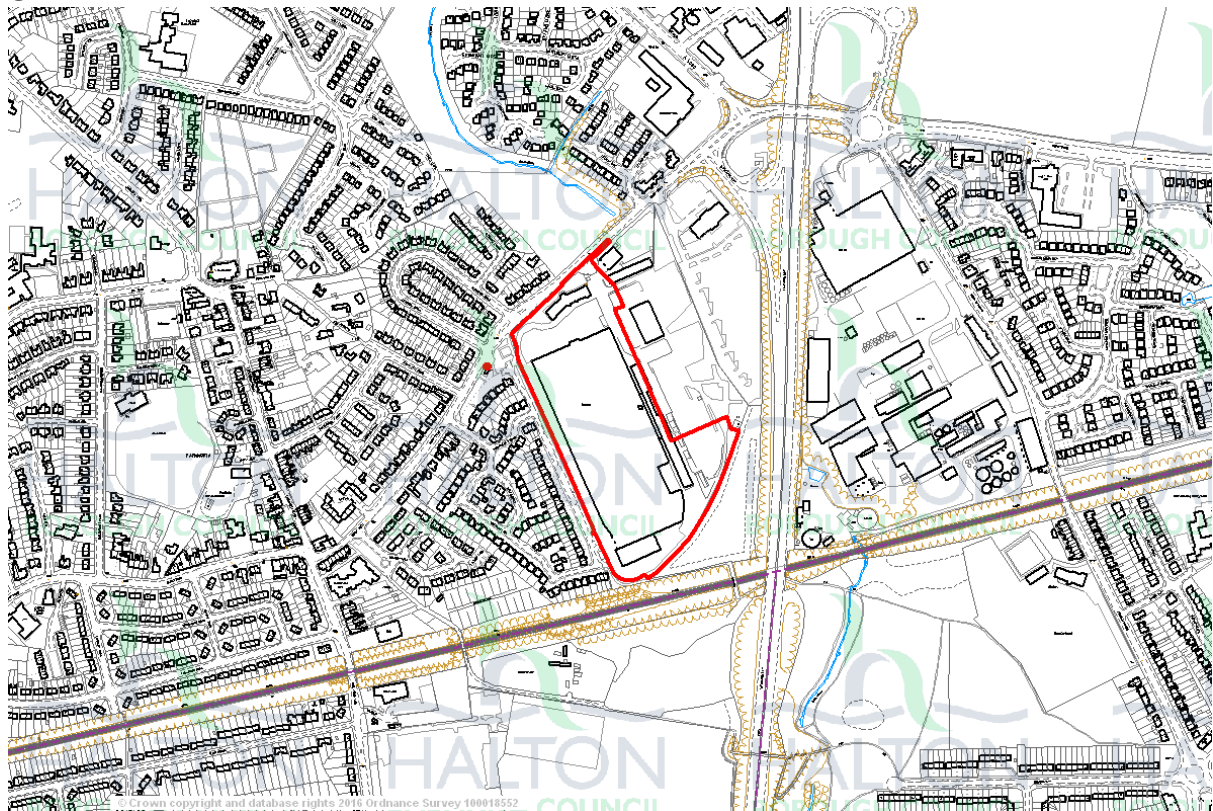


<b>APPLICATION NO:</b>	15/00430/FUL
<b>LOCATION:</b>	Former Marley eternity Site, Derby Road, Widnes
<b>PROPOSAL:</b>	Proposed residential development comprising 116 dwellings, roads, open space, substation and all associated works
<b>WARD:</b>	Farnworth
<b>PARISH:</b>	N/A
<b>AGENT(S) / APPLICANT(S):</b>	Bellway Homes Ltd
<b>DEVELOPMENT PLAN ALLOCATION:</b>	Primarily Employment Area
Halton Unitary Development Plan (2005)	
<b>DEPARTURE REPRESENTATIONS:</b>	Yes
	2
<b>RECOMMENDATION:</b>	Approve subject to conditions

**SITE MAP**



## **APPLICATION SITE**

### **The Site and Surroundings**

The site comprises the central part of the former Marley Eternit site fronting onto Derby Road, Widnes. The site is approximately 5.24Ha which is broadly rectangular in shape. Earlier residential development of part of the wider site by the same developer lies to the west. Land to the east has been previously cleared and remediated to make way for potential future commercial development. A public footpath and railway line run to the south of the site.

### **Planning History**

Planning permission (12/00517/FUL) was approved for the proposed development of two retail units, a 375m<sup>2</sup> unit for A1 use class and a 93m<sup>2</sup> unit for A1, A2 or A3 use class together with associated parking, servicing and site access on part of the site fronting Derby Road. Later approval (13/00312/DEM) was given for the proposed demolition of phase one (with phase two to follow by later submission) of industrial buildings on the site.

The following planning permissions have been previously approved for the wider site:

09/00406/OUT- Proposed construction of industrial units (use class B1 and B2) and hotel (use class C1) up to 9350 sq.m. with associated roads parking and service areas and landscaping.

09/00407/FUL – Proposed residential development comprising 116 No. residential dwellings, road, open space and all associated works.

09/00493/FUL – Proposed remediation of land by demolition of existing buildings and other structures and infilling with and non-inert waste materials

13/00158/OUT – Application for new planning permission to replace extant planning permission 09/00406/OUT

## **THE APPLICATION**

### **Proposal Description**

The application seeks full planning permission for proposed residential development comprising 116 dwellings, roads, open space, substation and all associated works. The proposed dwellings comprise a mix of 74 three bed and 42 four bed dwellings all of which are two storey properties. The houses are predominately detached with a small number of semi-detached properties. Access is proposed from Derby Road.

## **POLICY CONTEXT**

### **National Planning Policy Framework**

The National Planning Policy Framework (NPPF) was published in March 2012 to set out the Government's planning policies for England and how these should be applied.

Paragraph 196 states that the planning system is plan led. Applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise, as per the requirements of legislation, but that the NPPF is a material consideration in planning decisions. Paragraph 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

Paragraph 14 states that this presumption in favour of sustainable development means that development proposals that accord with the development plan should be approved, unless material considerations indicate otherwise. Where a development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF; or specific policies within the NPPF indicate that development should be restricted.

Paragraph 22 of the Framework states that:

*“Planning policies should avoid long term protection of sites allocated for employment use where there is no reasonable prospect of the site being used for that purpose...Where there is no reasonable prospect of a site being used for allocated employment use, applications for alternative uses of land or buildings should be treated on their merits have regard to market signals and relative need for different land uses to support sustainable local communities.”*

Paragraph 47 identifies a need to boost the supply of housing. In order to achieve this it advises local planning authorities to:

*“Use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework.”*

#### Halton Unitary Development Plan (UDP) (2005)

The site is identified as falling within a Primarily Employment Area and Environmental Priority Area in the Halton Unitary Development Plan.

The following National and Council Unitary Development Plan policies and policy documents are of particular relevance: -

BE1	General Requirements for Development
BE2	Quality of Design
BE3	Environment Priority Areas
PR14	Contaminated Land;
TP6	Cycle Provision as Part of New Development
TP7	Pedestrian Improvement as Part of New Development

TP12 Car Parking  
TP17 Safe Travel for All

### Halton Core Strategy (2012)

CS2 Presumption in Favour of Sustainable Development;  
CS3 Housing Supply and Location Priorities;  
CS4 Employment Land Supply and Locational Priorities;  
CS7 Infrastructure Provision;  
CS12 Housing Mix;  
CS13 Affordable Housing;  
CS18 High Quality Design; and,  
CS19 Sustainable Development and Climate Change.  
CS15 Sustainable Transport;  
CS20 Natural and Historic Environment;  
CS21 Green Infrastructure;  
CS23 Managing Pollution and Risk.

### Relevant SPDs

Supplementary Planning Documents including those relating to New Residential Development, Provision of Open Space and Provision of Affordable Housing are also considered of relevance.

### Joint Waste Local Plan 2013

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

## **CONSULTATIONS**

HBC Highways– No objection  
HBC Open Spaces – No objection  
HBC Contaminated Land- No objection  
HBC Environmental Health- No objection  
United Utilities- No objection  
Environment Agency- No objection  
Network Rail- No objection

## **REPRESENTATIONS**

2 letters of representation have been received in relation to the application. The principle issues raised relate to the following:

One states full support for the application as it will “improve the local area, make use of an unused brownfield site, clean up a contaminated site, and at the same time provides high quality homes that will bring economic benefit to the local area” and complement the existing adjoining Bellway development.

A further letter has been received on behalf of a developer with interest in the adjoining commercial land confirming that, whilst raising no objection, querying whether the access design was capable of accommodating likely future HGV to their site which would share the access. That access has now been remodelled in accordance with advice from the Council's Highways Engineer to accommodate such vehicles.

## **ASSESSMENT**

The application seeks full planning permission for proposed residential development comprising 116 dwellings, roads, open space, substation and all associated works. The proposed dwellings comprise a mix of 74 three bed and 42 four bed dwellings all of which are two storey properties. The houses are predominately detached with a small number of semi-detached properties. Access is proposed from Derby Road.

The proposals are aimed at disposing of land now surplus to the Company's requirements enabling them to fund the reclamation of the contaminated sites following closure of the production facility.

### Policy Considerations

All parts of the site are identified as within a Primarily Employment Area in the Halton Unitary Development Plan, which seeks to reflect its current use. The use of housing on the site therefore constitutes a departure from Halton's Development Plan. In accordance with the Development Management Procedure Order 2015 the application has therefore been advertised in the local press and by site notice, as a departure. Notwithstanding this, the proposals are not a 'notifiable departure' and, as such, are not required to be referred to the Secretary of State.

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and paragraph 196 of the NPPF, state that planning is a plan led system. Applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise.

In accordance with Core Strategy Policy CS4 the applicant has provided a statement regarding the wider employment land situation in the Borough and a housing need statement to support its application and justify why the site should be considered for housing and not safeguarded for employment use.

The identification of the application site as a Primary Employment Area is historic and reflects its previous use as a manufacturing facility. The adjoining commercial development site has been remediated and marketed with the benefit of outline planning permission but remains undeveloped.

In these circumstances paragraph 22 of the NPPF has particular significance, and therefore significant weight as a material consideration:

*“Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.”*

The site is contaminated. The costs associated with doing so are prohibitive and it is considered that only a land use with a high value, such as residential would now be viable on the application site.

The applicant's housing supply statement confirms that the site, has the potential to make a significant contribution towards the 5 year housing land supply. The Council assesses 5 year land supply through the production of the Strategic Housing Land Availability Assessment (SHLAA). The last SHLAA was in 2012 which showed a 5 year supply. Work is ongoing on the 2015 report and based on this work, the Council considers it can demonstrate a five year land supply for housing. However, the Local Planning Authority has been monitoring the delivering of housing, shows that in the period 2010~15 the borough saw a net dwelling gain of 1,629 units, some 1,131 units behind the policy target.

The wider benefits of the overall development must be balanced as material considerations in determining applications against the designated land use. The site is identified as falling within an Environmental Priority Area in the Halton Unitary Development Plan. Policy BE3 seeks to significantly raise environmental standards in such areas and the proposals could be argued to make a potentially significant contribution in this regard. It provides an opportunity for significant improvement to the area bringing back into beneficial use areas of under-used, contaminated brown field sites in line with national, regional and local policy. Given the residential nature of surrounding land uses, particularly to the west and Derby Road frontage, the opportunity exists to enhance the character of the area through the development of quality housing. The availability of a house builder also offers the opportunity to make a significant contribution to meeting the Council's identified housing need for new dwellings.

Given the residential development that has already been established that is immediately adjacent, it is not considered reasonable to resist the residential development of the remainder of the site further on planning policy grounds. In this case it is considered that strong justification is provided that the sacrifice of such an area of potential employment land could be outweighed by the wider benefits schemes.

#### Design, Character and Amenity

The scheme seeks full planning permission and proposes a mix of two-storey family housing of fairly traditional brick, render and tiled roof construction. The scheme has a predominance of detached houses with some semi-detached properties. It is considered that appropriate provision is made within the scheme in terms of privacy and amenity and that the requirements of the adopted New

Residential Development SPD can be met. The scheme is considered to provide an opportunity to provide a quality development suited to the character of the area in keeping with the earlier phase of development by the same developer and existing residential properties in the area.

### Highways and Parking

The scheme is shown to be accessed off Derby Road with a revised access for the proposed residential development which will be shared to serve the proposed adjoining future commercial development land.

In spite of detailed pre-application discussion the application as originally submitted raised a number of relatively minor and technical issues relating to highways and parking design, accessibility throughout the scheme and access for emergency vehicles. The application has therefore been amended in line with officer advice including remodelling of the main access, improvements to parking design and capacity and to pedestrian and cycle links to future development land and the wider network.

It is acknowledged that there exists a highway capacity issue relating to the Derby Road/ Farnworth junction. A financial contribution commensurate with that provided in relation to the Phase 1 residential development, has been agreed by the developer. This will be secured by Unilateral Undertaking currently being prepared by the applicant. The remainder of the outstanding contributions for works to mitigate these capacity issues will be expected to be borne by the future development of the remaining commercial land.

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

### Trees and Ecology

The application is supported by an ecological survey, which identified no statutorily protected sites or habitats on site. As such it is not considered that any further need for survey work or mitigation is required nor is it considered to justify refusal of planning permission on these grounds. The survey does however identify measures for due care carrying out the development and potential through the development to secure improved wild life habitat through appropriate landscaping schemes and inclusion of bird and bat boxes within the scheme. It is considered that this can be adequately secured by condition.

A Tree Survey Report has been prepared to accompany the application. The survey covers the site itself as well as trees that are adjacent to the site. No significant trees are identified within the site. Five groups of trees are identified outside of the site but adjacent to the south west / southern boundary. It is proposed that all five tree groups are retained to act a natural screen to surrounding areas.

The Council's Open Spaces Officer has confirmed that no objections are raised in these regards.

## Flooding and Drainage

The site is not considered to be at risk from flooding. The site area is however in excess of 1 Ha and a Flood Risk Assessments (FRA) has therefore been produced for the scheme to ensure that the development itself does not add unduly to run-off rates and potential flooding in the wider area. On that basis the Environment Agency and Council's Drainage Engineer acting as Lead Local Flood Authority have confirmed that they raise no objections.

The Council's Open Spaces Officer has raised a query regarding appropriate levels of filtration prior to discharge of surface water to Bowers Brook and members will be updated as required. United Utilities have however confirmed that they raise no objection.

## Noise

The application is supported by a Noise and Vibration Impact Assessment. A series of Noise Surveys have been completed in order to measure the impact of road traffic and rail traffic noise upon the proposed residential development. A vibration survey has been completed for the railway line to measure any vibration generated by passing commuter trains upon the proposed development.

The Vibration Impact Assessment has shown that the level of vibration generated by passenger trains falls below the "low probability of adverse comment" criteria specified in the appropriate guidance. A number of mitigation measures are proposed with respect to road and rail noise, including the erection of a number of acoustic fences (ranging from 1.7m-2.0m) for certain dwellings in proximity to Derby Road and trickle vents/ mechanical ventilation to potentially affected rooms. It is considered that this can be adequately secured by appropriate planning condition and that on this basis no conflict arises with Unitary Development Plan Policy BE1 or Core Strategy Policy CS23. The Council's Environmental Health Officer raises no objection.

## Viability, Open Space and Affordable Housing

For any housing scheme of such a scale, provision and/ or contribution would be required for open space in accordance with the Council's adopted SPD on Open Space. Affordable housing provision would also be required in accordance with Core Strategy Policy CS13.

A detailed Viability Appraisal has been prepared which concludes that, even with no contributions, the development is marginal in terms of return to both the landowner and developer and the imposition of such contributions would mean that the scheme was undeliverable. As such, none are proposed in this case.

NPPF states:



*“Supplementary planning documents should be used where they can help applicants make successful applications or aid infrastructure delivery, and should not be used to add unnecessarily to the financial burdens on development.”*

Furthermore, the Framework states that:

*“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-making ... to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements, when taking into account of the normal cost of development and mitigation, provide competitive returns to a willing landowner and willing developer to enable the development to be deliverable.”*

The viability appraisal has been reviewed by the Council’s Property Services Officer. Based on further interrogation and further information supplied it has been advised that the assessment provided is reasonable and that the scheme would not appear to viable if such contributions were required.

#### Contamination and Site Remediation

The applications are for residential development and works relating to site preparation are all on parts of the former Turners Asbestos Cement works. The works manufactured a wide range of asbestos containing cement products from 1916 up until 1999. The proposed redevelopment covers the central part of the former works that until recently was occupied by Marely Eternit Ltd who manufactured building products. The onsite buildings have already been surveyed and stripped of asbestos under controlled conditions, and the majority of those buildings have now been demolished.

As much of the operations on site pre-dated most environmental restrictions and controls there is a high risk of contamination that could have an adverse impact on the proposed developments, particularly the residential element. The presence of asbestos, as well as other contaminants, also poses a potential risk during the redevelopment process itself. Taking these factors into account there has been a requirement for the applicant to produce detailed site investigations, risk assessments and a strategy for the safe remediation and development of the site in advance of a decision being made on the application.

In support of the application the following documents have been reviewed;

- REC Ltd - Phase I and II geo-environmental site investigation, ref 44879p2r0, October 2013.
- E3P Ltd – Supplementary geo-environmental assessment, ref 10-218-r1, December 2014
- E3P Ltd – Remediation and enabling works strategy, ref 10-218-r2, December 2014
- E3P Ltd – Supplementary ground investigation and remediation and enabling works strategy, ref 10-218-r3-revC January 2016

A full remediation method statement and management plan has been produced and submitted to the Council. These documents set out how the development site is to be managed in terms of environmental issues, including the remediation plans for each part of the site and the monitoring and control measures to be employed. The key aspect to the remediation strategy is how it will safely deal with the identified asbestos contamination.

The site assessments have identified a number of scenarios where asbestos containing materials are present within the ground.

- Infilled pits and chambers – these sit below the current floor slab and are infilled with a mix of asbestos containing cement products and other cement bound wastes from the production process.
- Hardcore under the concrete floor slab – in the northern part of the site the concrete floor slab was cast onto hardcore that includes broken asbestos cement product.
- Asbestos containing materials found within the thin layer of made ground beneath the site, where it has been used to level the site during the development of the factory.

Other contaminants include areas of hydrocarbon impact (associated with the use of fuels and lubricants) and metals and PAHs within ash/cinders containing soils.

The remediation strategy is designed to ensure that the development will be suitable for the proposed use, i.e. residential and public open space, and as a minimum meet the requirements set out in the NPPF, namely that following completion the site will not meet the definition of Contaminated Land as set out in the Environmental Protection Act 1990.

The details of the scheme are:

- Formation of a deep deposition area along the eastern site boundary (within the proposed open space).
- Stabilisation of materials within the infilled pits and tanks with a slurry grout to allow excavation and processing in the deep deposition area.
- Excavation and management of made ground soil, including the assessment and characterisation in terms of asbestos impact. The made ground is then either placed within the deep deposition area or re-used beneath a 1m cover system, dependent on the asbestos content (above or below the level of quantification of 0.001%).
- Delineation and removal of hydrocarbon impacted soils
- Excavation and processing of surface slab and hard materials
- Winning of clean material from excavation of deposition areas.
- Provision of 600mm or 1000mm clean cover with geotextile to all garden and landscaped areas.
- Installation of ground gas protection measures to the new properties
- Validation testing to ensure compliance with the remedial scheme.
- Control measures and ambient air monitoring to demonstrate no impact on air quality from asbestos.

In summary the applicant has presented a scheme whereby asbestos contamination will be made safe by either depositing the impacted materials at depth in the deep excavation under the POS – bulk asbestos cement products and wastes and soils where asbestos concentration are identified as being above the laboratory limit of quantification of 0.001%, or, where only trace levels can be detected (below the 0.001% quantification limit) these soils will be deposited within designated areas overlain by a geotextile layer and 1m of cover system, comprising clean sub and top soils (the sub-soils will be generated from onsite excavations and the top soil will be imported as part of the construction phase of the development).

The applicant has included details of the phasing of activities on site in terms of site clearance, handling of clean and contaminated material, crushing of concrete, excavation and deposition of clean and contaminated materials and the creation of the correct levels for the proposed development.

The scheme also includes details of the dust and fibre monitoring to be conducted throughout the works, both at boundary locations and specific working areas onsite. This includes sampling and onsite analysis to the Health and Safety Executive's guidance note HSG248 standard and additional sampling at high volume flow rates to achieve a lower detection limit than that set by HSG248. There is also the option of additional assessment thorough off-site analyst using scanning electron microscopy.

Risks to controlled waters, particularly the aquifer present at depth within the underlying sandstone have been determined to be low, however there is a requirement to further assess the extent of hydrocarbon impact. The applicant has committed to this through the delineation of the extents of the areas identified through site investigation to date and to dealing with any additional areas encountered as the concrete slabs and made ground is excavated.

Contaminated Land Officers have reviewed and commented extensively on the submitted information and are broadly in agreement with the scheme. There is some ongoing discussion regarding elements of the proposed site works, particularly focused on the identification and classification of the trace level of asbestos in soils and their subsequent re-use on site. At this stage, Officers are satisfied that these outstanding matters can be dealt with by addendum to the submission however confirmation is awaited by the applicant. On the basis that such agreement is received the Council's Contaminated Land Officers have confirmed that they raise no objection subject to conditions. Members will be updated accordingly.

An update on the position in relation to this issue will be made to Committee.

### Summary and Conclusion

The application seeks permission for proposed residential development comprising 116 dwellings with access proposed from Derby Road. The proposals are aimed at disposing of land now surplus to the Company's requirements

enabling them to fund the reclamation of the contaminated sites following closure of the production facility.

It is considered that a sustainable argument can be made for allowing the loss of employment land for residential development in this case. Issues surrounding ground contamination and the safe remediation of the site in preparation for residential use are also considered to merit particular attention. Through ongoing discussions Council Officers are satisfied that through the detailed remediation strategy and materials management plan this can be achieved without undue risk of escape of fibres and risk to human health. It is considered that appropriate protection methods and controls can be achieved including ongoing sample monitoring and access to records to provide the necessary assurances. Whilst a number of matters remain outstanding in this regard it is considered that these are matters which can be dealt with by way of addendum to the submission and members will be updated as required. Members also need to be aware that the developers and remediation specialists will also be subject to a significant number of wider legislative controls relating to asbestos and the control of pollution and health and safety of workers carrying out the remediation to ensure that they are not adversely affected.

The scheme is considered to offer an opportunity for significant improvement to the area as well as providing much needed family housing in the area. It is considered that all outstanding matters can be satisfactorily resolved and/ or secured by condition and that the scheme offers the potential for a quality of development suited to the character of the site and the wider area and that the requirements and aspirations of national, regional and local policy can be met.

#### **RECOMMENDATION:**

The application be approved subject to the following:

- a) a legal or other appropriate agreement relating to financial contributions towards off site highway improvements.
- b) Conditions relating to the following:
  1. Specifying amended/ approved plans.
  2. Conditions relating to ground investigation and mitigation (PR14)
  3. Environment Agency conditions relating to preliminary risk assessment, site investigation, remediation and verification. (PR14)
  4. Environment Agency condition relating to discovery of unidentified contamination
  5. Environment Agency condition restricting infiltration of surface water drainage to contaminated land.

6. Materials condition, requiring development be carried out as approved (BE2)
  7. Landscaping condition, requiring development be carried out as approved.(BE2)
  8. Requiring submission and agreement of hard surfacing materials (BE2)
  9. Boundary treatments requiring development be carried out as approved. (BE2)
  10. Requiring detail relating to sound attenuation fencing, trickle ventilation and other means of ventilation in accordance with the submitted noise report and implementation prior to occupation(BE1)
  11. Wheel cleansing facilities to be submitted and approved in writing. (BE1)
  12. Construction and delivery hours to be adhered to throughout the course of the development. (BE1)
  13. Vehicle access, parking, servicing etc to be constructed prior to occupation of properties/ commencement of use. (BE1)
  14. Finished floor and site levels condition requiring development be carried out as approved . (BE1)
  15. Conditions relating to tree protection during construction (BE1)
  16. Requiring Development be carried out in accordance with the approved FRA and mitigation measures (PR16)
  17. Submission and agreement of ecology/ habitat enhancement features including bird/ bat boxes (GE21)
- c) That if the S106 Agreement or alternative arrangement is not executed within a reasonable period of time, authority be delegated to the Operational Director – Environmental and Regulatory Services in consultation with the Chairman or Vice Chairman of the Committee to refuse the application.

## **SUSTAINABILITY STATEMENT**

As required by:

- Paragraph 186 – 187 of the National Planning Policy Framework;
- The Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012; and
- The Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2012.

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.