersey Estuary SPA and Mersey Estuary Ramsar site. If there is a source-pathway-receptor link for any potential effect, then this effect is assessed for likely significant effects within the HRA. Where no source or pathway is present then these effects are screened out at this stage. All potential effects, no matter how small are identified and the assessed for their level of significance. Even if the potential effects are small and thought likely to be insignificant, they must be assessed to confirm this is the case. Figure 1 below shows how the model works.

On 12 April 2018, the ECJ issued a judgement (known as *People Over Wind and Sweetman v Coillte Teoranta*) which ruled that measures intended to avoid or reduce the harmful effects of a proposed project on a European site may no longer be taken into account by competent authorities at the Assessment of Likely Significant Effects (ALSE) stage and should instead be assessed within the framework of an Appropriate Assessment. This will require a distinction to be made during the ALSE between essential features and characteristics of a project (e.g. its nature, scale, design, location, frequency, timing and duration) and measures which have been added to a project which are intended to avoid or reduce the harmful effects of a project on a European site.

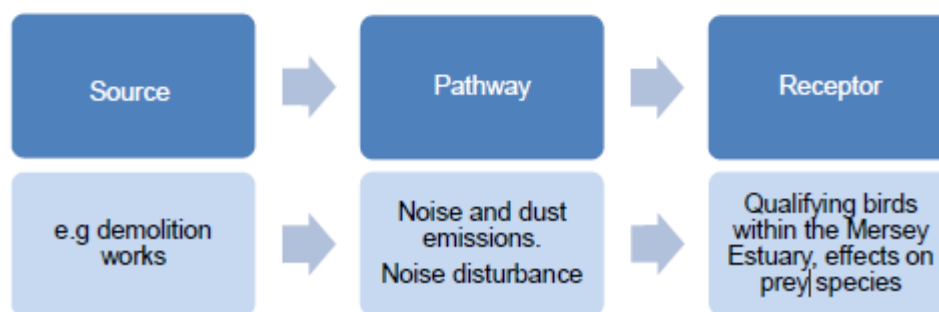


Figure 1 – Source-Pathway-Receptor Model

Assessment of Likely Significant Effects

Table 1 sets out the potential sources and pathways that may lead to Likely Significant Effects.

Table 1. Assessment of Likely Significant Effects

Source	Pathway	Receptor	Likely Significant Effects?
Site construction	Land take	<p>Mersey Estuary SPA</p> <p><i>Wintering:</i></p> <ul style="list-style-type: none"> • Pintail • Eurasian teal • Wigeon • Dunlin • Black-tailed godwit • Curlew • Grey plover • Golden plover • Great crested grebe • Shelduck • Redshank • Lapwing <p><i>Passage:</i></p> <ul style="list-style-type: none"> • Ringed plover • Redshank <p><i>Overwinter bird assemblages:</i> The area regularly supports 99,467 individual waterfowl (5 year peak mean 1991/2 - 1995/6) including: curlew, black-tailed godwit, lapwing, grey plover wigeon, great crested grebe redshank, dunlin, pintail, teal, shelduck, golden plover</p>	<p>The proposed site is located approx. 475m from the Mersey Estuary SPA and Ramsar and therefore no land take is required.</p> <p><u>No Likely Significant Effects</u></p>

Source	Pathway	Receptor	Likely Significant Effects?
		Mersey Estuary Ramsar Ramsar Criteria 5 and 6 Ramsar Criterion 5: Assemblages of international importance: 89,576 waterfowl (5-year peak mean 1998/99-2002/03) Ramsar Criterion 6: Species/populations occurring at levels of international importance. <i>Spring/ autumn peak counts:</i> <ul style="list-style-type: none"> • Shelduck • Black-tailed godwit • Redshank <i>Winter peak counts:</i> <ul style="list-style-type: none"> • Eurasian teal • Pintail • Dunlin 	
Site construction	Noise and visual disturbance to qualifying features	Mersey Estuary SPA qualifying species. Mersey Estuary Ramsar qualifying species/populations.	These designated sites are separated from the proposed site by the remainder of the industrial site within in which the proposed site is located. Also to the south-west of the proposed site there is grazing land, some wooded areas and tree lines/hedges designated land boundaries separating the proposed site and these designated sites. Due to the distance and separation from the designated sites, and the relatively small scale of the proposals there will be no indirect impacts such as noise or visual disturbance to the qualifying species/populations. <u>No Likely Significant Effects</u>

Source	Pathway	Receptor	Likely Significant Effects?
Site construction	Pollution (via spills, leaks or dust contamination.)	Mersey Estuary SPA qualifying species. Mersey Estuary Ramsar qualifying species/populations.	These designated sites are separated from the proposed site by the remainder of the industrial site within in which the proposed site is located. Also to the south-west of the proposed site there is grazing land, some wooded areas and tree lines/hedges designated land boundaries separating the proposed site and these designated sites. Due to the distance and separation from the designated sites, and the relatively small scale of the proposals there will be no indirect impacts such as pollution (via spills, leaks, or dust contamination) of the designated sites or their qualifying species. <u>No Likely Significant Effects</u>
Site construction	Disturbance (noise/and or visual) of potential Functionally Linked Land (arable land located approx. 170m south-west of the proposed site.)	Ribble and Alt Estuaries SPA (only relevant species included) <i>On passage and over winter;</i> <ul style="list-style-type: none"> • Whooper swan • Pink-footed Goose Ribble and Alt Estuaries Ramsar site. Ramsar Criteria 5 Assemblages of international importance: Species with peak counts in winter: <ul style="list-style-type: none"> • 222038 waterfowl (5-year peak mean 1998/99-2002/2003) Ramsar criterion 6 <i>Species with peak counts in winter:</i> <ul style="list-style-type: none"> • Whooper swan • Pink-footed goose 	There is arable land approx. 170m south-west of the proposed site. Species such as pink-footed goose and whooper swan use Functionally Linked Land (FLL) and the closest designated site to include these species as qualifying features is Ribble and Alt Estuaries SPA and Ramsar (located approx. 21km north-west of the proposed site at its closest point.) It is known that pink-footed geese will regularly travel up to 20km from these designated sites to forage on agricultural land and so the arable land is outside of this 20km range. There are no records for pink-footed geese or whooper swans according to The State of Lancashire's Birds An atlas survey of the breeding and wintering birds of Lancashire and North Merseyside, 2007-2011. However, records of pink-footed geese have been recorded at Hale Marsh November 2020 ² which is located to the east of Hale village and approx. 900m west of the proposed land but this is not classed as FLL, and due to the distance from the proposed site, these species will not be affected by the proposed works. Pink footed geese have also been recorded as roosting near Oglet (which is located approx. 5.1km south-west of the proposed site. The Pink-footed geese were recorded flying south and south-east to feed out in the fields of Cheshire and so were not recorded flying north-east (towards the arable land located approx. 170m from the proposed site.) As the closest designated site for pink-footed geese and whooper swan is located over 20km from the arable 170 from the proposed site, and records of pink-footed geese have been recorded flying from the Mersey Estuary south and south-east, it is considered unlikely that pink-footed geese are using the aforementioned arable land as FLL. <u>No Likely Significant Effects</u>

Source	Pathway	Receptor	Likely Significant Effects?
Site construction	Disturbance (noise and/or visual) of arable land located approx. 170m south-east of the proposed site.	Mersey Estuary SPA qualifying species. Mersey Estuary Ramsar qualifying species/populations	Regarding other qualifying features (non-breeding birds) the arable land in question is likely subject to recreational disturbance due to the adjacent Pickering's Pasture Local Nature Reserve, it is relatively enclosed by residential development and a tall vegetation boundary which makes it less optimal habitat than the large expanse of arable land to the north and any works on the proposed site would be screened by existing vegetation and residential development. <u>No Likely Significant Effects</u>

Conclusion of Assessment of Likely Significant Effects

The test of likely significant effects in Table 1 demonstrates that the proposed development will not cause Likely Significant Effects to qualifying species of the listed European designated sites. An Appropriate Assessment is therefore not required.

FURTHER RESPONSE 28.05.2021

MEAS provided a response to this application on 26/01/2021. No ecological report was provided. Due to the limited biodiversity within the proposed site, a full ecological appraisal was not requested, but an assessment for bats (PRA) and for breeding birds was requested prior to determination.

An HRA (assessment of likely significant effects) was also carried out and no likely significant effects were found.

The applicant has submitted an ecology report in accordance with Local Plan Policy CS20 (Rachel Hacking Ecology. April 2021. Daytime Bat Survey & Nesting Bird Survey. Brenntag Warehouse Building, Pickerings Road, Halebank, Widnes) which meets BS 42020:2013.

Bats

The report states that no evidence of bat use, or presence was found. The Council does not need to consider the proposals against the three tests (Habitats Regulations).

Breeding Birds

Built features or vegetation 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, scrub clearance, vegetation management, and/or building works is to take place during the period 1 March to 31 August inclusive. If it is necessary to undertake works during the bird breeding season then all buildings, trees, scrub, and vegetation 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.

Bats

The applicant, their advisers and contractors should be made aware that if any European protected species are found, then as a legal requirement, work must cease, and advice must be sought from a licensed specialist.

5. Halebank Parish Council – No observations received.
6. Natural England – Further Information required – Observations on Habitats Regulations Assessment awaited.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES

As submitted, the application could have potential significant effects on Mersey Estuary Special Protection Area, Ramsar and Site of Special Scientific Interest (SSSI).

Natural England advises that the proposed development site lies adjacent to an area that may constitute functionally linked land for the above designated sites and that further information is required in order to determine the significance of these impacts and the scope for mitigation.

Natural England's further advice on designated sites and advice on other issues is set out below.

The application site is within 500m of the Mersey Estuary SPA, Ramsar and SSSI.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have¹. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Habitats Regulations Assessment (HRA)

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 63 and 64 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out.

Special Protection Areas (SPAs) are classified for rare and vulnerable birds. Many of these sites are designated for mobile species that may also rely on areas outside of the site boundary. These supporting habitats (also referred to as functionally linked land/habitat) may be used by SPA populations or some individuals of the population for some or all of the time. These supporting habitats can play an essential role in maintaining SPA species populations, and proposals affecting them may therefore have the potential to affect the European site.

Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. It is advised that the potential for offsite impacts needs to be considered in assessing what, if any, potential impacts the proposal may have on European sites.

We recommend you obtain the following information to help undertake a Habitats Regulations Assessment.

Additional Information required

- An assessment of all potential impacts on the designated sites that considers the direct and indirect impact pathways. We advise the use of Natural England Conservation Advice packages which may provide useful information to aid assessment for the Mersey Estuary SPA / Ramsar. The Liverpool City Region packages and supporting information documents are available here:

- <https://www.gov.uk/government/collections/conservation-advice-packages-for-marine-protected-areas>

- Suitable bird survey evidence will be required for overwintering and passage birds associated with the designated sites. A comprehensive desk study should first be carried out to inform the need for site specific bird surveys. The desk study should include a robust data search, including relevant WeBs data and local records information and any other survey evidence together with an assessment of the suitability of the site for SPA birds.

- The proposed construction methodology and associated noise levels together with the expected timing of construction works to inform the assessment. It would also be useful to have a noise contour map to understand the potential for bird disturbance during construction.

Mersey Estuary SSSI

Our concerns regarding the potential impacts upon the Mersey Estuary SSSI coincide with our concerns regarding the potential impacts upon the above international designated sites.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Further general advice on the protected species and other natural environment issues is provided at Annex A.

Should the applicant wish to discuss the further information required and scope for mitigation with Natural England, we would be happy to provide advice through our Discretionary Advice Service.

7. Health and Safety Executive – HSE's Advice: Do Not Advise Against, consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.
8. United Utilities –

ORIGINAL RESPONSE – 06.10.2020.

With reference to the above planning application, United Utilities wishes to draw attention to the following as a means to facilitate sustainable development within the region:

We have reviewed the submitted documents and note that the proposed building extension may impact on existing infrastructure within the site boundary. A large pressurised sewer lies within the site, due to its size, a diversion is unlikely. The applicant must confirm the exact location of this asset (and associated easement widths), and demonstrate how the proposed development may impact on it.

We advise this matter be **resolved prior to the determination of this application**. Any layout changes required at a later date may result in the need for additional consents and unnecessary time delays and expenses incurred by the developer.

We therefore request the applicant contact our Developer Engineer at wastewaterdeveloperservices@uuplc.co.uk as soon as possible to discuss this in more detail and consideration given to the impact on the sewer.

As the application has been submitted in full, until such time as United Utilities are satisfied that the asset will not be impacted by the proposals, **we must object to the planning application**.

Further information can be found within the section '*United Utilities' property, assets and infrastructure*' below.

Drainage

In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

The NPPG clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy. We would ask the developer to consider the following drainage options in the following order of priority:

1. into the ground (infiltration);
2. to a surface water body;
3. to a surface water sewer, highway drain, or another drainage system;
4. to a combined sewer.

We recommend the applicant implements the scheme in accordance with the surface water drainage hierarchy outlined above.

If the applicant intends to offer wastewater assets forward for adoption by United Utilities, the proposed detailed design will be subject to a technical appraisal by an Adoptions Engineer as we need to be sure that the proposal meets the requirements of Sewers for adoption and United Utilities' Asset Standards. The proposed design should give consideration to long term operability and give United Utilities a cost effective proposal for the life of the assets. Therefore, should this application be approved and the applicant wishes to progress a Section 104 agreement, we strongly recommend that no construction commences until the detailed drainage design, submitted as part of the Section 104 agreement, has been assessed and accepted in writing by United Utilities. Any works carried out prior to the technical assessment being approved is done entirely at the developers own risk and could be subject to change.

Details of both our S106 sewer connections and S104 sewer adoptions processes (including application forms) can be found on our website <http://www.unitedutilities.com/builders-developers.aspx>

Please note we are not responsible for advising on rates of discharge to the local watercourse system. This is a matter for you to discuss with the Lead Local Flood Authority and / or the Environment Agency if the watercourse is classified as main river.

Water supply

If the applicant intends to obtain a water supply from United Utilities for the proposed development, we strongly recommend they engage with us at the earliest opportunity. If reinforcement of the water network is required to meet the demand, this could be a significant project which should be accounted for in the project timeline for design and construction.

To discuss a potential water supply or any of the water comments detailed above, the applicant can contact the team at DeveloperServicesWater@uuplc.co.uk.

Please note, all internal pipework must comply with current Water Supply (water fittings) Regulations 1999.

United Utilities' property, assets and infrastructure

United Utilities have large pressurised sewer within the area proposed for development. It is unlikely a diversion is possible and we will not permit building over it. We will require an access strip width of eight metres, four metres either side of the centre line of the sewer for maintenance or replacement. Therefore a modification of the site layout may be necessary.

Deep rooted shrubs and trees should not be planted in the vicinity of the public sewer and overflow systems.

Where United Utilities' assets exist, the level of cover to the water mains and public sewers must not be compromised either during or after construction.

For advice regarding protection of United Utilities' assets, the applicant should contact the teams as follows:

Water assets – DeveloperServicesWater@uuplc.co.uk

Wastewater assets – WastewaterDeveloperServices@uuplc.co.uk

It is the applicant's responsibility to investigate the possibility of any United Utilities' assets potentially impacted by their proposals and to demonstrate the exact relationship between any United Utilities' assets and the proposed development.

A number of providers offer a paid for mapping service including United Utilities. To find out how to purchase a sewer and water plan from United Utilities, please visit the Property Searches website; <https://www.unitedutilities.com/property-searches/>. You can also view the plans for free. To make an appointment to view our sewer records at your local authority please contact them direct, alternatively if you wish to view the water and the sewer records at our Lingley Mere offices based in Warrington please ring 0370 751 0101 to book an appointment.

Due to the public sewer transfer in 2011, not all sewers are currently shown on the statutory sewer records and we do not always show private pipes on our plans. If a sewer is discovered during construction; please contact a Building Control Body to discuss the matter further.

For any further information regarding Developer Services and Planning, please visit our website at <http://www.unitedutilities.com/builders-developers.aspx>

FURTHER RESPONSE – 18.06.2021

Following on from the updated plan submitted from the applicant, we can confirm we are happy to remove any objection to the proposal should the condition below be placed on any subsequent approval. We wish to confirm construction details prior to commencement, to ensure the protection measures are agreed to the strategic asset.

No development shall commence (including any earthworks) until details of the means of ensuring the wastewater infrastructure laid within the site boundary is protected from damage both during and post completion of development have been submitted to and approved by the Local Planning Authority. The details must protect and prevent any detrimental impact to the wastewater infrastructure and its operation both during construction and post completion of the development to prevent exposing the sewer to undue loading, vibration or risk. The details must include:

- i) A survey of the exact location and depth of the rising sewer main;
- ii) An assessment of all impacts on the rising sewer main from construction activities, including demolition/site clearance, piling, tunnelling or any other form of construction that induces significant vibration;
- iii) The proposed design and construction of any crossing points (including temporary crossing points); and
- iv) Mitigation measures to prevent damage to the sewer post completion.

Any mitigation measures to prevent damage to the rising sewer main shall be implemented in full prior to commencement of development in accordance with the

approved details and timetable and shall be retained thereafter for the lifetime of the development.

In the event that a diversion/diversions of the infrastructure is required, the developer shall submit evidence to the Local Planning Authority that a diversion has been agreed with the relevant statutory undertaker and that the approved works have been undertaken prior to the commencement of development.

Reason: In the interest of public health and to ensure protection of United Utilities assets.

We still wish for our attached response to be considered for the application. The objection element at the start has now been resolved should the above condition be placed on any permission.