

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

SITE MAP



Officer Reports were originally prepared for the November and January Development Control Committee in relation to this application but this matter was not considered due to receipt of a late, detailed objection.

For clarity, a review of the proposal has been undertaken by the applicant in light of late objections received and officer advice. As a result amendments have been made to the layout/ apartment design to further mitigate the impact on future residents from noise and an updated noise assessment has now been provided. Amendments have also been made and clarification provided with respect to the proposed drainage proposals. This version of the Officer Report has now been updated to reflect the current position.

THE APPLICATION SITE

The Site

The application site is located at the end of Carter House Way, southeast of The Hive and to the west of Tanhouse Lane. To the north of the site is a linear park with footway/cycleway greenway in ownership of Halton Borough Council with industrial and other commercial businesses beyond. A combined Public Right of Way (PRoW – W47) and cycle route (62) runs through the linear park forming part of the greenway network and linking The Hive to Tanhouse Lane.

The land is bound along its southern perimeter by rail lines in the ownership of Network Rail with the St Helens Canal and Trans Pennine Trail beyond and further to the south, accessed by an existing level crossing. Further to the south of the site is the salt marsh and River Mersey, which provides important habitat and the Special Site of Scientific Interest (SSSI) and internationally designated Special Protection Area and RAMSAR site to the west of the Silver Jubilee Bridge.

The previous use of the site was industrial and historically occupied by Imperial Chemical Industries (ICI). The nearest properties are those in the employment areas of Dennis Road and Tanhouse Lane and the former Thermphos site and The Hive to the west.

Planning History

The site has a long planning history associated with the past chemical industry on the site, but latterly and most pertinent to this current application are the following three planning permissions;

- 18/00267/FUL – Remediation of the site;
- 05/00109/OUTEIA - Outline application (with siting/layout, design/external appearance & landscaping reserved) for the creation of a new mixed use development, including development at 2, 3, 5 and 6 storey plus commercial A1(12,750 sq.ft), B1(25,000sq.ft) and C3 (624 dwellings); and

- 05/00057/OUTEIA - Outline Application, with all matters reserved, for a mixed use development comprising up to 624 residential units, up to 1275 sqm of Use Classes A1 (Shops) and A2 (Financial and Professional Services) up to 500 sqm of Use Classes A3 (Food and Drink); 96/00577/OUT - Outline application for use of land for purposes within Classes B1, B2 & B8 of the Town & Country Planning (Use Classes) Order.

THE APPLICATION

The proposal and Background

Planning permission 18/00267/FUL dealt with the proposal to remediate the site in preparation for it to be used for alternative and more sensitive future uses. That development is partially complete but stalled on site pending determination of this application. The current application proposes development of 243 dwellings, including access, open space and associated infrastructure

Documentation

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

- Design and Access Statement
- Planning Statement
- Air Quality Assessment
- Phase 1 Habitat Survey and Lapwing Toolbox Talk Document
- Flood Risk Assessment/ Drainage Strategy
- Acoustic Assessment/ Noise Impact Assessment
- Phase 1 and 2 Site Investigation and Remediation Strategy
- Transport Assessment
- Health Impact Assessment
- Habitats Regulations Assessment
- Tree Survey

POLICY CONTEXT

National Planning Policy Framework

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

Paragraph 47 states that "Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on application should be made as quickly

as possible and within statutory timescale unless a longer period has been agreed by the applicant in writing.”

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

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

Halton Unitary Development Plan (UDP) (2005)

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

RG3	Action Area – Widnes Waterfront
BE1	General Requirements for Development
BE2	Quality of Design
BE3	Environment Priority Areas
BE22	Boundary Walls and Fences
GE21	Species Protection
GE29	Canals and Rivers
GE30	Coastal Zone Developed
PR1	Air Quality
PR2	Noise Nuisance
PR4	Light Pollution and Nuisance
PR7	Development Near To Established Pollution Sources
PR14	Contaminated Land
PR16	Development and Flood Risk
TP1	Public Transport Provision as Part of New Development
TP6	Cycling Provision as Part of New Development
TP7	Pedestrian Provision as Part of New Development
TP9	The Greenway Network
TP10	The Trans-Pennine Trail and Mersey Way
TP12	Car Parking
TP15	Accessibility to New Development
TP17	Safe Travel for All
E2	Priority Employment Redevelopment Area
H3	Provision of Recreational Greenspace

Halton Core Strategy Local Plan (2013)

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

CS1	Halton's Spatial Strategy
CS2	Presumption in Favour of Sustainable Development
CS3	Housing Supply and Locational Priorities
CS4	Employment Land Supply and Locational Priorities
CS9	South Widnes – Key Area of Change
CS12	Housing Mix
CS13	Affordable Housing
CS15	Sustainable Transport
CS18	High Quality Design
CS19	Sustainable Development and Climate Change
CS20	Natural and Historic Environment
CS21	Green Infrastructure
CS22	Health and Well-Being
CS23	Managing Pollution and Risk
CS24	Waste

Joint Waste Local Plan 2013

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

Supplementary Planning Documents (SPD)

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

Where appropriate the above policies are specifically addressed through the report below. Where not specifically addressed/ mentioned within the report the application has been assessed against those policies and are considered to accord with that policy. Further information can be provided on request.

CONSULTATIONS

The application has been advertised by way of site notices posted near to the site, press notice, and on the Council website. Surrounding residents, landowners and Ward Councillors have been notified. The application was originally advertised as a departure, however, it has since been established that this was not required under the terms of The Town and Country Planning (Development Management Procedure) (England) Order 2015. See the Principle of Development section of this report below which outlines the position in relation to the Development Plan.

The following organisations have been consulted and general position/ summary responses are provided below. A more detailed review of comments received are addressed through the assessment section of the report where appropriate. The application has been subject to a number of iterations, amendments and stages of consultation. In the interests of simplicity, whilst identifying issues and amendments where appropriate, the report has been framed to reflect the current/ most relevant position. A selection of the most relevant extracted historical comments and objections have included as an appendix to this report. All other comments received and relevant correspondence is available for inspection on the planning file.

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

United Utilities – No objection in principle.

Natural England:- No objection subject to appropriate mitigation being secured.

Network Rail – Concern raised that the development will have an adverse impact on risk on Carterhouse Junction Level Crossing including submission of a Narrative Risk Assessment for that crossing and that the developer should fully fund a VAMOS (warning light) system at the level crossing. Information provided regarding asset protection. See further discussion under Network Rail and Level Crossing Risk section of the Report.

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

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

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

Trans Pennine Trail National Office – Supports this application in principle. Suggestions made re: improved connection to the TPT.

Health & Safety Executive – Do Not Advise Against.

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

National Grid/Cadent Gas - No objection in principle. Advice provided in relation to the major accident hard/ high pressure gas adjoining the site. Standing advice

provided which can be provided to the applicant by way of informative to any planning permission.

Mersey Gateway Environmental Trust - Our update is that subsequent site works (agreed from previous applications) have altered the nesting environment as to make it less attractive to Lapwings. We also understand that the developer will be subject to the same pre-commencement checks and Toolbox Talks as for spring 2019, so any issues that may arise will be dealt with as have been done before. We have been made aware of some mitigation measures for arboreal nesting birds (which we support) and whilst we think opportunities have been missed to address the needs of local ground nesting birds we do not think this is sufficient for us to sustain our objection. We hope our concerns have been noted but we withdraw our objection.

Coal Authority – Confirmed that the application site does not fall within the defined Development High Risk Area. Referred to standing advice to be attached as informative to any planning permission.

Council Services:

HBC Contaminated Land – No Objection subject to conditions. See detailed Contaminated Land section of the report below.

Local Highway Authority – No Objection subject to conditions

Lead Local Flood Authority – No Objection in principle. Awaiting confirmation regarding point of discharge and United Utilities approval.

Merseyside Environmental Advisory Service –No further consideration needs to be given to on site ecology, Conditions recommended in relation to waste. That with mitigation measures there will be no adverse effect on the integrity of European Sites.

HBC Environmental Health – No Objection subject to conditions

HBC Open Spaces –No objection.

HBC Regeneration Team –Supports the further development of Widnes Waterfront and the proposed use in principle.

REPRESENTATIONS

One letter of representation has been received. The issues raised are summarised as follows:

- *“Is the tenure mix a relevant issue planning wise? If so what is proposed?”*

All social housing estates are a very bad idea now that access to such accommodation is primarily for the poor and vulnerable, creating mono cultures (specially on such a comparatively isolated site).

If it is not a planning matter then could the Council intervene as the statutory authority for housing strategy? The recent developments around Page Lane by Halton HT are a good example of best practice.”

Response – The proposal consists of a mix of house type and tenure which will be integrated across the site to avoid clusters of tenure type with a mix of one, two, three and four bed units. This is set out within the Tenure Plan submitted with the application. The approach is acceptable and meets the requirements of the Development Plan Policy CS13 and the NPPF in this regard.

ASSESSMENT

Particulars of Development

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

Principle of Development

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

Priority Employment Redevelopment Area:- UDP Policy E2 applies. This policy identifies sites which are considered suitable for employment and redevelopment as and when they become vacant, are fully reclaimed and when land assembly takes place. The policy does not preclude other types of development.

Action Area 3 - Widnes Waterfront:- UDP Policy RG3 applies. This policy encourages regeneration and identifies residential and open space uses as acceptable in principle.

Coastal Zone Developed:- UDP Policy GE30 applies. This policy does not prevent development occurring within these allocations, but requires proposals to acknowledge their location within the Mersey Coastal Zone by paying particular attention to environmental quality and, where possible, improve accessibility to the coast. The policy supports proposals that contribute to regeneration and/ or enhancement of environmental quality, tourism and recreation.

The regeneration principles of these allocations, policies and the Widnes Waterfront SPD (2003) have been carried forward through the Halton Core Strategy, where the

site is included as a Key Area Change, part of the South Widnes allocation. Through policies CS1 and CS9 the site is included within an area of focus for regeneration and in particular regard , a mix of retail, leisure, employment and residential development. Specifically Core Strategy Policy CS9 seeks the delivery of 400 residential dwellings across the South Widnes area of change.

Policy CS9 identifies the “principles of development” that development in the South Widnes Key Area of Change are expected to deliver as:-

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

It is on this basis, and as the above key principles are addressed through the body of the report, that the principle of the development is appropriate to the designations of the site and complies with UDP Policies E2, RG3, GE30 and Core Strategy Policies CS1 and CS9.

Design and Character

The dwelling types are a mixture of apartments; semi and detached 2-storey dwellings; 3-storey dwellings; and bungalows. These range from one to four bedroom properties.

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

The proposal includes a 1.75ha area of open space along the south of the site. This was the result of the remediation arrangements for the site but nevertheless allows for a significant and usable area of recreational space which includes footpath/cycleway through it, with several links through it from the residential area and onto Tanhouse

Lane, for easy access onto the Trans Pennine Trail. It serves as a further link from the Hive to the Trans Pennine Trail and St Helens Canal.

The applicant has provided a landscaping scheme, details of which still need to be finalised to accounts for layout changes. A landscaping scheme can be secured by planning condition.

A plan indicating boundary treatments has been provided and these in the main show a good standard in those locations where they would be highly visible to public view and would therefore not significantly impact the overall quality of the scheme. A long section of the existing boundary between the site and the Greenway will remain, with the existing landscaping retained and enhanced where appropriate.

The proposed layout generally meets the Council's adopted interface standards. There is a reduction in interface between some apartment blocks and some dwellings which would not comply with the normal separation distances, as set out within the Council's adopted New Residential Development SPD. Where such reductions exist these are not considered to result in unacceptable impacts on the amenity of future occupiers so significant to justify refusal on this basis when considered in the context of the wider benefits of the scheme.

The apartments have some usable external space in addition to the provision of balconies and/or Juliet balconies on the individual units. The layout has introduced an apartment block arrangement which proposes seven blocks arranged in two ranks on the eastern edge of the site.

In some cases, gardens are below the 80sqm within the Council's adopted New Residential Development Guidance, however, the gardens are practical in other regards and the significant amount of on-site recreational space and access to the wider Greenway network and Trans Pennine Trail ensures that living standards will not be unduly compromised as a result.

Subject to the comments received from Cheshire Police addressed later in this report, and conditions relating to boundary treatment and landscaping, it is considered that the proposed amended drawings provide a good quality and mix of dwellings with appropriate levels of separation and on-site open space. The proposals are considered to meet the requirements of Policies BE1, BE2, GE30 and RG3 of the Halton UDP and CS9 and the aims of the NPPF.

Noise and Other Amenity Issues

There are several businesses to the north and east of the site which are identified to be a source of noise in the submitted Noise Reports and two particular businesses to the north east of the site which produce noise that could result in nuisance. In addition to the existence of the noise sources identified in the applicant's noise surveys and by the Council's EHO, a further consideration is the proximity of the allocated waste site

– to the east of Unifrax Ltd – which is likely to have a road access directly off Tanhouse Lane, opposite the north eastern boundary of the application site. Given the size of the approved application for this site, there would be a significant amount of traffic using this access for the transport of waste and related vehicles. The impact on future occupiers from noise resulting from the existing adjacent uses is a material consideration in the determination of the planning application in so far as how future occupiers of the development will be affected by them.

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

UDP policy PR7 is only triggered where it is likely that existing sources of noise will have an unacceptable effect on the proposed development. The rest of the policy including the exceptions do not have to be considered because it is considered that existing sources of noise would not have an unacceptable effect on the proposed development.

UDP Policy BE1 also refers to the need for development to ‘avoid unacceptable loss of amenity to occupiers by virtue of noise disturbance, noxious fumes, and dust or traffic generation..’, development must also ‘be compatible with existing and proposed uses’. In view of the comments regarding PR7 above there are no issues of concern regarding BE1.

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

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

“Environmental Health has considered the noise implications of the application in relation to the noise reports provided by the applicant and the objections by some

neighbouring sites. In considering the noise impact Environmental Health has taken into consideration the following:

- The objections received by neighbouring businesses*
- The findings of the noise assessments and noise mapping*
- The applicability and appropriate use of BS4142 and BS8233 standards for noise assessment.*
- The impact of traffic noise across the site and the*
- Local and national policy on planning and noise*
- Subjective assessments of the site.*
- Previous comments made on the proposed site and actions taken to address these.*

Iconichem and Unifrax are located to the east of the proposed development. They have submitted objections to the proposed application on the basis of the noise caused by their sites. In raising their objections they referred to Halton Borough Council's UDP Policy PR7. This states that development should not be allowed near existing sources of pollution if this is likely to have an unacceptable impact on the development. Iconichem determined that housing close to their plant would be detrimentally impacted by noise. Based on subjective assessments Environmental Health concurred that noise from plant at Iconichem was audible 24hours a day, in areas, and that there was a high likelihood that complaints of noise from future residents could result in statutory action being taken due to night time noise levels. Assessments had determined that noise from the plant was clearly audible, although not dominant, in the north east section of the site where apartments are to be located. Once noise from road traffic reduces at night the noise from the plant, which consists of a low frequency hum, would be more dominant. It has therefore been the issue of night-time noise in this location on the site that has caused concern for Environmental Health. Given the size of the application site, noise from Iconichem is not audible as you move further west and south, and so is not an issue across the whole of the development.

The original noise assessment was prepared in August 2018. Iconichem advised that their site had not been fully considered within the assessment and was not operating when the noise measurements were taken. The applicant submitted a further acoustic survey which clearly addressed noise from the Iconichem plant. The assessment did however confirm Environmental Health's conclusion that noise from the site at night would be audible in bedrooms with windows open, based on the, then, proposed layout. This had the potential to result in a statutory nuisance which the Council would then have a duty to address.

The proposed apartments located to the northeast perimeter of the site were intended to act as a noise buffer to the rest of the development. Environmental Health were concerned that the noise environment inside these apartments had not been fully addressed in relation to noise from Iconichem in bedrooms, at night, at that time

Iconichem employed an acoustic consultant to review the applicant's noise assessment. Their subsequent report made a number of comments related to the

technical elements of the applicant's assessment. These were largely refuted by the applicant. Environmental Health concluded that the correct standards had been applied appropriately and that the report was adequately informed such that clear conclusions could be made. The conclusions of the report however still indicated that the bedrooms in the apartments were not adequately protected against noise from Iconichem at night.

In February 2020 the applicant submitted a further noise report with changes to the location of the apartments and their internal layouts. The new layout ensures that no bedroom window has clear sight of Iconichem, and therefore mitigates exposure to noise from the plant. The noise report employs satisfactory methodology and provides a noise map for both daytime and night time exposure. The noise map clearly demonstrates the impact of the apartment blocks as noise buffers and further confirms that the bedrooms are able to meet adequate noise levels at night due to the renewed layout. On this basis Environmental Health is satisfied that the concerns raised by Iconichem have been addressed by the applicant.

A further objection was received in December 2019 from Carpenter Additives, a manufacturer and distributor of fine powder metal additives used for high tech purposes. The site is subject to a permit issued by the Environment Agency, which controls emissions including noise. As is clear from the applicant's noise assessments and further corroborated subjectively by Environmental Health, the noise from manufacturing process is inaudible outside the building. The premises operates during daytime hours only and therefore it is the opinion of Environmental Health that the site will not cause a statutory nuisance

Carpenter Additives has planning permission to expand across the site. Both the existing site and the planned extension have the ability to operate 24hours. Consideration has been given to this point and legal opinion was sought on the weight that should be given to potential noise from any expansion. In assessing future noise impacts Environmental Health determined that manufacture at the site, and the proposed extension, was very unlikely to cause a statutory nuisance at any time. Deliveries and dispatch from the site are less straight forward to assess, however it was noted that much of the dispatch is via light goods vehicles, which would again minimise noise exposure. Whilst heavy goods vehicles would access the area at times, this would be sporadic and it would be expected that the site would employ measures to minimise noise exposure overnight as matter of good practice. The matter was also considered in respect of the residential site being located in a mixed use area, which is a material consideration when determining statutory nuisance. On the basis of their investigations Environmental Health is satisfied that the potential for statutory noise nuisance from the site is minimised.

There are other commercial and industrial sites along the northern side of the proposed site which may create noise, however it is considered that the noise impact from these sites is minimal, either in terms of the volume or the frequency.

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

The majority of the site is exposed to some level of traffic noise from the Expressway and Mersey Gateway Bridge. The noise assessment demonstrates that acceptable internal noise levels can be achieved in all properties.

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Conclusion

Environmental Health is satisfied that noise across the site can be adequately mitigated in line with PR7 of the UDP, subject to the site layout being the layout specified in the following plans provided by the applicant:

17083_01_J_sitelayout

17083_HT_23_C_Block A_KLM

17083_HT_24_Block B_NO

A condition relating to enhanced glazing.

On the basis of this Environmental Health would have no objections to the application.”

Air Quality

The Council's Environmental Health Officer has advised that air quality issues are only likely to arise during the construction phase of the development as concluded in the air quality report of August 2018. A Construction Environmental Management Plan (CEMP) to mitigate emission during the construction phase would help minimise impacts.

Highways and Transport

The Local Highway Authority has been consulted throughout on various iterations of the proposed layout and commented accordingly. The Highway Officer's comments have largely been addressed and therefore it is their considered opinion that the current plans (for clarity plan numbers 2053-F03 J, 2053-SP01, 2053-SP03H and 2053-F02 B) demonstrate that the proposed development is acceptable in terms of highway safety and impact on the adopted highway network.

An overarching Transport Assessment was submitted to support the application and on review, the Highway Authority considered the document to be robust with regards to trip generation, access by active modes of travel and road space provision for servicing of the development.

Although somewhat remote from existing bus services the applicant has proposed a number of accessibility improvements to existing footways linking to bus stops and has ensured that the main spine road through the development caters for potential future bus routing.

The development provides adequate car parking provision, visibility splays and the overall layout is acceptable. Access is taken from two points onto adopted highway providing suitable resilience for emergency services and maintenance.

The layout provides footway/cycleway provision across the on-site open space on to Tanhouse Lane at its southern end that leads across the railway onto the Canal corridor. It is considered that suggestions by the Trans Pennine Trail and Canals and Rivers Trust have been incorporated as far as possible.

Suitable conditions are requested namely;

- A suitable construction phase management plan to include build programme and routing of construction traffic.
- Details of a scheme to encourage the use of low emission electric vehicles.
- Details of cycle parking provision for apartments.
- Hard and soft landscaping.
- Planting scheme.
- Proposed and existing ground levels including FFL.

The Highway Authority also request that a pre-occupation condition be applied to ensure the scheme of offsite highway works has been implemented. These works will require a S278 agreement.

On this basis it is considered that adequate provision is made for highways circulation, parking and servicing within the scheme. The proposals are considered to accord with national and local policy. It is not considered that refusal of planning permission could be sustained on Highway grounds.

Ecology

The application is accompanied by a Phase 1 Habitat Assessment which has been updated in line with officer advice. The Council's retained ecology advisers originally provided comments requiring the applicant to provide further information. This related to potential development impacts on the Mersey Estuary SPA and Mersey Estuary Ramsar and to demonstrate how increased recreational pressure will be avoided or mitigated. This information was required to allow the Council to fulfil its duties with respect to assessment under the Habitats Regulations 2017.

In response, the applicant submitted a shadow Habitats Regulations Assessment (HRA) Report 1235 R01 LC GP 30th September 2019, which addressed these issues and outlined a programme of mitigation for both the construction phase and post

development, which in addition to the on-site open space provision include the following:-

- A CEMP to include detailed information in relation to sensitive working, noise reduction and screening apparatus along the southeast boundary.
- Provision of signage and hedgerow 'gapping up' to discourage access onto Widnes Warth LWS.
- Provision of sales packs for future residents advising of alternative recreational opportunity in the area.
- Provision of a financial contribution through S.106 Agreement to fund four bird viewing screens along the Trans Pennine Trail with agreement from Halton Borough Council Open Spaces and the Mersey Gateway Environmental Trust.

The appropriate Assessment within the shadow HRA concludes that, with mitigation measures, there will be no adverse effect on the integrity of European Sites. Natural England has confirmed their agreement that the proposed development will not result in adverse effects on the integrity of any of the sites in question, providing that appropriate mitigation is secured through the planning permission as outlined within the shadow HRA.

Following advice from the Council's retained adviser, it is considered that the findings within the HRA are acceptable subject to implementation of mitigation measures which can be secured by conditions and/ or legal agreement. A copy of the HRA is available for view on the planning register.

Flood Risk and Drainage

Whilst the site is identified as being at low risk from flooding, the site area exceeds 1Ha and the application is therefore supported by a flood risk assessment. Foul drainage is indicated as discharging to an existing publicly adopted system. With respect to surface water it is suggested that soakaways are not suitable due to the low impermeable nature of the site. It is therefore proposed that surface water will be attenuated by an oversized system which will discharge to an existing private culvert in Tanhouse Lane. Whilst the LLFA raises no objection in principle further response is awaited from the applicant to confirm how the site currently drains and to confirm United Utilities willingness to adopt the system. Members will be updated as required.

Housing Need and Affordable Housing Provision

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

Halton Core Strategy Policy CS13 sets out the borough's affordable housing requirements and requires new development of 10 or more units to provide 25% as

affordable (50% of this to be social and affordable rented tenures and 50% intermediate housing tenures). This is in excess of the NPPF requirement for 10% of major development to be affordable.

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

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

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

The mix of dwellings includes 1, 2, 3 and 4 bedroom units which contributes to the need identified in the Mid Mersey Strategic Housing Market Assessment 2016. The site delivers benefits from the re use of brownfield land and regeneration as well as delivering affordable housing. Significant weight should be given to these benefits. The proposal more than meets the requirements of development plan policy CS13 and the provisions of the NPPF and is acceptable in the delivery of adequate affordable housing.

Provision of Open Space

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

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

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

On this basis, the proposal meets the requirements of development plan Policies H3, CS9, CS18 and CS21, the draft Open Space SPD and the NPPF.

Contaminated Land

The applicant has submitted a Remediation and Enabling Works Strategy 11-544-r2-RevD which is to be reviewed in conjunction with the previously submitted report in relation to the remediation permission 19/00267/FUL – Phase 1 and 2 Geo-Environmental Site Investigation Report aa-544-r1 dated April 2018.

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

“The application is supported by the following documents;

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

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

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

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

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

A remediation scheme has previously been agreed for the site under planning approval reference 18/00267/FUL. Implementation of that scheme has been partially completed but has stalled pending determination of this application. It is considered that detailed verification can be secured by appropriately worded planning condition. On this basis the proposal is acceptable and meets the requirements of development plan Policies PR14, CS9 and the NPPF.

Health Impact

In accordance with Core Strategy Policy CS22 the applicant has submitted a Health Impact Assessment undertaken to determine the possible health impacts, both positive and negative, that could result from this scheme.

The results of the assessment conclude that the proposed development has the potential to provide benefits to health and well-being of people at and near to the site

subject to implementation of recommended mitigation measures. Where required, these can be secured by appropriately worded planning condition.

Waste

The Council's retained adviser on waste matters has advised that the proposal is major development and involves excavation and construction activities that are likely to generate significant volumes of waste. Policy WM8 of the Merseyside and Halton Waste Joint Local Plan (WLP), the National Planning Policy for Waste paragraph 8, bullet point 3 and Planning Practice Guidance 49 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. In accordance with policy WM8, evidence through a waste audit or a similar mechanism (e.g. a site waste management plan) demonstrating how this will be achieved must be submitted and can be secured by a suitably worded planning condition.

It is considered that sufficient scope exists within the scheme with respect to provision of on-site waste storage and management to demonstrate compliance with policy WM9 of the Joint Merseyside and Halton Waste Local Plan.

Network Rail and Level Crossing Risk

Network Rail have commented as follows:-

"The proposal area is adjacent to Carterhouse Junction Level Crossing. Given the 243 dwellings to be delivered within the development area adjacent to the level crossing, Network Rail believes that the developer and council must include consideration of the impact of the proposal on the level crossing as part of the planning application process. The NPPF underpins this requirement stating:

"Considering Development Proposals:

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

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

110. Within this context, applications for development should:

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

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

The Halton Core Strategy (adopted 2013) states:

Policy CS18: High Quality Design

Development proposals, where applicable, will be expected to:

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

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

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

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

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

The concerns of Network Rail are acknowledged with regard to the proximity of the site to, and protection of, assets in the ownership of Network Rail. These are however matters that are to be resolved between the developer and Network Rail and are not matters material to the determination of this planning application.

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

The maintenance and safety of the level crossing is the responsibility Network Rail. The Council can make a decision in favour of the development in accordance with the NPPF paragraph 11 as in this regard, it accords with an up to date development plan, and there are no material considerations to indicate otherwise.

Designing Out Crime

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

“The proposed site currently suffers from off road biking which is difficult for the local officers to combat. With this in mind having this land developed will help reduce this

problem and improve the area. A residential dwelling will also increase natural surveillance of the commercial area which currently suffers from crime due to being so quiet. Undesirables and drug users do tend to use the canal path as they feel they are currently out of sight, the proposed houses will mean they are more likely to be seen which may reduce the attraction of the area for them.

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

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

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

The section of the plan above shows a great deal of ambiguous open space particularly between the apartments and plot 123. Plot 123 may be vulnerable to criminal damage / ASB as there is limited natural surveillance or defensible space at the front of the property. I would suggest that the 1.2 metre fence is continued round apartment blocks O, P and N. I would also recommend that a minimum of 0.5-metre-high fence is installed round the front of plot 123 and the path leading to the front of the property.

I would recommend additional fencing is planned to protect property 4 and plot 232 above, while these properties are providing excellent natural surveillance of the footpath they lack defensible space and it would be easy for an offender to gain easy access to these properties.

I would recommend that the covered footpath from the car park through the apartment blocks to the rest of the estate is fitted with access controlled gates to prevent these being areas where people could loiter and commit antisocial behaviour. I would also recommend that the parking spaces are covered by CCTV and a perimeter fence is installed round the area.

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

-

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

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

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

Amended drawings have been provided with the introduction of changes to boundary types and the enclosure of spaces around the apartment to ensure that defensible space is provided and the introduction of chicanes onto the open spaces and realignment of some of the plot houses to address the concerns of Cheshire Police and Council officer. Whilst further amendments are required to update the drawings to reflect the latest layout amendments it is considered that these can be secured by appropriately worded planning condition. All other suggested measures such as CCTV and access control are a matter for the developer and can be suggested by informative attached to any permission.

CONCLUSION:-

The application proposes development of 243 dwellings, including access, open space and associated infrastructure following remediation of a derelict, former industrial piece of land. The scheme results in a significant number of benefits including as follows:

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

Concerns with respect to noise and impacts on surrounding business are considered to have been fully addressed by revision to the scheme and, in particular, the revision of apartment types and reorientation of the most affected habitable room windows

away from the identified source of noise to the east. The Council's Environmental Health Officer now raises no objection.

Whilst at the time of writing technical queries remain to be answered regarding surface water drainage and Members will be updated orally. The proposals are considered to accord with the development plan.

RECOMMENDATION:-

The application be approved subject to the following:

- a) a legal or other appropriate agreement relating to securing open space contributions and contributions for bird hide provision and hedgerow improvement.
- b) Conditions relating to the following:
 1. Standard 3 year timescale for commencement of development
 2. Specifying approved and amended plans
 3. Grampian style condition relating to off-site highway works to appropriate access into and out of the site (TP17)
 4. Condition requiring submission and agreement of a Construction Environmental Management Plan (BE1)
 5. Materials condition(s), requiring submission and agreement of building external finishing materials (BE2 and CS9)
 6. Condition requiring submission and agreement of landscaping scheme (BE1, GE30 and CS9)
 7. Condition requiring detailed treatment of the area to the north east boundary of the site adjacent to the Greenway (BE1, GE30 and CS9)
 8. Condition requiring implementation of/ details for boundary treatments (BE22, GE30 and CS9)
 9. Condition requiring vehicle access, parking, servicing for apartments to be constructed prior to occupation of properties/ commencement of use. (BE1 and CS9)
 10. Conditions relating to surface water/ highway drainage (BE1, PR5 and CS9)
 11. Condition securing enhanced glazing (PR2 and CS9)
 12. Condition requiring submission and agreement of cycle parking details (TP6 and CS9)
 13. Condition requiring submission and agreement of bin storage details for apartments (BE2 and CS9)
 14. Condition requiring continuing remediation and verification plan on the basis of the submitted documentation (PR14 and CS9)
 15. Submission and agreement of Site Waste Management Plan (WM8)
 16. Submission and agreement of site and finished floor levels (BE1, BE2 and CS9)

17. Condition requiring the affordable housing provision as a minimum standard of 25% of development (50% social and affordable rent and 50% intermediate housing tenures) (CS13)
 18. Submission and agreement of scheme of biodiversity features including bat and bird boxes.
 19. Construction and delivery hours to be adhered to throughout the course of the development. (BE1)
 20. Securing HIA mitigation measures (CS22)
 21. Requiring submission and agreement of electric vehicle parking and charging point(s) details (NPPF)
 22. Conditions relating to/ requiring submission and agreement/ implementation of detailed foul surface water/ highway drainage scheme including attenuation (BE1/ PR5)
- 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 – Policy, Planning and Transportation in consultation with the Chairman or Vice Chairman of the Committee to refuse the application.

Background Papers

The submitted planning applications are background papers to the report.

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

SUSTAINABILITY STATEMENT

As required by:

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

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

Appendix A

- **Objection on behalf of ICoNiChem dated 6th June 2019:-**

“Noise Levels

Our Client produces inorganic salts of Cobalt and Nickel used in the manufacture of numerous products including colour pigments, rubber adhesion promoters, paint driers and petrochemical catalysts. This process continues seven days a week, 24 hours a day (the only exception being when the plant closes on Sunday afternoons).

As with most manufacturing plants a continuous level of noise is emitted from the

ICoNiChem Site. Our Client is very much aware of its responsibilities under environmental legislation regarding noise levels and accordingly they undertake their own noise monitoring on a regular basis. These noise recordings are carried out at various points both within the ICoNiChem Site and within the surrounding area, including on the boundary of the Application Site. A plan is enclosed, which identifies the points numbered 1 to 6 and marked "A" to "D" where the noise recordings are undertaken. Measurements date back as far as 2003, with the most recent recording being that of 6 March 2019. On that date, the recording equipment recorded a reading of 59 dB(A) at point "B" on the plan and a reading of 51 dB(A) at point "C" on the plan. Measurements have varied dependent on weather conditions, but what is clear is that the noise from the ICoNiChem Site is of such significance that it can be heard from the Application Site, and this noise is continuous given the hours of operation as noted above.

Furthermore, as part of our Client's health and safety procedures prescribed by the Health and Safety Executive ("HSE"), an emergency siren must be installed at the ICoNiChem Site. The siren goes off continuously for one minute when tested, which occurs on the first Thursday of every month at 15:00. Equally, there are sporadic occasions where the siren will be sounded, either through human error or if a major incident occurs. The siren, at point of contact, is 106 decibels. There can be no doubt that this siren will be heard on the Application Site.

A tannoy system is also used on the ICoNiChem Site, which added to regular fire alarm tests and relatively frequent incidents of increased noise levels due to the mechanical equipment will represent an increased noise level that one would expect to hear in an

industrial/commercial area, but would likely affect the amenity of any residential occupier. This can in turn be added to the noise emanating from other commercial and industrial sites in close proximity to the Application Site (who in turn have similar (if not louder in some cases) tannoy systems, alarms and general manufacturing processes).

The Applicants Noise Impact Assessment, dated 12 April 2019, acknowledges that 'the existing industrial sound is likely to have a potentially low impact at the northern site boundary during the daytime period and no impact during the night-time period'. The Assessment goes on to conclude that "Taking context into consideration, the existing industrial sound is likely to have a low impact at

the proposed residential properties during the daytime period and no impact during the night-time period".

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

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

Equally, policy S4 of The Halton Unitary Development Plan (7 April 2005) states that

development "will not be permitted if it is likely to have an unacceptable effect on levels of air, surface water or ground water pollution, or ground contamination or noise or visual intrusion by artificial light".

Furthermore, policy PR8 notes that development "that is sensitive to noise will not be

permitted near to transportation facilities such as Liverpool Airport, roads or railways unless steps are taken to substantially mitigate the effects of the noise nuisance upon the proposed development". This is particularly important in reference to the significant number of heavy goods vehicles that access Moss Bank Road, delivering to the many industrial and commercial units in the locality (and accessing the HGV parking area to the north of the ICoNiChem Site).

Ultimately, local planning policy is clear that residential occupiers represent a sensitive

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

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

Outline Planning Permission

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

(Business) and up to 300 sq m of Use Class D1 (Non Residential Institutions) (ref: 05/00057/OUTEIA).

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

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

This accordingly raises a fundamental point in that any proposed use for the Application Site within local planning policy never specify residential as the only viable use. Multiple uses are purposefully proposed because it is recognised that for any residential scheme to be viable it needs mixed commercial/retail uses to support the same.

COMAH Site

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

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

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

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

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

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

- Minimisation of risk to public safety and property wherever practicable.*
- Controlling inappropriate development within identifiable areas of risk surrounding*

existing hazardous installation or facilities, to ensure that the maximum level of acceptable individual risk does not exceed 10 chances per million and that the population exposed to risk is not increased."

Paragraph 45 of the NPPF highlights the need to consult with appropriate bodies when

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

This in turn raises a further consideration surrounding the health and safety of any potential residential occupiers and that relates to the relatively frequent incidents of fire that occur in the area. Only just over a week ago there was a

tyre stack fire at a site in very close proximity to the Application Site, which was noted in the local press and required seven fire engines to deal with the blaze. This follows major fires at the Unifrax site and the P R Pallet Services site over the last few years. Frequent fires also occur at the nearby scrap yard. Such incidents are to be expected in an industrial area, but sensitive receptors like residential areas would not expect the same and the natural result would be significant effects on amenity.

Economic Development

Our Client currently employs 64 people and in turn use a local supply chain that is becoming increasingly dependent on our Client. Our Client has invested heavily in the ICoNiChem Site and has a strategy in place for expansion. Indeed, our Client has recently redistributed the existing electricity supply to provide an expanded capacity in preparation for expansion. Any such expansion will lead to more jobs, but will in turn in all likelihood lead to an increase in noise levels with added manufacturing facilities.

Our Client is deeply concerned as to what the effects a residential development could have not just on any potential expansion, but in the continued existence of the plant in the Widnes area. Should any form of restrictions be imposed on our Client as a result of this development it may simply become untenable to continue in this location.

The NPPF, at paragraph 38, notes that local planning authorities "should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area." Sustainable economic growth is further supported in local planning policy. The potential effect of this Application will be to have a significantly detrimental effect on our Clients business and other businesses in the area. This Application accordingly can in no way be deemed supportive of sustainable economic growth.

Conclusion

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

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

- **Objection on behalf of Unifrax Ltd dated 18th June 2019:-**

"Noise Levels

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

levels of chemical purity and lowest possible levels of shot content (non-fibrous particles) produces Saffil fibres.

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

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

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

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

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

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

A tannoy system is used on the Saffil Site (in line with our company Health and Safety Policies and emergency procedures, which added to regular fire alarm tests and relatively frequent incidents of increased noise levels due to the mechanical drives and equipment will represent an increased noise level that one would expect to hear in an industrial/commercial area, but would likely affect the amenity of any residential occupier.

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

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

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

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

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

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

Furthermore, policy PR8 notes that development "that is sensitive to noise will not be permitted near to transportation facilities such as Liverpool Airp01t, roads or rail ways unless steps are taken to substantially mitigate the effects of the noise nuisance upon the proposed development".

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

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

It is accordingly our contention that the Applicant's Noise Assessment fails to fully appreciate the surrounding industrial and commercial uses in particular from the Saffil Site. In light of this, we are willing to procure our own independent noise survey. An assessment has already been actioned and the assessment can be undertaken on the week commencing 24 June. Please can you confirm that any decision will not be undertaken on or prior to this date and that any such survey would be considered as part of the application process?

Outline Planning Permission

The Applicant relies heavily on the assumption that the principle of residential development has already been established due to the grant of outline planning permission on 12th December 2016 for a mixed use development made up of 624 residential units, up to 1275 sq. m of Use Classes A1 (Shops) and A2 (Financial and Professional Services), up to 500 sq. m of Use Classes A3 (Food and Drink) and A4 (Drinking Establishments), up to 2400 sq. m of Use Class B1 (Business) and up to 300 sqm of Use Class D1 (Non Residential Institutions) (ref: 05/00057/0UTEIA). I would be grateful if you can clarify that this is the final outline of the planning permission.

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

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

Conclusion

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

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

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

- **Further letter of objection received on behalf of ICoNiChem dated 01/07/19:-**

Industrial Noise Assessment – 3536IC – 01/07/19

NOVA Acoustics has been commissioned by ICoNiChem Widnes Ltd to undertake an assessment of industrial noise on land off Carter House Way, Widnes Waterfront, Tan House Lane, Widnes, WA8 0TF.

This land is the proposed location for a residential development consisting of 248no. dwellings (application reference: 19/00235/FUL) and is located directly adjacent to an industrial estate containing multiple industrial and commercial properties. There are very serious concerns that the issue of noise from the neighbouring industrial site (including ICoNiChem), and the effect of these major industrial premises on the surrounding noise environment, has not been addressed in sufficient detail or adequately mitigated against in order to protect the future position and viability of this important facility.

The aim of this technical assessment is to evaluate the methodology and outcomes of a report compiled by the acoustic consultancy wing of 'E3P Environmental Energy Engineering Partnerships' dated August 2018 (ref: 11-544-R3) and to discuss the contextual arguments against the proposed development from the position of the ICoNiChem company.

In order to provide a coherent analysis, this document is split into the following sections:

- an overview of the current activities at the ICoNiChem Widnes site;
- an assessment of the effect of the development considering the NPPF;
- an analysis of the BS4142:2014 methodology used in the E3P report;
- an analysis of the data recorded on site by NOVA Acoustics, and;
- an analysis of the methodology used for the BS8233:2014 assessment.

Overview of ICoNiChem Widnes site Activities

In the following section, the day to day activities at the ICoNiChem site are discussed. This is intended to provide an overview of the noise generating industrial noise sources and processes on site and give a clear picture of the intensity of typical operations.

The site is operational 24 hours per day, seven days a week. There is a production shut down at Christmas, however, daytime engineering activities still take place over this period.

Several tankers of acid/caustic are received every day, and on average there are approximately 8 other HGVs movements per day including waste skips, raw materials and finished goods. Onsite the company has a fleet of 6no. Forklift trucks and 1no. cherry picker.

Due to the nature of the business, numerous alarms are used in the day to day running of the facility. These including process alarms, and onsite and offsite evacuation alarms. The onsite evacuation alarm is tested weekly and the offsite alarm (which is noted by ICoNiChem to be a 106 dB sounder that can be heard over 1km away) is tested monthly. There is also a public address system that is used externally throughout the day.

The dry area located in the south-western section of the ICoNiChem site is the closest noise generating area to the proposed residential development. In this section, there are 5 external bag house units, 3 in the south and 2 in the east, which have large fans attached that run constantly when the unit is in use, which is most of the time. Each unit has a vibrator unit which sounds periodically to prevent the bridging of material within the hopper.

There is a workshop building opposite the main body of the site on Moss Bank Road. Miscellaneous engineering activities take place in this building such as general fabrication, grinding and hammering.

NPPF Assessment

The NPPF contains the following paragraph which is relevant to the consideration of this application:

“Paragraph 182. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.”

As can be seen in the paragraph above, unreasonable restrictions should not be put on the business because of changes in nearby land uses since they were established. It is clear from this that some level of restriction can be acceptable, but the decision maker will have to form a view as to what is objectively reasonable. The NPPF recognises that such developments will often create some noise, and whilst some noise is acceptable from existing businesses, it must still be ensured that noise emitted from a premises does not constitute a statutory nuisance, i.e. is not injurious, likely to cause injury to health or cause nuisance. With regard to the term ‘nuisance’ there is no specific definition in the Environmental Protection Act 1990, so the tests as at common law apply, namely whether the noise amounts to an unacceptable interference with the comfort and amenity of the neighbours, bearing in mind how ordinary, decent and reasonable persons would react, and the neighbourhood (ref: Clerk & Lindsell on Torts 20th ed. Chapter 20, paragraphs 20-10, 20-11, 20-13). The use of subjective terms ‘some noise’ and ‘unacceptable interference’ indicates to me that whilst inaudibility is not the objective, (and would be unreasonable as it is reasonable to expect some noise), that such noise should be controlled to a point below where it constitutes a material or unacceptable interference. I consider my interpretation to be consistent with both the economic and environmental dimensions of sustainable development, i.e. to encourage growth but also to minimise pollution. In relation to the site in question the introduction of residential dwellings directly adjacent to complex and extensive industrial and commercial operations requires significant further scrutiny as it poses a 'High Risk' development. In developing this site an unreasonable burden is highly likely to be placed on the surrounding business in relation to their existing and future growth.

BS4142:2014 Methodology and Outcome Assessment

The E3P report states that the industrial activities to the north of the development site are expected to have “Low impact” on the amenity of future occupants, however, a number of the factors leading to this result are unclear.

Typical daytime LAeq,15min residual and background sound levels of 49 dB and 47 dB respectively have been derived. It is stated that these sound levels were measured in the absence of the specific sound source, however, it does not state which time period they have been taken from or how any specific source noise was removed.

The unrated specific noise level is stated as 40 dB during the loudest 1-hour daytime measurement period. The ambient sound level is the residual sound level added to the specific, and as such, the ambient sound level during this period would be calculated as approximately 49.5 dB during the loudest hour (49 dB + 40 dB = 49.5

dB). This means that there was less than 3 dB difference between the ambient and residual values, and in cases such as this, BS4142 section 7.3.5 must be followed. In this section it is stated:

“Where it is not possible to determine the specific sound level by measurement of the ambient sound level and the residual sound level at the assessment location(s), for example, because the difference between the ambient sound level and the residual sound level is ≤ 3 dB, determine the specific sound level by a combination of measurement and calculation. Report the method of calculation in detail and give the reason for using it... In some cases, measurements can be supplemented by calculations. Calculations are often more reliable than a single short-term measurement when long-term averages are to be determined and in other cases where it is impossible to carry out measurements because of high residual sound levels. In case of the latter, it is sometimes convenient to carry out the measurements closer to the source and then use a calculation method to estimate the specific sound level at the assessment location(s).”

For this reason, the BS4142 assessment outcome is likely to be inaccurate, and instead of using measurements taken on the site it would perhaps have been prudent to measure closer to the industrial noise sources in order to calculate the predicted specific noise levels incident on the site.

In section 6.2 of the E3P report, the sound climate at position D is stated to include “steady plant noise” as one of the dominant sounds in the acoustic environment. It is assumed that steady plant noise would include a tonal component, and as such BS4142 states that a tonal penalty must also be incurred. As the tonal noise on site would arguably be classified as ‘Just perceptible’ at measurement position D, a +2 dB penalty should also be added along with the penalty for impulsivity. This would mean that the rating noise level would be 48 dB, which is 1 dB above the background noise level during the loudest hour of the measurement period.

The E3P report states in section 9.2 that the industrial businesses to the north of the site operate between 08:00 and 17:00. This, in fact, is incorrect as ICoNiChem Widnes Ltd operates 24 hours a day. For this reason, it is suggested that a BS4142 assessment should be completed to include a night-time assessment period as it is likely that more impact could occur during this time.

NOVA Acoustics Ltd Environmental Sound Survey

An environmental sound survey was carried out by NOVA Acoustics Ltd from the 18th June 2019 to the 21st June 2019. In order to measure the noise levels incident on the site, a long-term noise monitor was installed adjacent to measurement position C at the north-eastern perimeter of the site. The monitor was attached to a lamp post and positioned approximately 3m above the ground. The location of the monitor can be seen in Appendix A, and the results of the survey can be seen in Appendix B.

It is important to note that during the initial E3P assessment period ICoNiChem Widnes Ltd was performing reduced operations, which means that noise levels measured during the night-time period are likely not to be representative of the typical night-time noise levels. This is corroborated further by the results of the environmental sound survey undertaken by NOVA Acoustics Ltd which shows an average night-time noise level of 59 dB, compared to 54 dB in the E3P report. Assuming the dominant source of noise during the night time would be the operations of the industrial estate, a BS4142 assessment can be undertaken using data from both the E3P report and the sound survey undertaken by NOVA Acoustics Ltd. The statistically most repeated ambient noise level has been calculated as 57 dB using the NOVA Acoustics Ltd data, and a residual noise level of 54 dB can be taken from the night time noise level in the E3P report. A statistically most repeated

LA90 (background noise level) of 50 dB is then calculated using the values in the chart in Appendix 1 of the E3P report. Assuming a +5 dB penalty for just audible impulsivity and tonality during the nighttime period, the specific rating noise level is calculated as 59 dB. This is 9 dB above the prevailing background noise level, indicating a high possibility of adverse impact at the proposed development. A calculation summary is shown in Appendix D.

BS8233:2014 Methodology and Outcome Assessment

Figures 7.1 To 7.5 in the E3P report show noise maps modelled in SoundPlan sound-mapping software. It is very unclear how this model has been made.

Specifically, how have the industrial noise sources been modelled, and exactly what is their contribution to the sound climate in the model? Due to the varied plant equipment and operations in the industrial estate, any form of noise model is likely to be unrepresentative of typical, or worst-case noise levels incident on site.

One of the statements that is intended to provide mitigation in the BS8233 section is: *“Future occupants of the proposed residential properties will not notice any ‘change’ due to the existing industrial sound since it already forms a component of the acoustic environment”*

This statement implies that the amenity of future occupants will be protected as the acoustic environment will not change to include industrial noise sources, however, this does not allow for the expansion or intensification of the current businesses, which again is contrary to paragraph 182 of the NPPF.

It is also important to understand that due to the noise levels measured on site, future residents will inevitably have to rely on closing (acoustically glazed) windows to control unpredictable and variable industrial noise.

In conclusion, it is the opinion of NOVA Acoustics Ltd that the noise levels from the industrial sources adjacent to the site have not been effectively assessed. It is likely that the actual impact of the industrial activities is significantly higher than stated in the initial E3P report, and that the development may put unreasonable restrictions on local businesses, contrary to what is advised in the NPPF. The BS4142 assessment was completed without taking into account the 24-hour operational period of certain industrial units, which is again likely to lead to an underestimate of the overall impact.

The following combined response to the initial objections received on behalf of both ICoNiChem and Unifrax was set out within the Officer Report prepared for Committee in November 2019 but not considered by that Committee

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

Response –

- i) Noise Levels – The Council’s Environmental Health would concur that noise from ICoNiChem is clearly audible on the eastern side of the site. Noise calculations carried out by the applicant are also consistent, indicating that noise levels at this boundary are 49-53.5dB_{L_{aeqT}}. Environmental Health acknowledges the concerns raised, however weekly emergency siren tests are not without precedent within the Borough in locations also adjacent residential areas. Such weekly tests would not considered to constitute a nuisance. Operation of tannoy is a normal occurrence on commercial and industrial sites, and where they

are used proportionately, and particularly during daytime hours they would be unlikely to constitute a statutory nuisance.

- ii) Applicant's Noise Assessment - This matter has been addressed in Environmental Health's comments in the Assessment chapter of this report under Noise and Other Amenity Issues.
- iii) Policy S4 – Both objectors cite the failure of the application to satisfy this policy. This policy is not material in the determination of this application as it no longer exists.
- iv) Policy PR8 - Both objectors cite the failure of the application to satisfy this policy. This policy is not material in the determination of this application as it applies only to development near 'Transportation Facilities'. In the context of roads, these are defined as 'major roads' in the policy justification. However the application has been considered in the context of the potential impact on future occupiers from the use of nearby roads and railway in the Assessment chapter of this report under Noise and Other Amenity Issues.
- v) NPPF 170(e) – Both objectors cite the failure of the application to satisfy this policy. This national policy is contained in the 'Conservation and Enhancing the Natural Environment' chapter of the NPPF. This policy is aimed at conserving the natural environment and ensuring new development does not compromise it. In this case, the resulting residential development will improve the current environmental conditions and in this regard would meet the requirements of this part of the NPPF.
- vi) Difference in the current scheme from the previous planning permissions - Both objectors cite applicant's reliance on the previous planning permissions as justification for the current proposal. The current application has been assessed on its own merits and on the basis of the adopted policies of the development plan and NPPF. Consideration is given to the site history and previous planning permissions, however this would not unduly influence the decision of the Council.
- vii) The site should be a mix of retail and commercial in addition to residential - Both objectors cite the failure of the proposal to provide a better mix of uses which the site is better suited for. The Council's adopted policies RG3 and CS9 do not restrict the use of the site to specific uses and each application for development is assessed on its own merits. The site will be functionally linked to the Hive which is 191m away, the nearest grocery retail shopping available 400m away and Tesco is 662m away, providing the nearby availability of a mixture of supporting uses within walking distance of the application site. The proposal is not contrary to the Council's adopted policies or NPPF in this regard.
- viii) COMAH site - Both objectors cite the proximity of the application site to existing COMAH sites and its location within respective consultation

zones. The Council has consulted the Health & Safety Executive as part of the application process who do not advise against.

- ix) Impact on existing operations and future expansion - Both objectors cite the existence of the residential development will impede their current operations and potential for growth. Both ICoNiChem and Unifrax are employers in this area, the former currently employing 64 people and use the local supply chain. The impact on these and other surrounding businesses is material in the determination of this application and the NPPF paragraph 182 states that:-

“Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on the new development in its vicinity, the applicant should be required to provide suitable mitigation before the development has been completed.”

It goes on to say in paragraph 183 that an assumption should be made that the regulatory process will operate effectively in the control of processes and emissions and the planning issues should not be revisited through these.

Members should take account of the objections from both businesses in balancing the regeneration impacts of the scheme and its delivery of affordable homes in this location. The applicant has provided information for assessment to enable the Council to make a decision in this regard, particularly in relation to noise. The Council’s assessment of noise is contained in the Assessment chapter of this report under Noise and other Amenity Issues.

It should be noted that in any future planning application for expansion for either these or any other businesses in the area, would need to meet the requirements of the policies contained in the planning framework at the time.

Occurrences of fires in the area – ICoNiChem has cited incidents of fires in the area and the potential impact of future incidents on the occupiers of the residential properties. Members should note that the security and safe operation of the individual sites in the adjacent employment area is the responsibility of those site operators and owners and should incidents occur, emergency services and other regulators will take any necessary actions. This is not material in the determination of this application.

Following the publication of the November committee report, an objection was received on the day of the Committee from ICoNiChem.

- Objection on behalf of ICoNiChem dated 30th October 2019:-

“NOVA Acoustics Ltd have been commissioned to provide an appraisal of the second acoustic report provided by e3p report reference: 50 – 033 0 R1 – 3 (07/10/2019).

There are still very serious concerns that the issue of noise from ICoNiChem and the effect of these industrial premises on the surrounding noise environment has not been addressed in sufficient detail or adequately mitigated in order to protect the future position and viability of the business. These concerns are outlined below:

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

Paragraph 182 - Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.

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

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

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

ensure the background sound levels used are representative of what would be deemed typical.

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

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

6) Table 3.2 outlines a measurement 'ICoNiChem Plant Item – at source' taken at 7m from the source. The exact source has not been defined and no description of what has been measured has been provided, thus it is unclear if this measurement is truly representative of the noise emissions from the site including all noise sources that could be active.

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

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

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

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

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

12) The provision of glazing and ventilation to the future dwellings outlines a reliance on closed windows. This is of concern where the noise for residents is unpredictable and not continuous (i.e. sporadic industrial noise, especially external machinery and yard activity). On nights when the surrounding industrial noise sources do not currently operate, or have a lower level of activity, for example, the urge may be to open windows for ventilation to bedrooms. The following night, with the surrounding industrial noise sources operating at a higher level, windows are then expected to be closed to control the higher levels of noise. The unpredictability of this is highly likely to be tiresome to residents, leading to complaints about noise from and pressure to curtail the business.

13) The provision of appropriate glazing and ventilation (a sound insulation scheme) does not reduce the likelihood of the future occupants of the development complaining due to the surrounding industrial noise sources. The assessment has not considered the fact that the occupants of the proposed development still have the right to open their windows thus removing the effect of the sound insulation. At which point the occupants would be exposed to industrial noise and likely to complain, which

subsequently would affect the viability of ICoNiChem's business. The site should be designed to ensure that industrial and commercial noise is defined as 'Low Impact' across the entire site for both internal and external areas, thus removing the likelihood of complaints.

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

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

b. does not consider the risk of complaints from residents

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

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

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

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

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

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

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

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

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

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

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

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

In response to the letter on these latest objections on behalf of ICoNiChem dated 30th October 2019 agents acting for the applicant provided the following response dated 5th November 2019:

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

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

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

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

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

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

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

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

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

5. Again, Figure 1 details the NMPs.

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

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

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

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

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

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

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

10. It is considered reasonable to assess internally at night and this approach has been adopted, and accepted by the Local Planning Authority, for numerous other sites across the Country. Given the residents will be inside, asleep, it is considered reasonable to assess internally given the steady state nature of the sound source. Any acoustic features are accounted for here given the tonal nature of the sound

source; the detailed break-in calculations have ensured any tonal noise is mitigated by way of the façade insulation. BS 8233:2014 states the following:

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

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

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

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

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

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

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

In response to that letter from agents acting for the applicant dated 5th November 2019 a further response was received on behalf of ICoNiChem dated 20th December 2019 stating as follows:-

NOVA Acoustics Ltd have been commissioned to provide a response to the letter dated 5th November from Lee Faulkner of E3P. The letter provided does not appropriately address the concerns raised in our letter dated 30th October 2019. Appendix A provides a brief point by point response and the body of the letter highlights the key omissions from the latest response.

1) The justification provided fails to address ICoNiChem's primary concern which is that the acoustic report provided does not appropriately comply with the National Planning Policy Framework 2019 (NPPF), specifically paragraph 182.

Paragraph 182 - Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

ICoNiChem is justifiably concerned that the development of a significant residential site in proximity to their business and other surrounding businesses could place unreasonable restrictions upon them as a result of the proposed development. The issues that will occur are that complaints may arise from the new development. Therefore, we would entirely disagree with the statement provided in point 1 of Lee Faulkners letter; *"E3P suggest that a Noise Impact Assessment for planning purposes cannot determine the likelihood of complaints. Only an Environmental Health Office can determine this, following occupation, with regards to Statutory Nuisance"*. The proposed development is assessed against the NPPF, of which paragraph 182 inextricably applies to the development in question. It is clearly stated that existing businesses should not have unreasonable restrictions placed upon them. The only means of assessing whether this policy can be complied with would be for the acoustic report to provide an assessment of the likelihood of complaints. For the author to suggest that a noise impact assessment cannot determine the likelihood of complaints and this can only be determined following occupation is unjustified and highlights the lack of consideration that has been applied to the NPPF. The inference that the development should proceed and then once built, there should be an assessment by the Local Authority to see if there is cause for a statutory nuisance is concerning. If the development is to proceed, 'Good Acoustic Design' should be implemented at the design stage to remove any concern of the effect on surrounding businesses and justification should be provided during the planning process to alleviate any concerns that the Local Authority may have. Which of course will include consideration that the development will not place an unreasonable burden on existing businesses and hinder their future growth. There are many methods of assessing the likelihood of complaints, of which our suggestion was provided in the last letter:

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

As clearly highlighted in our previous letter, there is a significant number of areas from E3P's noise assessment that could, when cumulatively analysed, significantly increase the likely impact on the proposed development. This factor, in addition to the fact that the assessment has not appropriately considered paragraph 182 of the

NPPF could easily cause unreasonable restrictions on ICoNiChem's business and other surrounding businesses.

2) The advice and recommendations in the report are reliant on a sound insulation scheme being implemented for each dwelling, including acoustically treated ventilation and glazing, to achieve an adequate internal noise environment. This method of mitigation leaves ICoNiChem and other surrounding businesses open to complaints from the proposed development because as soon as an occupant opens their window, they will be exposed to industrial noise during both the day and night. They will also be exposed to industrial noise within external amenity areas. This will give rise to complaints and will in the future place unreasonable restriction on these businesses. Thus, the development cannot be considered compliant with the NPPF and should be refused or amended. To ensure the development complies with the NPPF it should:

a. Present additional analysis to a robust noise criterion that provides the decision maker confidence that the future occupants of the proposed development will not complain due to industrial noise.

b. Implement 'Good Acoustic Design' in all aspects of the development.

These design features can include, but are not limited to, orientating gardens away from the sound source, buffer zones such as site roads between the sound source and development, screening, single aspect facades, re-orientation of internal layouts and specific "noisy" facades adopting fixed windows with appropriate alternative regulatable purge ventilation.

3) The justification provided in the follow up letter does not appropriately justify the points raised and we reinforce our original summary.

In summary, the noise assessment:

a. does not properly consider the "agent of change" principle in the NPPF

b. does not consider the risk of complaints from residents

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

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

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

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

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

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

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

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

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

4) There is still very serious risk that allowing such a development in its current form will lead to an undesirable noise climate for future residents, ultimately leading to significant adverse impacts, likely complaints and pressure to curtail or control ICoNiChem and surrounding business' legitimate and long-standing business activities. The noise assessment which accompanies the application still does not go far enough to even begin to properly consider, in the design of the development, the multiple significant noise sources, or the protection of this legitimate and important local business.

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

Appendix A: Direct Responses to queries:

Point 2: Whilst it is understood that some site attendance occurred for short periods and it is understood that long term unattended measurements are “standard”. The issue remains that E3P cannot categorically state that the unattended measurements, that form the baseline of the assessment, were not affected by industrial noise. Whilst the difference in the background sound level may be marginal, this is one of many marginal differences that could cumulatively alter the outcome of the assessment. The site and surroundings form a complex acoustic environment and thus the use of shorter attended measurements could be relied upon more than longer unattended measurements.

Point 3/4: The author has presented some additional analysis here; it would be useful to see this in full and in the report. As per point 2, if it cannot be ratified by E3P that the unattended background sound level measurement was affected by industrial noise. It may be more pertinent to use the lowest background sound level measured to minimise the risk on surrounding businesses and assess during both day and night.

Point 5: From the description provided E3P’s measurements did not include noise from the other noise sources on site including, but not limited to, the bag house fan systems and the vibrator, the latter which has been measured at over 95dBA. The author has stated that E3P are confident that the main sound source from ICoNiChem has been considered in the assessment but then goes on to acknowledge that some noise sources may not have been operational during attendance. Thus reducing the level of confidence. We would also state that it is not uncommon practice to request access to an industrial site to, at least, request access to get a better understanding of the noise emissions and also measure all noise sources at source. We are not aware of any requests being made to ICoNiChem for access to undertake this exercise.

Point 6: Clarification has been provided of the sources that were operational during the source noise measurements as “*hopper like items and the pipes that feed them*”. If this is the only source of noise that was active during the measurement of ICoNiChem, it fails to include noise from the other noise sources on site including, but not limited to, the bag house fan systems and the vibrator.

Point 7: No clarification has been provided as to how the noise emissions from ICoNiChem have been modelled. ICoNiChem is an 18,000m² site with a multitude of internal and external process and plant units that generate noise. The author has stated that the noise sources from ICoNiChem are “*hopper like items and the pipes that feed them*”, so one could only assume that the noise emissions from ICoNiChem have been modelled on the basis of a single point source (the hopper like items) when in actual fact there are an array of other noise sources that have not been considered in the assessment. The other noise sources on site including, but not limited to, the bag house fan systems and the vibrator. Clarification is required as to how ICoNiChem has been inputted into the model. In our professional opinion we do not believe such a large industrial site could be accurately modelled without noise levels being assessed at source on the ICoNiChem site.

Point 8: Based on the points above it is clear that not all noise sources have been considered from ICoNiChem. Therefore, E3P cannot ratify that the rating level is appropriate. If the assessment had included measurement of the bag house fan

systems and the vibrator, then tonality and intermittency corrections may also have been applied.

Point 9: Based on the points outlined again above the accuracy and reliability has not been adequately addressed.

Point 10: The statement made does not provide any reasonable justification as to why BS4142 has not been applied at night. BS4142 states a method of assessing industrial noise at both day and night, as this is pertinent to assessing the likelihood of impact. It could only be assumed that a less onerous standard such as BS8233 has been applied as it favours the developer. The application of BS8233 should be completed in addition to a BS4142 analysis, however the BS4142 should be the primary assessment method or appropriate justification should be provided as to the alternative assessment method. The author has quoted a section of BS8233 which refers to 'continuously running plant', which we must assume is what ICoNiChem is being referred as. As previously stated there are numerous sources of noise from ICoNiChem and in their own report they state that the dominant source of noise from ICoNiChem was *"hopper like items and the pipes that feed them"*, we would not consider this noise source to be akin to 'continuously running plant' and thus the night time assessment should apply BS4142.

Point 11: This does not go against the quoted advice. Please refer to point 10, the author has gone against the quoted advice by not applying the correct standard, BS4142. It is standard practice to assess an industrial noise source against BS4142 and then, if required, utilise BS8233 to aid in specifying appropriate sound insulation measures. But the BS8233 assessment must ensure the character of the noise source has been considered, as the BS8233 internal noise criteria is based on steady state **anonymous** noise sources.

Point 12: Whilst suggesting alternative ventilation to achieve appropriate internal levels in accordance with BS8233, may be considered 'Standard Practise' and in all instances may achieve appropriate internal noise levels - when in use. This analysis leaves the reliance on forced closed windows to guarantee appropriate internal noise levels yet forced closed windows have not been specified. Thus, as the author states in section 7.6.2 that purge ventilation will be provided by openable windows. This leaves the occupant to have the free will to open their window, at which point the alternative ventilation strategy and acoustic glazing is irrelevant, and the occupant is exposed to industrial noise. The industrial noise not being an anonymous source of noise and would likely give rise to complaints in relation to the surrounding businesses.

Point 13: Placing a reliance on the provision of an alternative ventilation scheme and the 'hope' that the occupant will utilise the ventilation system to avoid being exposed to industrial noise, fails to achieve the requirements of paragraph 182 of the NPPF. Leaving the proposed dwellings being exposed to industrial noise and will give rise to complaints.

A later letter of objection has since been received from Carpenter Additive (Formerly LPW Technology) dated 23rd December stating as follows:-

As a business operating a short distance from the application site we would like to submit an objection to the application on the grounds set out below:

Noise levels

Our process relies on the consumption of Argon gas fed from a bulk storage system located externally on our premises. This system is designed to vent off and this can result in a noise emission, which is of such significance that it can be heard at other local business premises and will potentially be heard from the application site. This venting process from the bulk systems cannot be guaranteed to be confined within certain hours of any particular day. Additionally the argon system is filled from received tankers and this operation can take between one and two hours to complete. The operation of filling can take place at any time across 24 hours as per our delivery contract.

Spoil contamination findings

Our original baseline report of the environmental considerations for the site did not cite a residential development as a nearby potential future receptor. The report did however clearly state that the Council would have to locate any removed topsoil (due to contamination) "Away from residential properties". We have had no confirmation from the Council that the spoil which was moved to the currently unused land on our site has been effectively removed by the Council.

Future expansion

As a developing business the opportunities for future expansion and diversification into downstream manufacturing processes present us with real tangible opportunities. We are concerned these opportunities could be limited by a local residential development.

Any business expansion would likely result in additional working hours including 24/7 operations. Issues from noise as stated above will only increase and traffic impact from employee movements, deliveries and despatches should not be compromised by concerns from a local residential development.

Conclusion

We feel the applicant has failed to consider our current business within this application and authorisation of any local residential development could seriously adversely impact our future development plans. We want to protect our business in terms of current use and future expansion.

We accordingly respectfully request the Planning Authority refuse the application in its current form.