

## **Wigan Council**

### **Report for Delegated Items**

**Application No:** A/21/90786/OUT

**Applicant:** Bryant Services Inc

**Development Proposed:** To develop 0.3Ha of land for residential purposes (all matters reserved)

**Location:** Dover Lock Inn Warrington Road Abram Wigan

**Ward:** Abram

### **Development Plan Notation:**

Within the Green Belt

### **Previous Relevant Decisions:**

A/75/03946 - Change of use storage space to bar with ancillary toilet accommodation. Approved.

A/78/11292 - Extensions and alterations to public house. APC

A/89/32052 - Proposed alterations and extensions. APC

A/89/33153 - Erection of conservatory extension to public house and change of use of first floor function room to manager's accommodation. APC

A/90/34122 - New traffic access to existing public house and car park. Approved Subject to Sec 52 Agreement

A/96/46351 - To erect marquee for 7 months (April to October used on an annual basis) REF

A/03/58097 - Alterations and extension to public house to include function room, bar and wc's. APC

A/04/62338 - Construction of raised terrace on brick piers together with laying out of 9no. additional carparking spaces. APC

A/19/86733/OUT - Outline application for residential development, seeking approval of access, layout and scale for 5 dwellings, all other matters reserved. Refused.

A/19/88245/OUT - Outline application for residential development, seeking approval of access, layout and scale for 5 dwellings, all other matters reserved. (Re-submission of A/19/86733/OUT) Refused

### **Consultations:**

#### *Natural England*

Advises that given the information currently provided by the developer NE highlights the need for further information to determine the potential impacts on the SSSI. There is outstanding information that NE had previously requested (advice dated 08/01/2020 ) including a Construction Environmental Management Plan (CEMP), specifically to include

how dust pollution and potential surface water pollution will be managed. We would expect to see and approve the CEMP prior to the commencement of any works. No evidence has been provided to demonstrate that there will be no impact from the development on breeding birds associated with the SSSI, we had previously advised that survey work would be needed, however desktop evidence could be provided in place.

*Greater Manchester Ecology Unit*  
*Proximity to Abram Flashes SSSI*

The SSSI lies across the Hey Brook and Warrington Road, with hydrological connectivity via the Hey Brook to the southern part of the SSSI. The site is primarily designated for breeding and wintering birds. Potential negative impacts could therefore occur due to impacts on hydrology and increased disturbance.

Given the scale of the development, impacts on hydrology should be easy to avoid by following best practice during construction and post development by ensuring any drainage towards the Hey Brook is of better status than any current drainage direct to the Brook and ideally all surface water and foul water discharged to existing public sewers. (see below for recommended conditions).

In terms of disturbance the number of houses is relatively low and therefore increased usage by walker/dog walkers is probably not significant. It does however only take one regular dog walker, accessing the site to flush birds on a daily basis. I would therefore recommend that an owners pack is produced regarding the importance of the SSSI if permission is granted. The details can be conditioned

Given the proximity to the SSSI, Natural England should be consulted.

*Bats*

Whilst the previous surveys in 2018 assessed the building as high risk for bats, the new assessment has determined the building as low risk for bats. This could well be a genuine change owing to deterioration of the building making it damper and therefore less suited to bats and either way further surveys are required prior to determination, just one if low risk and three is high risk. I also note that the previous report regarded the building as having hibernation potential.

I would therefore recommend at least two emergence surveys prior to determination (ie split the difference), along with an updated assessment on the hibernation potential.

*Badgers*

The 2021 assessment found potential evidence of badgers foraging nearby., though no such evidence was found in 2018 and no setts were found. The GMEU holds no records of badger in the area. As a precaution I recommend an informative along the following lines.

"The applicant is reminded that under the Protection of Badgers Act 1992 it is an offence to intentionally or recklessly interfere with a badger sett. If a badger sett is found on or near the developments site work should cease immediately and a suitably experienced ecologist employed to advise on how best to proceed."

### *Water Vole and Otter*

Otter have been recorded within this catchment downstream and water vole also recorded. The 2018 survey however found no such evidence. The 2021 survey does not specifically state whether such surveys occurred. Whilst the Brook is likely going to be well buffered during construction preventing likely impacts on water vole, otter stray from watercourses and could be at risk during construction.

I therefore recommend that prior to determination further information is provided on whether the Hey Brook and canal were assessed for water vole and otter.

### *Contributing to and Enhancing the Natural Environment*

Section 170 of the NPPF 2019 states that the planning policies and decisions should contribute to and enhance the natural and local environment. This includes maintenance of ecological connectivity. The main habitat impact is minor losses of trees and scrub along with loss of bird nesting habitat and potential bat roosting habitat dependent on the findings of the survey as well as a narrowing of the Hey Brook corridor.

A 3m buffer is proposed along the Hey Brook as mitigation. I would argue given the site is located between the two halves of the SSSI that maintaining and enhancing connectivity should occur ie no narrowing, whether or not 3m is adequate in order to protect the Brook. I would however accept Natural England's and the EA's opinion if they disagree. Mitigation for loss of trees, shrubs and bird nesting habitat should be provided on-site and given this is an outline application can be provided as part of reserved matters if outline permission is granted. Any such mitigation and enhancement should look to improve ecological connectivity along the Hey Brook, Canal boundary and between the two halves of the SSSI. Native tree species, appropriate to the locality should be utilised.

Bird nesting opportunities should be provided on the new build such as swift bricks, or eaves suitable for house martin to reflect the losses associated with PH. Nest boxes for species that utilise scrub should also be provided on retained trees etc. A condition along the following lines would suffice

" As part of reserved matters an ecological mitigation and enhancement plan should be provided that includes but not restricted to:  
enhanced ecological connectivity between the two halves of the Abram Flashes SSSI  
ecological enhancements along the Hey Brook;  
mitigation for loss of trees and shrubs  
mitigation for loss of bird nesting habitat."

Further conditions were recommended to address:

- \* Nesting Birds
- \* Himalayan Balsalm
- \* Protection of the canal and SSSI during the works.
- \* Ecological

### *Environment Agency*

Hey Brook is an important and valuable wildlife corridor and forms part of the legally protected Abram Flashes Site of Special Scientific Interest (SSSI). Development that encroaches on watercourses and SSSI's can have a potentially severe impact on their

ecological value. Consequently, if a development proposal cannot be sighted elsewhere it should, as minimum, be designed in a way in which ensures adverse impact upon biodiversity is avoided, adequately mitigated or as a last resort sufficiently compensated for (see paragraph 175 of the NNPF).

From October 2020 to January 2021, following the previous application for this development site, we separately engaged with applicant and their planning agent via our chargeable planning advice service. As part of this service, we advised the applicant/agent that the layout design of the development must include an undeveloped buffer zone established between built development features (buildings, garden fences, access road, pavement, car parking) and the banktop of Hey Brook.

An 8 metre wide buffer zone is the standard requirement for most development proposals which in a majority of instances can be provisioned as part of a development. However, due to the features of the site and access requirements, we acknowledge the area available for built development is constrained. In virtue of this, as part of our planning advice service we advised the developer that we would be willing to consider a reduction of the standard 8 metre buffer zone width subject to sufficient and suitable ecological surveys being submitted as part of planning application's evidence basis.

Whilst we acknowledge that ecological surveys have been undertaken as part of the submission of this application, we note that the surveys submitted do not include an assessment of water vole (*Arvicola amphibius*) and took place at a suboptimal time of year. Therefore these surveys cannot be considered sufficient and suitable for robust assessment and we must request the inclusion of an 8m Buffer Zone as a condition. We note that this is not currently present as part of the illustrative layout plan (uploaded 23rd April) with a 3 metre easement from being shown alongside the banktop of Hey Brook for a significant length of the proposal. We would be willing to review the requirement / and or wording for Condition [1] subject to the submission of suitable ecological surveys undertaken at the correct time of year.

Due to the site's proximity to the Abram Flashes SSSI, we would also advise seeking a consultation and a position statement from Natural England, if not already sought.

#### *Public Rights of Way*

From a PROW perspective there is no objection in principle to this application, however I was wondering if the pavement on the south side of Warrington Road would be extended into the site, past the reservation and up to public footpath Abram No. 34. This would potentially prevent vehicles from squeezing between the reservation in the entrance, and the existing wooden fence, which marks the edge of the site boundary. This would help safeguard pedestrians emerging from the footpath, into the site, as well preventing persons parking right in front of the footpath.

In addition will any provision be made to prevent vehicles being parked in front of the access to the canal towpath.

#### *Highways and Traffic*

Visibility: The development site uses an existing site access. The required visibility splays should be as described in Manual for Streets 2, which is 2.4 metres by 50 metres. Dover

Bridge is located to the northwest of the site access and the applicant will need to show that the required visibility splays can be achieved.

Parking: The proposal will have to comply with the Council's parking provision policy.

No objections in principle:

- \* The internal site layout is not to an adoptable standard. To achieve this the carriageway would have to be 5.5m wide and have 2m footway all around.

- \* Due to the growth in online shopping the site will require swept path analysis for a 12m fixed axle vehicle.

- \* There is no visitor/service vehicle parking area. This will also help to discourage inappropriate parking in the turning head.

- \* The gradient of the vehicular access should not exceed 1 in 20 for the first 15m into the site measured from the nearside edge of the carriageway of Warrington Road. This is in the interests of road safety and will enable vehicles to enter and leave the site in a safe manner without causing a hazard to other road users.

- \* Refuse Services should be consulted to see if they will collect from this location. If they will not collect from this site, then the applicant may have to consider using a private company to collect refuse.

#### *United Utilities*

No objections subject to conditions relating to foul and surface water drainage

#### *Lead Local Flood Authority*

No drainage details have been submitted, however the indicated discharge rate in the Flood and Drainage Assessment is acceptable. There are concerns over the location of plot 6 in flood zone 3 on the indicative layout plan.

#### *Canals and Rivers Trust*

Canal

Further details relating to the potential impact on the structural integrity of the canal would be required, this can be controlled via condition.

The indicative layout with rear gardens facing the canal would detract from the character of the canal corridor. The proposed layout has potential to impact on the integrity of the waterway and its future maintenance, along with the maintenance responsibility for landscaping. The landscaping details should also demonstrate that suitable barriers such as a knee high timber railing can be provided to prevent the risk of vehicles from entering the waterway. Boundary treatment details are required to also be agreed and we would recommend native species hedgerows.

If the Council is minded to approve the application then along with the reserved matters conditions requiring details of the ongoing maintenance and management of landscaping and boundary treatment should be secured.

#### *Flood Risk, Foul and Surface water drainage*

The planning statement sets out that all drainage from the site would be to septic tanks with bio-disc plant which would outfall to Hey Brook. Subject to the location of the drainage infrastructure being sited away from the canal embankment and there being no discharge to the canal then this would be acceptable to the Trust. The final drainage details would however be required to be covered by a condition depending on the final layout of the scheme.

The submitted Flood Risk Assessment does not address the potential for a canal breach or overtopping which we consider should be acknowledged within the FRA. Although unlikely that it would breach, the canal is a 200 year old asset which is not built to modern engineering standards. We note reference to the dwellings having raised finished floor levels which should help to mitigate the potential risk from a canal breach.

Given the proximity of the development to the canal and towpath in terms of the demolition existing building and construction then the developer would need to ensure that the development is carried out in accordance with the Trusts Third Party Works Code of Practice. We welcome that the supporting statement mentions that the works will be carried out in accordance with the Code of Practice.

### *Environmental Protection*

No objections subject to a noise survey and mitigation measures to protect the development from noise and vibration from Warrington Road and contamination investigations and mitigation measures to be implemented.

Air quality mitigation measures are required to compensate the air quality impact of the development, including the provision of at least 1 EV charging point per dwelling.

### *Public Comments*

#### *Abram Neighbourhood Forum*

Abram Neighbourhood Forum (Now Abram Communities Together (ACT) have submitted a nomination for the Dover Lock in to be added to the Council's list of Assets of Community Value (ACV). ACT have objected to the application on the basis of the pending ACV nomination.

The application was advertised by means of neighbour letter, posting of site notices and publishing in the local press. Letters of representation were received from 52 individuals, 50 objecting to the development, 1 neutral and 1 letter of support. The points raised in these written representations are detailed and addressed later in this report.

### **Planning Policy:**

#### Revised National Planning Policy Framework (NPPF) 2019

The NPPF sets out a presumption in favour of sustainable development. Paragraph 7 of the NPPF states that the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Paragraph 9 of the NPPF states that plans and decisions need to take local circumstances into account, so that they reflect the character, needs and opportunities of each area.

Paragraph 177 of the NPPF states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site.

The NPPF re-iterates that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

#### Wigan Local Plan Core Strategy

SD1 - Presumption in favour of sustainable development

CP6 - Housing

CP7 - Accessibility

CP8 - Green Belt and Safeguarded Land

CP9 - Strategic Landscape and Green Infrastructure

CP10 - Design

CP12 - Wildlife Habitats and Species

CP16 - Flooding

CP17 - Environmental Protection

#### Wigan Saved Unitary Development Plan Policies

A1S - Parking in New Development

EV2C - Features of Major Importance for Nature Conservation and Wildlife Corridors

EV3F - The River Douglas, Canal Network and Other Water Features

#### Supplementary Planning Documents (SPD)

Canalside Development and Infrastructure SPD

Design Guide for Residential Development SPD

#### Landscape Design 2021

#### Development and Air Quality 2021

### **Site Description:**

The application site consists of a detached building comprising a Public House. The land levels differ significantly on the site and the building is two storey at the front (south east) and three storey at the rear (north west).

There is a small car park to the front of the premises, with a single lane access point running to the rear of the property to a second car parking area. To the north of the car park is an overgrown area of land which is currently unused.

To the west of the building is a grassed area which forms the beer garden to the Public House. To the east of the site is the Leeds Liverpool canal. There is no built development directly to the north, west or south of the site. The site is located in the designated Green Belt and a wildlife corridor (as designated by the saved UDP proposals map). The site is also located in Flood Zone 2 and 3.

## **Description of Proposed Development:**

The applicant seeks outline permission for residential development.

The application is in outline form with all matters reserved. An indicative layout has been submitted which demonstrates 6 detached dwellings, with scale parameters indicating that these will be two storey in design.

## **Principle of Development – Green Belt:**

The application site lies within the designated Green Belt and is therefore subject to assessment against the NPPF and Policy CP8 of the Wigan Local Plan Core Strategy.

NPPF Paragraph 133 states "The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence".

NPPF Paragraph 134 sets out the five purposes which the Green Belt serves:

- a) "to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land".

NPPF Paragraphs 143 and 144 state that inappropriate development, is by definition, harmful to the Green Belt and should not be approved unless very special circumstances exist which outweigh the harm caused by the proposal.

The construction of new buildings should be regarded as inappropriate within the Green Belt unless they meet one of the exceptions tests set out in Paragraph 145. Exceptions include:

- A - Buildings for agriculture and forestry
- B- The provision of appropriate facilities for outdoor sport and outdoor recreation or cemeteries
- C - The extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building
- D - The replacement of a building, provided the new building is within the same use and not materially larger than the one it replaces
- E - Limited infilling in villages or
- F - Limited affordable housing for local community needs set out in policies in the development plan
- G - Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

The proposed development does not fall within A, B or C of the exceptions tests, the proposal does not represent limited infilling in villages, as the site is on the outskirts of Abram and is not within close proximity to any built development between the canal and Golborne to the south, therefore it does not constitute infilling within a village under clause E.

Part D refers to the replacement of a building, provided the new building is within the same use and not materially larger than the one it replaces. Whilst the proposed dwellings would not be within the same use as the current building, it is acknowledged that there is residential accommodation within the building and the proposed dwellings would be two storey and therefore smaller in scale than the existing building, however, the primary use of the building and site was a public house with the residential element ancillary to the main use. Therefore it is not considered the proposal would represent a replacement building in the same use and so does not accord with criterion D.

From the indicative layout, the proposed dwellings do not appear to comprise affordable housing for the local community, there is no suggestion within the application proposal, that the dwellings would be offered below market value at an affordable rate, and despite a request to clarify this, the applicant has not advised the dwelling would be affordable. Therefore, the proposal does not meet Part F of the exceptions test.

The definition of previously developed land in the revised NPPF, is land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface buildings. This excludes land in built up areas such as residential gardens, parks recreation grounds and land that was previously developed but where the remains of the permanent structure or fixed structure have blended into the landscape.

The site is considered to be previously developed, however much of it comprises hardstanding areas or the beer garden area of the public house. Whilst these areas may be considered to be previously developed, they have minimal impact on the openness of the Green Belt. As the definition in the NPPF states, it should not be assumed the whole curtilage of previously developed land should be developed.

The red edge on the location plan indicates the potential for development across the entire site, including the car park and beer garden. The development of 6 dwellings would require built development across a larger area of the site than is currently the case. It is considered that the potential development on the entire site would have a materially greater impact on the openness of the Green Belt by virtue of the increase in developed area of the site and urbanised appearance and feel the proposal would bring to an area of the Green Belt.

The application has been submitted in outline form with all matters reserved. The applicant has declined to include layout, scale and access as part of the proposed

development, despite a request from the LPA. This request was made outside the 1 month from submission of the application.

The applicant has therefore failed to demonstrate the proposal would not have a greater impact on openness of the green belt on this site and has declined to include matters such as layout and scale which could evidence this. The LPA is unable to confirm based on the details submitted that the proposal would not have a greater impact on openness of the Green Belt on this previously developed site. The proposal therefore represents inappropriate development which is by definition harmful to the Green Belt. The proposal fails to comply with Wigan Local Plan Core Strategy Policy CP8 and the revised NPPF.

### *Indicative Layout and Scale*

The indicative layout demonstrates the provision of 6 detached dwellings across the whole of the site, including on the site of the car park to the north of the building and the grassed area to the west, which currently forms part of the beer garden to the premises. There are no permanent structures on the car park or within the beer garden area, and there is no built development surrounding the site other than the Public House building itself.

Although this layout is indicative it is provided to demonstrate how 6 dwellings could be accommodated on the site. The LPA considers a development of 6 dwellings would have a greater impact on the openness of the Green Belt on this site, due to the increase in built form and development across the site. The development area for 6 dwellings would in all likelihood encroach into areas of the site such as the car park and beer garden which currently have little impact on openness of the Green Belt. The indicative layout plan demonstrates this. The addition of 6 dwellings to the site would also bring with it activity and infrastructure associated with dwellings, such as boundary treatments and garden structures which would further impact the openness of the Green Belt.

No appearance details have been submitted, however the indicative layout appears to be of a simple layout with enclosed rear gardens facing the canal towpath. No consideration of the local vernacular has been demonstrated as part of the proposed development in terms of scale and layout proposed along the Canalside. Whilst the proposal incorporates only an indicative layout, the layout proposed would leave little scope for design articulation in the subsequent reserved matters application and would not respect or enhance the canal as a feature. The scale of the dwellings would be a dominant feature along the canal rather than respecting the canal as a public space and its historic vernacular and landscape.

The proposal does not include any details of the wider public space in the area, either along the canal towpath or along the public footpaths which serve the Wigan Flashes and no improvements to access to the canal network are proposed.

Whilst the application has been submitted with all matters reserved, and therefore the layout and appearance matters are not for consideration as part of this application and are therefore not a reason for refusal, the LPA would expect these matters to be addressed in a more considered form and detail as part of any subsequent planning application on the site.

## Loss of Community Facility

Paragraph 92 of the NPPF states that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
- b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;
- c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;
- d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and
- e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

Policy CP3 of the Wigan Local Plan Core Strategy seeks to extend and enhance opportunities for people to participate in community activities by, only allowing development that would result in the loss of a community facility when either:

\* It can be demonstrated that there is no longer a need for the facility or an alternative facility of equivalent or better standard will be provided on site or elsewhere.

Planning appeal APP/W3005/W/15/3134656 refers to the loss of a Public House. The Inspector found that the pub functioned solely as a public house and did not function as a shared space with other users and was not used by other organisations, therefore it was found that although the public house was valued by its clientele, its loss would not reduce the ability of the wider community to meet its day to day needs.

The Inspector also found that there were other public houses within the vicinity of the appeal site, providing a good choice of drinking establishments sufficient to serve the needs of the local community. In this case, the Dover Lock sits on the outer edge of the village, with the Abram Village Club being sited within 0.5 miles of the Dover Lock and the Bucks Head public house being sited 0.6 miles from the Dover Lock.

As such, the Inspector concluded that the loss of the public house would not leave the local community underserved by such facilities or significantly reduce its ability to meet its day-to-day needs. The Inspector concluded that the loss of the public house would not conflict with the NPPF which seeks to ensure that sufficient community and cultural facilities and services are available to meet local needs.

The property is currently paying Business Rates as a Public House and Council Tax for the first floor flat. However, the public house use has not operated since 2018, indicating the use may not be a viable business in this location. The area has become accustomed to this community facility not being available for a public/community use.

The proposed loss of the public house would therefore not have a significant impact on the community, as it does little to impact the day to day needs of the community. The proposal would therefore not be contrary to NPPF or Policy CP2 for this reason.

## **Asset of Community Value**

A nomination was received by the Council on 30th April 2021 for the Dover Lock Inn to be added to the Council's list of Assets of Community Value (ACV). The Council has 8 weeks in which to consider the nomination and a decision on the status of the nomination as an ACV is pending, due for a decision on 2nd June 2021. The applicant was asked to agree an extension of time to allow for the ACV nomination to be considered, as this would affect the material planning considerations, however the applicant declined to agree and extension of time. Therefore, the LPA is required to determine this application in advance of a decision on the ACV designation.

Whilst the nomination is currently under consideration, the LPA considers that the pending ACV status is a material planning consideration. However, given the outcome of the ACV nomination is not yet known this carries very limited weight. As discussed above there are two other drinking establishments within Abram Village, should the ACV status be granted, there would not be a significant impact on the community through the loss of this facility. The potential ACV status of the site is not considered a reason to refuse this application.

## **Ecology**

Paragraph 175 of the NPPF refers to habitats and biodiversity, and states that when determining planning applications, local planning authorities should apply the following principles:

A - If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or as a last resort, compensated for, then planning permission should be refused.

B - development on land within or outside a Site of Special Scientific Interest and which is likely to have an adverse effect of it should not normally be permitted. The only exception is where the benefits of the development clearly outweigh both its likely impact on the features of the site that make it of special scientific interest and any broader impact on the national network of sites of special scientific interest.

Wigan Local Plan Core Strategy Policy CP12 states: We will help wildlife to prosper and safeguard important geological features by:

- \* Protecting and enhancing our Sites of Special Scientific Interest and Species of Principal Importance in England in accordance with legislation and national planning policy as applicable.

- \* Protecting and enhancing regional and local priority habitats and species and other features of value to wildlife ensuring, as far as practicable, that habitats are part of linked networks and not fragmented.

Saved Wigan UDP Policy EV2C states: The Council will also protect and enhance the Borough's wildlife corridor network. Only in exceptional circumstances will it permit development proposals which would destroy or adversely affect the integrity of this.

DESIGN PRINCIPLE 7 of the Canalside Development and Improvement SPD - Promoting biodiversity states that developments should incorporate features that recognise, protect and enhance the biodiversity and environmental quality of the canal corridor. This would

include native planting and creation of appropriate habitats. Impact on habitats and biodiversity at the adjacent SSSI is covered within the Ecology section of the report.

Natural England, Greater Manchester Ecology Unit (GMEU) and the Environment Agency were consulted as part of the proposed development, the site is adjacent to Abram Flashes which is a SSSI and is within a wildlife corridor (designated by the Saved UDP proposals Map). The application was accompanied by an ecological appraisal however this contained inconsistent information in relation to the potential for roosting for bats with previous surveys on the site, insufficient information relating to otters, and badgers and contained no information relating to water vole.

Two previous applications on the site have failed to provide sufficient ecological surveys to adequately assess the impact on the SSSI.

In addition, as the applicant declined the request to include layout for consideration at outline stage, it cannot be demonstrated that a sufficient buffer between the SSSI and the proposed development can be achieved to allow connectivity across the SSSI and wildlife corridor. GMEU also raised concerns that on the indicative layout, a 3 metre buffer was demonstrated and insufficient information has been submitted to demonstrate that 3 metres would be adequate to maintain and enhance connectivity between the two halves of the SSSI. The Environment Agency require a minimum 8 metre undeveloped buffer zone from the top of Hey Brook, which has not been demonstrated.

Natural England has been consulted on the proposal and confirmed that at pre-application stage, Natural England had advised the developer of the required information to be submitted in relation to the potential impacts on the SSSI. This information was not submitted as part of the planning application and as such, insufficient information has been provided in support of the application to evidence that the proposal would negatively impact the nearby SSSI including breeding birds associated with the SSSI.

GMEU has been consulted on the application and has raised concerns relating to the submitted ecological surveys with reference to bats, water voles and otters. In relation to bats, the previous application which contained surveys in 2016 states that the building was high risk for bat roosting but the 2020 survey suggest the building is low risk for bats. GMEU therefore requested additional bat surveys to be undertaken prior to determination of the application to verify that protected bat species would not be harmed by the proposed development.

With reference to water vole and otter, the ecological report submitted with the application does not contain information relating to whether surveys were undertaken for water vole and otter. GMEU therefore requested that further information be provided to clarify whether the Hey Brook and canal were assessed for water vole and otter. Without this information it is not possible to confirm the proposed development would not harm water vole and otter species in the area.

The Agent acknowledged that consultation responses had been submitted requesting additional information, however no further information had been submitted in support of the application.

The ecological survey submitted with the application does not contain details relating to water vole and otter and contains insufficient information relating to bats and their potential for roosting in the existing building.

The supporting statement refers to a Habitat Regulations Assessment (HRA), however the Agent withdrew this document from the submission prior to the application being registered, therefore the HRA does not form part of the application, as requested by the planning agent.

It is therefore considered that the application contains insufficient information in relation to the potential ecological impacts of the development proposal in relation to species on site and particularly the impact on the nearby Abram Flashes SSSI and would therefore be contrary to the objectives of Paragraph 170 of the NPPF which states that planning policies and decisions should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils.
- Preventing new and existing development from contributing to, being put at an unacceptable risk from or being adversely affected by unacceptable levels of soil, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans.

The proposal would also fail to comply with Wigan Local Plan Core Strategy Policy CP12 and Saved Wigan UDP Policy EV2C.

### **Flooding, Land Drainage and Canal:**

DESIGN PRINCIPLE 6 of Canalside Development and Improvement SPD - Using sustainable drainage states that developments should use the opportunities afforded by the canal to support the development of sustainable drainage solutions, where appropriate. Drainage is covered in more detail in the body of the report.

The application site lies within Flood Zones 2 and 3 of the Environment Agency's Flood Risk matrix and as such was required to be accompanied by a flood risk assessment(FRA).

The Environment Agency are satisfied that the submitted FRA evidences the proposed development would not lead to an unacceptable risk of flooding on the site.

The Canals and Rivers Trust raised concerns regarding the potential impact on the structural integrity of the canal and must comply with Paragraphs 170(e)and(f),178 and 179 of the NPPF which states that the responsibility for securing a safe development rests with the developer or land owner.

However the Canals and Rivers Trust are satisfied that a condition can be imposed requiring a risk assessment and method statement to be undertaken in relation to the impact of the development on the structural integrity of the canal.

The CRT have raised concerns regarding the indicative layout submitted with the application with the rear gardens of the proposed dwellings facing onto the canal.

The CRT raised concerns relating to the submitted flood risk assessment which does not address the potential for a canal breach of overtopping into the canal which they consider should be acknowledged in the FRA. However the CRT are satisfied that raised floor levels may overcome the potential of flooding from a canal breach.

The LLFA have reviewed the application and raise no objection on grounds of flood risk or the drainage discharge rates. Concerns were expressed regarding the location of plot 6 on the indicative layout as this falls in flood zone 3. However, this layout is indicative and so the location and flood risk of this plot is not considered reason to refuse this application.

### **Canalside Location and Design**

Policy EV3F seeks to endure that developments in Canalside locations is sympathetic to the visual qualities of the area and its traditional waterside character and the wildlife values of its features.

The Canalside Development and Improvement SPD seeks to enhance canals as a landscape feature by increasing accessibility, relieving eyesores and by the creation of a positive relationship between the canals, river and any new development which adjoins them.

**DESIGN PRINCIPLE 1 - Respecting the canal.** Developments should capitalise on their waterside location and promote natural surveillance of the canal through the siting, configuration and orientation of buildings and the use of appropriate boundary treatments. The use of close boarded fencing or blank boundary treatments / elevations to the canal should be avoided.

**DESIGN PRINCIPLE 2 - Achieving the right scale of development -** New developments should be of an appropriate scale and massing in relation to the local context and it should not overwhelm the canal. The re-use of existing Canalside buildings should be considered as part of the design process.

**DESIGN PRINCIPLE 3 - Respecting the local context -** The design, detailing and materials of new buildings should reflect and / or compliment the local historic vernacular and elements within the landscape. This contextual approach also supports high quality contemporary designs in Canalside areas.

**DESIGN PRINCIPLE 4 - Improving public spaces -** The towpath and its environs should be considered as part of the wider public space within the area, in terms of its design and future management.

**DESIGN PRINCIPLE 5 - Improving access to the canal towpath -** As far as possible, developments should create new or improved public access to the canal towpath, including through bridges or links to existing bridges where appropriate and new and improved crossing points.

Whilst the proposal is outline with all matters reserved, the indicative layout demonstrates the proposed dwellings rear facing to the canal with boundary treatments to face the canal frontage, which is contrary to the advice in the SPD.

As the proposal is in outline form with all matters reserved, layout, scale, landscaping and appearance details would be considered at reserved matters stage or on a subsequent application on the site. However, it would be expected that the applicant give consideration to the local vernacular in terms of scale and layout along the canalside.

## **Other Matters**

### **Access and Parking**

The proposal does not include means of access as part of the submission, Access to the site is already established. It is assumed the proposed development would utilise the existing highway access and parking provision for two cars per dwelling would be required in order to meet Council's maximum parking standards as set out in Appendix 9 of the Replacement UDP. These matters would be assessed in more detail at reserved matters stage or on a subsequent application.

### **Amenity**

The proposed development would not result in an unacceptable impact on amenity of neighbouring properties or future residents of the proposed dwellings in terms of overlooking, overshadowing, noise or traffic due to the proximity of the site to neighbouring properties and nature of the surrounding uses.

### **Landscaping**

No landscaping details have been submitted, however the application is in outline form with all matters reserved, therefore proposed landscaping is not considered as part of the current application.

## **Observations on Objections Raised:**

the neutral letter of representation from a member of public was received in relation to the Abram Flashes SSSI and refers to the requirements for a full bat survey to be carried out. The letter of representation also refers to the design of the roofs being required to be sympathetic to House Martin and the potential for flooding of the site. These issues have been addressed in the officer's analysis in relation to ecology and flooding.

The letter of support relates to the premises being in dilapidated state.

The letters of objection relate to the site being within the Green Belt, impact on a Site of Special Scientific Interest, flooding and the loss of a community asset and impact the business could have on the local economy.

All of these matters are covered in the main body of the report.

A letter of objection also advised there were problems with the Council website and there were long periods when the objector could not submit their comments. Other comments were received through the website during this period. The LPA is not aware of any issues submitting comments on this application through the Council website.

### **Planning Balance and Conclusion:**

The site lies outside of the east-west core referred to in the Wigan Local Plan Core Strategy and the Council is currently able to evidence a deliverable 5-year housing land supply, currently 6.14 years based on the Local Housing Need calculation methodology as Wigan Local Plan is over 5 years since adoption. The proposal would do little to contribute towards housing need within the Borough and given Wigan's 5 year housing land supply provision at this time, the delivery of housing would carry limited weight for the redevelopment of the site when considered against potential the harm to the Green Belt and possible harm to protected ecological sites and species, both of which carry significant weight. The proposed housing delivery would not outweigh the harm caused to the openness of the Green Belt and possible ecological harm to the site and area.

The proposal would be contrary to the requirements of the revised NPPF (2019) and Policies CP8, CP9 and CP12 of the Wigan Local Plan Core Strategy, Saved UDP Policy, EV2C and the Canalside Development and Improvement SPD.

The proposal would represent inappropriate development within the Green Belt as it has not been evidenced it would not have a greater impact on the openness of the Green Belt. Inappropriate development is by definition harmful to the Green Belt.

The proposal contains insufficient information in relation to the ecological values of the building proposed to be demolished and the site and species in the area. Also insufficient information is provided to ensure the proposal would not cause harm to the adjacent SSSI.

It is recommended that the application be refused.

### **Human Rights Act 1998**

Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to refuse this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

### **Section 17 of the Crime and Disorder Act 1998**

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to refuse, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Time Taken for Decision**

Under 8 weeks to determine      Yes

**Recommendation:**

Refuse

**Decision Notice Code**

P3

**Reasons:**

1. The proposed development is situated within an area of land which forms part of the designated Green Belt. The applicant has failed to demonstrate that the development would not have a greater impact on the openness of the Green Belt than the existing development on the site. The proposal would therefore represent inappropriate development which is by definition harmful to the Green Belt. The proposal is contrary to Policy CP8 of the Wigan Local Plan Core Strategy and the Revised National Planning Policy Framework (2019).

2. The application contains insufficient information to evidence that there would not be harm from the potential ecological impact of the development, including on the adjacent Abram Flashes Site of Special Scientific Interest and adjacent habitats and species. The development is therefore contrary to the objectives of the revised National Planning Policy Framework (2019) and Policies CP9 and CP12 of the Wigan Local Plan Core Strategy and saved Unitary Development Plan Policy EV2C.

**Informative**

1. This application has been determined on the basis of the scheme as detailed on drawing number:

The location plan

The site plan

Existing Site/Block Plan

B0523/3695/02 section plans

7085 CH/EEH - volume plan

The Planning Statement dated January 2021

Flood Risk and Drainage Assessment Final Report V1.1 dated March 2021

Preliminary Ecological Appraisal and Bat Scoping Report reference Ha/21-001 Dated 5th February 2021

received on 30th March 2021