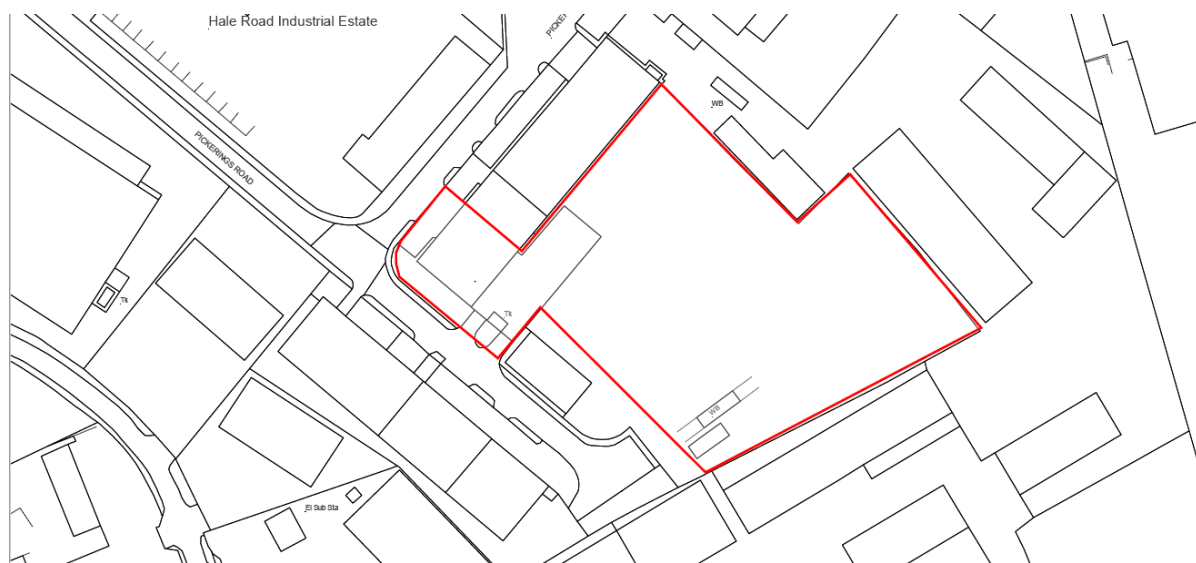


APPLICATION NO:	23/00187/WST
LOCATION:	Veolia ES UK Ltd (Former J Bryan (Victoria) Ltd), Pickerings Road, Widnes
PROPOSAL:	Proposed erection of a building for ancillary storage (partially retrospective)
WARD:	Ditton
PARISH:	Halebank
AGENT(S) / APPLICANT(S):	Veolia ES UK Ltd
DEVELOPMENT PLAN ALLOCATION: National Planning Policy Framework (2023) Delivery and Allocations Local Plan ('DALP') (March 2022). Merseyside and Halton Joint Waste Local Plan 2013	Primarily Employment, Recreational Impact HRA Interim Mitigation Area, Recreation Impact (HRA), Unallocated Land
DEPARTURE REPRESENTATIONS:	No Letters of representation from 5 objectors Letter of Objection from Halebank Parish Council
KEY ISSUES:	Principle of development; waste policy; noise, dust, and other amenity issues; drainage; contaminated land and highway and traffic issues
RECOMMENDATION:	Approve Subject to Conditions

SITE MAP



1. THE APPLICATION SITE

1.1 The Site

Site of the former J Bryan (Victoria) Ltd facility located within the Halebank Industrial Estate which is accessed off Pickerings Road. The site was previously used by a demolition contractor and scrap metal processing company as a demolition waste storage/ transfer yard and depot.

Since occupation, Veolia has carried out improvements to the existing offices, the parking and yard areas and the drainage. The frame of the building that this application seeks to retain is visible on site with the remainder of the site currently occupied by a number of HGV tanker trailers and small vehicles.

1.2 Planning History

The site has a complicated history associated with the historical use and ongoing development of the site particularly as a plant hire and demolition contractor's yard which historical photographs showed included external storage and sorting of demolition wastes. Application 18/00285/WST was submitted in June 2018 for a proposed change of use to waste transfer and treatment facility, construction of waste transfer building and ancillary development. Originally granted planning permission that decision was subsequently overturned by the High Court and then refused at appeal.

2. THE APPLICATION

2.1 The proposal and Background

Permission is sought for the proposed erection of a building for ancillary storage (partially retrospective). The application is in part 'retrospective' as the steel frame of the building was erected following the grant of planning permission 18/00285/WST. That planning permission was however subsequently overturned and dismissed at a planning appeal, construction works ceased and the building frame remains in situ. The land and buildings remain within the extant use and the applicant now proposes completion of the building to allow its use for storage of materials and equipment in connection with the occupier's operations. They state that there is no intention for this building to be used for the storage or processing of any 'waste' materials and has stated that they would be comfortable with the imposition of a planning condition preventing the use of the building for the processing or transfer of waste. Furthermore, the applicant has stated their intention to surrender the Environmental Permit for the site but that would remain outside the control of the planning system.

The applicant has refurbished the existing site offices, patched up the concrete parking and yard areas and installed new gates and improved drainage (in line with details

previously considered acceptable by the Council through the determination of the earlier planning application).

2.2 Documentation

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

Planning/ Supporting Statement

Phase 1 and 2 Site Investigation Reports

Flood Risk Assessment

3. THE DEVELOPMENT PLAN

3.1 Halton Delivery and Allocations Local Plan (2022)

The following policies contained within the Halton Delivery and Allocations Local Plan are of relevance:

- CS(R)1 Halton's Spatial Strategy;
- CS2 Presumption in Favour of Sustainable Development
- CS(R)18 High Quality Design;
- CS(R)19 Sustainable Development and Climate Change;
- CS(R)20 Natural and Historic Environment;
- CS23 Managing Pollution and Risk;
- CS(N)26 Unallocated Land in Urban Areas
- HE1 Natural Environment and Nature Conservation;
- HE7 Pollution and Nuisance
- HE8 Land Contamination;
- HE9 Water Management and Flood Risk;
- GR1 Design of Development;
- GR2 Amenity
- E2 Employment Development
-

3.2 Supplementary Planning Documents (SPD)

Design of New Industrial and Commercial Development SPD

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 for New Development.

4. MATERIAL CONSIDERATIONS

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

4.1 National Planning Policy Framework

The National Planning Policy Framework (NPPF) was last updated in December 2023 to set out the Government's planning policies for England and how these should be applied.

4.2 Equality Duty

Section 149 of the Equality Act 2010 created the public sector equality duty.

Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

There are no known equality implications arising directly from this development that justify the refusal of planning permission.

4.3 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.

5. CONSULTATIONS SUMMARY

HSE - Do Not Advise Against

Natural England - No Objection

Environment Agency – No Objection subject to condition relating to unidentified contamination

United Utilities – Question whether compliance has been demonstrated with the drainage hierarchy and recommend condition in the event that planning permission is granted. See Food Risk and Drainage section of report.

Highways and Transportation Development Control – Original holding objection removed. No objection subject to recommendation relating to the need for a Construction Management Plan. See Highways section of report.

Lead Local Flood Authority

No response was received at the time of writing this report. Should a response be forthcoming it will be relayed via an update to Committee.

Contaminated Land Officer

No response was received at the time of writing this report. Should a response be forthcoming it will be relayed via an update to Committee.

Merseyside Environmental Advisory Service – Ecology and Waste Advisor - No objection subject to conditions relating to bat and bird boxes

United Utilities

Questioned whether sufficient evidence has been provided to demonstrate compliance with the drainage hierarchy. See Flood Risk and Drainage section of the Report.

6. REPRESENTATIONS

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 Halebank Parish Council have been notified.

Letters of representation have been received from 5 objectors raising the following issues:

- Noise, dust and pollution
- Site not part of Waste Plan
- Location not suitable close to school, housing and local shops
- Traffic through village, infrastructure not strong enough
- Air quality and health risks associated with use as a waste transfer station
- Impact of noise on wildlife

One letter of objection has been received from Halebank Parish Council stating the following grounds of objection:

- *The building for which retrospective permission is being sought, is to be used for the processing of waste on a site that is neither an allocated site within the JWLP, nor within an Area of Search, and therefore contravenes core policies WM1 and WM5.*
- *The applicant has failed to provide any evidence satisfying the sequential test to establish that allocated sites are neither suitable nor available. (Indeed, they confirm in correspondence with Halebank Parish Council that alternative sites are available). There is therefore no evidence or policy justification for such a waste processing use on the site, or the construction of a building for that purpose.*
- *The applicant has falsely claimed that the proposed activity is currently being carried out on the site that is in fact being used primarily for vehicle parking and storage. The application therefore is not, as stated in the application, the continuation of a current use, but involves a change of use requiring planning permission.*
- *Relative to the historic waste activity by a former owner, this application envisages a very substantial expansion and intensification of waste processing, necessitating the construction of a large bespoke building, that properly requires planning permission.*
- *The activity will have a potentially significant detrimental impact on the residential amenity of the community of Halebank and neighbouring businesses arising, from increased HGV traffic movements, adverse impact on air quality, potential noise and dust pollution. The nature of the application and the paucity of submitted information inhibits effective evaluation of these and other potential adverse impacts. Significantly, Donald McPhail's letter to Halebank Parish Council in 2021 recognises that "in terms of traffic generation, you will recall that the proposed WTS application would have generated less traffic than the existing lawful use."*

A full copy of that letter is included as an appendix to this report.

Since those objections have been received the application has been amended including a covering letter to explain the amendment. This states that the application is to complete the building for ancillary storage for plant and machinery. It also states that there is no intention for the building to be used for processing or transfer of waste and that the application is for the built development only and does not seek to change the use of the wider site.

No further representations have been received as a result of the re-consultation process undertaken in relation to those amendments.

7. ASSESSMENT

7.1 Principle of Development

The application has been amended including an updated cover letter and Planning Supporting Statement (PSS). The PSS indicates that the completion of the building will be for use for storage of materials and equipment in connection with occupier's operation. It also states that there is no intention for the building to be used for storage or processing of any waste materials. It goes on to say that the applicant would be willing for the imposition of a condition preventing the building being used for processing or transfer of waste.

The PSS acknowledges the site's history as a waste use, noting that change of use to a waste transfer station was refused on appeal. Given that the proposed building will be utilised as a storage building for maintenance items and equipment (plant and machinery) incidental to the occupier's operations' it is concluded that the proposed use is not a waste use. A condition restricting the proposed use is proposed for the avoidance of doubt.

The site is predominantly within a designated Primarily Employment Area as defined on the DALP Policies Map. Policy ED2 provides that within Primarily Employment Areas development for uses including light industrial, factory or storage and distribution will normally be acceptable. It further provides that redevelopment and regeneration within existing employment areas and Employment Renewal Areas will be supported where they make an improvement in the use of the site for employment purposes. Small areas of the site are not coloured on the policies map and are therefore Unallocated to which policy CS(N)26 would apply.

Issues relating to design, noise, dust and other amenity issues are addressed later in this report. The building proposed is wholly within the area designated as a Primarily Employment Area. The proposals are considered to accord with Policy ED2 and no conflict arises with Policy CS(N) 26 and therefore considered acceptable in principle.

7.2 Design and Character

The proposal is to develop an industrial building to allow for storage of equipment (plant & machinery) and materials in connection with the occupier's operations. As the application is for the building it is assumed there is not a change of use of the site. The building will measure approximately 43m by 26m and have a footprint of 1,105 square metres. The building will be a portal framed industrial structure similar in appearance to other buildings in the immediate vicinity. In keeping with the appearance of other large industrial buildings in the area the building walls and roof will be clad with Goosewing Grey (BS10A05, or similar) cladding, above exposed precast concrete panels, with a red (BS04E53, or similar) combined fascias/ soffits and gutter system providing contrast. The building will be approximately 11.3 metres to eaves (rising to 13.2 metres at its peak). There will be 4 roller shutter doors to the front elevation. These doors will be approximately 7.6 metres in height, The roller shutter doors will be coloured red. There will be protection bollards to all roller shutter doors. There will be personnel doors located around the main building.

The applicant has included aerial photographs of the site during its previous activity as a demolition contractor's depot within their submitted supporting statement. These show substantial elements of, apparently uncontrolled, external storage of waste and plant to varying heights. The Applicant has previously undertaken significant works to clear the site with new fencing and entrance gates which represent a significant improvement to the visual quality of the site. The proposed building will further act to screen the site and limit scope and visibility of external storage in the future.

The building is considered appropriate to the character of the area, and the proposed development will undoubtedly result in significant improvement and contribute to the regeneration of and raise environmental quality in the area. On that basis it is considered wholly consistent with Policy ED2, GR1 and GR2.

7.3 Amenity Issues

A number of objections have been made regarding the potential of issues from the development including noise, dust, and other amenity issues. These comments were however received before the application was amended to clarify the proposed use for storage purposes only excluding waste. Previously, the site has a long history of construction and demolition waste processing and scrap operations. The proposed operation is not anticipated to generate noise, dust or other amenity issues that would result in any adverse impact at the nearest sensitive receptors. Given that the building is partially complete, works required to complete the building are considered to give limited scope for significant dust or other impacts during the construction phase. Significant areas exist within the site to facilitate construction activity and, given the character of the area it is not considered that a requirement for a Construction

Management Plan recommended by the Council's Highways Officer can be justified in this case. Hours of construction can be controlled by way of suitably worded planning condition.

7.4 Highway Considerations

The existing site is currently accessed via Pickerings Road through the existing industrial area but connecting to the wider highway network linking through Halebank via Hale Road. The applicant has stated that the vehicular access location will be unchanged with access via the existing arrangement off Pickerings Road. The applicant states that the current proposal will result in significantly less vehicle movements from those historically experienced, with the store building unlikely to generate more than 1 or 2 vehicle movements per working day. It will not increase the capacity of the site and indeed there are no current restrictions on vehicle movements.

On that basis the Council's Highways Engineer has confirmed that no objections are raised to the scheme.

7.5 Ecology

No ecological information has been submitted with the application. The Council's retained adviser has confirmed that no impact to protected/priority species is anticipated due to the existing use and lack of vegetation on site. In line with the new biodiversity duty and NPPF it is advised that the applicant should provide biodiversity enhancements such as bat and bird boxes and/or native tree planting. This can be secured by appropriately worded planning condition.

They further advise that the development is near to a number of nationally and internationally designated sites. However, having regard to the proposals and the possibility of likely significant effects using the source-pathway-receptor model, there is no pathway that could result in likely significant effects on the national and international sites and the proposals do not warrant a Habitats Regulations Assessment. Natural England confirm that they have no objection.

7.6 Flood Risk and Drainage

The application site is identified as lying within Flood Risk Zone 1. In accordance with national and local policy the proposed development is therefore considered to be located within an area of low flood risk. The site does however exceed 1Ha and the application is therefore supported by a Flood Risk Assessment (FRA).

The FRA concludes that, given the nature and scale of the development, the proposed development can be operated with minimal risk from flooding, would not increase risk of flooding elsewhere and should not be precluded on the grounds of flood risk.

No comments have been received from the Lead Local Flood Authority (LLFA). United Utilities have questioned whether sufficient evidence has been provided to

demonstrate compliance with the drainage hierarchy. A series of drainage improvement works have however previously been agreed for the site through the consideration of the previous application and related condition discharge submissions agreed in consultation with the LLFA and United Utilities. These are understood to have been largely completed prior to that permission being overturned and are set out on the submitted drainage plan. Given this history and that the proposed would not result in any significant increase in surface water run-off, it is considered that sufficient regard has been given to flood risk and drainage of the site to demonstrate compliance with Policy HE9 and NPPF, and that the condition recommended by United Utilities is not justified in this case.

7.7 Contaminated Land

The application is supported by Phase 1 and 2 Site Investigation Reports which are a resubmission of those previously submitted in support of the earlier application. The results of the risk assessment indicate that there is no significant source of contaminants present so that there is a negligible risk to all receptors including humans, controlled waters and ecological receptors.

The site is currently hard surfaced with concrete and, whilst excavations have been undertaken in relation to works already implemented this is proposed to be largely retained in situ and need for further excavations are considered likely to be limited. Given the site history and previous site uses the potential for asbestos containing material has been acknowledged and some cement bound chrysotile was encountered during the investigation. The report concludes however that finding such concentrations is “very common” and does not signify that remediation is required. It does however highlight the potential presence of contaminants and that suitable risk assessments and safe working practices are recommended including dust monitoring and suppression. It further identifies that there is a possibility of encountering unexpected contamination and sets out procedures should that occur.

The Council’s Contaminated Land Officer has not commented in relation to the current application. He raised no objection in relation to the original application and confirmed that the unforeseen contamination procedure is sufficient to effectively manage any arisings. It is not considered that there have been a significant change in circumstances to justify a change in that approach and it is considered that this can be secured by suitably wording planning condition. The Environment Agency has raised no objection and recommend the same unforeseen contamination condition. Their comments can also be attached to any planning permission as an informative.

7.8 Other Waste Issues, Sustainable Development and Climate Change.

Policy WM8 of the Merseyside and Halton Waste Joint Local Plan (WLP), the National Planning Policy for Waste and Planning Practice Guidance apply. These policies require the minimisation of waste production and implementation of measures to achieve efficient use of resources, including designing out waste and minimisation of

off-site disposal. Policy WM8 (Waste Prevention and Resource Management) applies. However, a SWMP was conditioned for the original 2018 application and was discharged. There is likely to be limited waste generated for the remainder of the construction, and therefore, it is not considered necessary to require further evidence or mitigation to demonstrate compliance with this policy at this stage.

Policy CS(R)19 (Sustainable Development and Climate Change) seeks to encourage BREEAM Excellent standard. As a new build, it is also expected that the building should comply with BREEAM Excellent rating, as required by the policy WM10. The submitted supporting statement presents reasoning as to why it is not appropriate to achieve BREEAM Excellent rating for the proposed building. It suggests that there is no need for insulation as the building is not heated, insulation would embed more carbon, roof lights are used to generate natural light and limit requirements for LED lighting and use of solar panels would restrict the number of roof lights which would be counterintuitive. This justification is considered acceptable and it is not considered that refusal of planning permission could be justified on these grounds.

The submitted Planning Supporting Statement references the Merseyside and Halton Joint Waste Local Plan. Policy WM7 (Protecting Existing Waste Management Capacity for Built Facilities and Landfill). The policy states that any existing operational and consented waste management sites will be expected to remain in waste management use to maintain essential waste infrastructure. Any change of use from waste management will need to be justified by demonstrating that the waste use is:

- Located in an inappropriate area;
- Causing significant loss of amenity;
- That the lost capacity has been made up for elsewhere, or can be provided through existing allocations.

Whilst the proposals do not seek change of use the proposed building will not be used for waste purposes. The Councils retained adviser has confirmed that since the site has not operated for waste purposes for a number of years, it is considered that bullet point 3 applies and the lost capacity has been provided through existing allocations and that the policy requirements have been met.

8. Conclusions

Permission is sought for the proposed erection of a building for ancillary storage and is, in part, retrospective. The land and existing buildings remain within the extant use which was previously used by a demolition contractor and scrap metal processing company as a demolition waste storage/ transfer yard and depot. The applicant now proposes completion of the building to allow its use for storage of materials and equipment in connection with the occupier's operations. They state that there is no

intention for this building to be used for the storage or processing of any 'waste' materials and has stated that they would be comfortable with the imposition of a planning condition preventing the use of the building for the processing or transfer of waste.

The Council's retained adviser has confirmed that the proposals are compliant with the Joint Waste Local Plan insofar as it applies. The proposals are also considered to accord with the Halton Delivery and Allocations Local Plan and NPPF. Where any areas of such compliance have been queried with the applicant, these are considered to have been adequately addressed and it is not considered that refusal of planning permission could be justified in this regard.

The proposals are considered appropriate to the character of the industrial area, will result in significant environmental improvement when compared with the former use and contribute to the regeneration of the area.

9. RECOMMENDATION

That the application is approved subject to conditions relating to the following:

1. Standard 3 year timescale for commencement of development
2. Specifying approved and amended plans
3. Materials condition(s) requiring building external finishing materials to be carried out as approved by 19/00094/COND
4. Condition relating to contamination/ unexpected contamination
5. Implementation of a scheme of bat and bird boxes in accordance with details to be submitted and approved.
6. Restricting use of the building to storage of plant and machinery and at no time to be used for the deposit, handling or sorting of waste
7. Restricting hours of construction,

SUSTAINABILITY STATEMENT

As required by:

- The National Planning Policy Framework;
- The Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012; and

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