

**RE: 22/00203/FUL – LAND AT CHESTER ROAD, PRESTON ON THE HILL,
HALTON BOROUGH COUNCIL**

SUBMISSIONS OF PRESTON BROOK PARISH COUNCIL

1. This document sets out Preston Brook Parish Council’s representations regarding the amended application by Morris Homes for development of 136 dwellings at Chester Road, Preston on the Hill (“the Application Site”/ “the Development”).
2. Specifically, the Parish Council wishes to comment on the design of the project and the protection of the historic environment, the use of s.106 and Community Infrastructure Levy (“CIL”) funds and measures to ensure community safety. Given the imminence of the decision on the proposed application by the planning committee, the below representations must be taken into account and incorporated into any potential grant of planning permission through the addition of relevant conditions and/or amendments to the S106.
3. The starting position for any development proposal is, pursuant to s.38(6) of the Planning and Compulsory Act 2004, Halton Borough Council must determine the application in accordance with the development plan unless material considerations indicate otherwise. This embodies a legal “*presumption in favour of the development plan*”, the policies of which need to be followed unless material considerations have been identified which indicate that a particular policy need not be followed: (*Suffolk Coastal District Council v Hopkins Homes* [2017] UKSC 36. If policy is to be departed from, this will need to be done consciously and with clear and cogent reasons given: *R (Watermead Parish Council) v Aylesbury Vale District Council* [2017] EWCA Civ 2137 at paragraph 29. The Parish Council is concerned that certain aspects of policy compliance are not clearly established by the Application and that

material considerations have not been identified which allow for a departure from the development plan.

Design and the Natural Environment

Tarporley Siltstone

4. The Tarporley Siltstone is an important site of geodiversity which dates back to the Anisian Age.¹ It is therefore a site of significant local historical and geological interest. The rock formation is situated on Chester Road, adjoining the proposed development. It is recognised by both the British Geological Survey² and Historic England³ and as such forms an important part of the Parish's natural environment.
5. Sites such as the Tarporley Siltstone are afforded protection by policy HE1(10)(c) of the Halton Delivery and Allocations Plan, adopted 2 March 2022, which states as follows:

“To ensure the protection, conservation and enhancement of Halton's natural environment in accordance with Core Strategy policy CS(R)20, development will be permitted provided that:

...

(c) it does not have a detrimental impact on the non-designated sites and habitats of ecological value.”

6. Policy CS(R)20 reaffirms the same:

“Halton's natural and heritage assets, and landscape character will contribute to the Borough's sense of place and local distinctiveness in accordance with the following:

1. A hierarchical approach will be given to the protection, nature conservation and enhancement of biodiversity and geodiversity...”

¹ 242 million years ago.

² <https://webapps.bgs.ac.uk/lexicon/lexicon.cfm?pub=TPSF>

³ <https://historicengland.org.uk/content/docs/advice/building-stones-england/bse-excel-cheshire/>

7. Further, CS(R)20(2) adds that “opportunities to enhance the value of Halton’s natural assets should be taken.”

8. The purpose of the above policy is explained at para 7.125 of the Delivery and Allocations Plan:

“Halton’s natural and historic environments provide the Borough with a range of biological, geological and heritage assets which are not only of environmental value but provide a social and economic resource and ultimately contribute to the character of the Borough’s landscapes. These assets should therefore be conserved and where possible enhanced for current and future generations and to ensure a strong sense of place and improve local distinctiveness.”

9. The development plan therefore affords substantial protection to the natural environment, of which the Tarporley Siltstone is an important geological feature. In order to reflect the policy protection and ensure the development accords with the surrounding natural environment, natural stone materials need to be used within the site so as to continue and maintain the sense of place created by the Tarporley Siltstone and not harm the setting of this geological asset. These should be secured through an appropriate condition.

10. Similarly, the stone-filled wire mesh gabion walls⁴ proposed to the leftwards edge of the site, and the Terramesh units proposed to face the canal should be replaced with natural stone alternatives. Such an approach is supported by policy GR3(1)(3):

“Boundary fences and walls that require planning permission will be required to be:

...

(c) appropriate to the character and appearance of the area in which they are located.”

11. Natural stone would be a more sensitive alternative to wire-mesh walling, which would be ill-suited to the natural environment surrounding the development and

⁴ See Plan “Amended – 2019-20896-03-CP-D-SECTIONS.”

therefore conflict with the development plan. This reflects the importance of the Tarporley Siltstone as a geological resource unique to the area. This again should be secured by a condition requiring submission to and approval by the Council of a materials palette providing for this change.

Canal-side Development

12. The Parish Council acknowledges the two listed buildings identified in the Heritage Impact Statement: Brook House, a Grade 2 listed canal-side cottage, and Old Number One, a Grade 2 listed canal warehouse. We appreciate the recognition of their significance and the inclusion of these assets in the following extract from the Heritage Statement:

3.1 There is one listed building in the vicinity of the site, with a further listed building located over 200m to the south, along the canal. The nearest conservation area is situated over 2km in Daresbury.

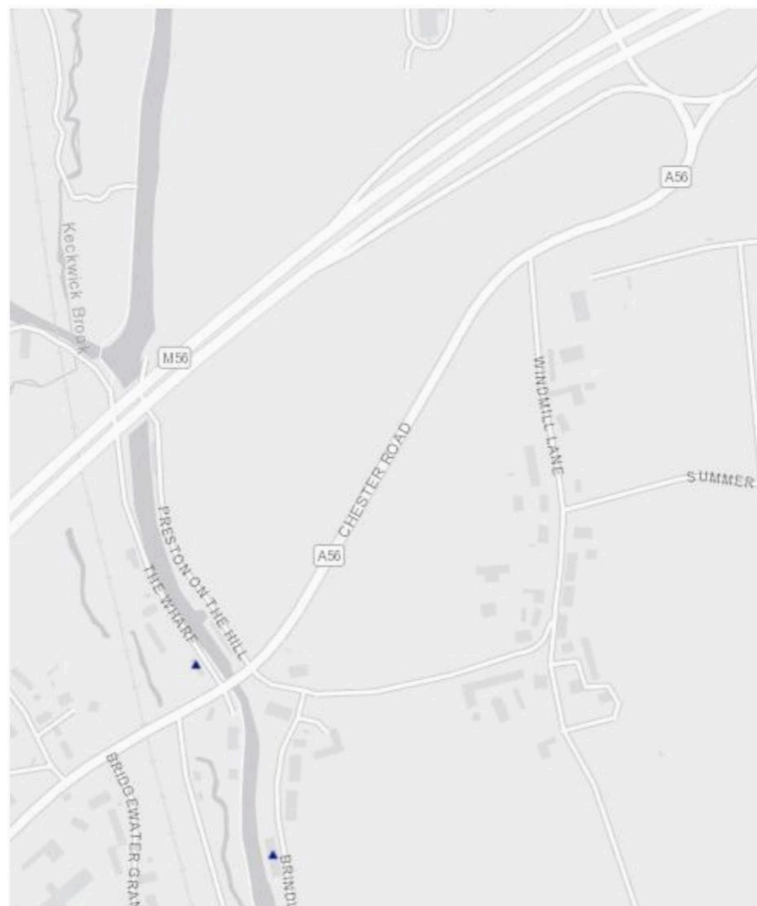
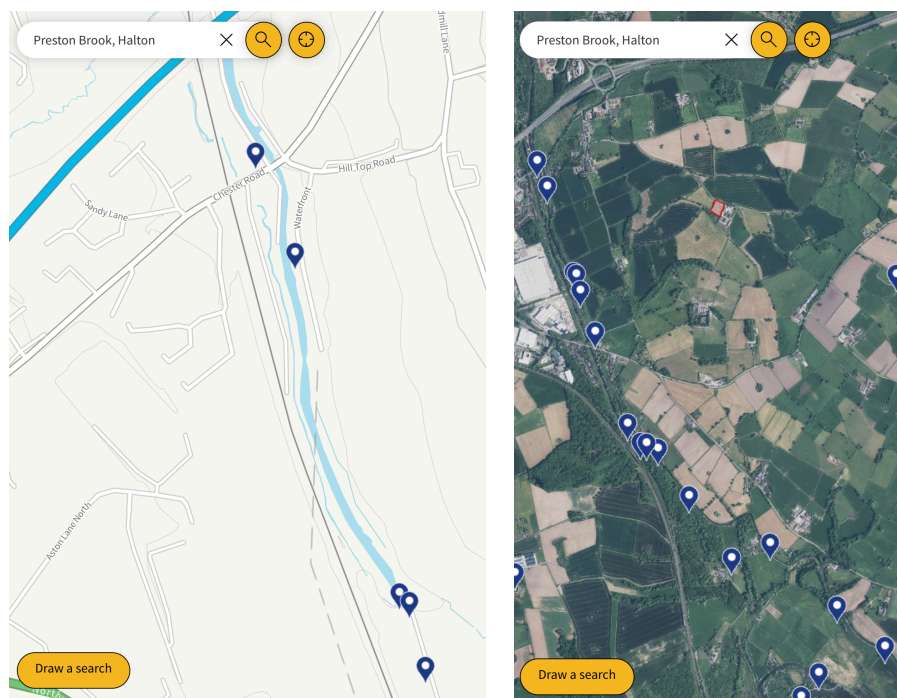


Figure 1. Extract from Historic England Listed Building Map

13. However, the Council also notes the omission of several significant nearby heritage assets, which are crucial to the broader historical context of the area. In addition to the two listed buildings referenced, there are three more listed landmarks within the Parish, located just a short distance along the Canal. These form part of a wider network of heritage assets along the Bridgewater Canal, underscoring the historical significance of the site. Unfortunately, these additional assets have not been adequately considered or included in the Heritage Impact Assessment provided by the developer. One notable example is the Preston Brook Tunnel Entrance (Grade II, Entry No. 1104925), listed by Historic England. The protection status of this asset is unclear in the report, and whether this is an oversight or not, it is essential that any Heritage Impact Assessment fully appraises this asset. As outlined in the National Planning Policy Framework, a comprehensive understanding of the setting and significance of listed buildings is necessary to assess how the proposed development could affect them. This includes considering how developments may impact heritage assets in the surrounding area, even if they are not directly adjacent to the site in question. It is crucial that this asset is properly evaluated, so the potential impacts on its significance can be understood and addressed. Historic England extracts:





Preston Brook Tunnel Entrance

14. The Preston Brook Canal Tunnel, listed as a Grade II heritage structure since October 31, 1983, holds significant historical value, particularly for its role in the development of the Bridgewater Canal during the Industrial Revolution. The tunnel is an integral part of the Bridgewater Canal which is often regarded as the "first true canal" in England. This designation highlights not only the tunnel's architectural and engineering importance but also its broader economic impact, as it played a key role in shaping Britain's industrial landscape.
15. Spanning 1,250 yards and designed by the renowned canal engineer James Brindley, the tunnel is a crucial component of the Bridgewater Canal, which was completed in 1770. The canal was designed with a focus on navigational efficiency, featuring artificial cuts and locks that optimised trade, enabling the swift transport of goods and produce. This innovation in canal design set the standard for future developments, marking the beginning of a transformative era in Britain's infrastructure.

16. The Bridgewater Canal was not only a pioneering engineering project but also a driving force in Britain's economic rise. By facilitating the efficient movement of goods, the canal network helped establish Britain as a global leader in industrial production. It fuelled urbanisation, technological advancements, and economic growth during the late 18th and early 19th centuries.
17. The Preston Brook Canal Tunnel was instrumental in linking the Bridgewater Canal to the Trent and Mersey Canal, creating a vital trade route that enabled the transport of coal, pottery, and other goods between Manchester and the Midlands. This connection reduced transport costs and provided a significant economic boost to Northern England. Preston Brook itself served as a key location for connecting the canal to the navigable River Weaver, showcasing innovative engineering techniques that set a benchmark for future infrastructure projects.
18. As the 250th anniversary of the tunnel approaches in 2025, its significance as a remarkable feat of engineering continues to be a testament to Britain's industrial heritage. Given the requirement of the NPPF that heritage assets be conserved in a manner appropriate to their significance, it is essential that any proposed development in the vicinity of this asset fully considers its historical value. The NPPF stresses that development should not harm heritage assets, and that proposals must demonstrate a clear understanding of their importance and potential impacts (para 194-197). In light of this, any development near the Preston Brook Canal Tunnel must be thoroughly assessed to ensure that its historic and cultural significance is preserved for future generations.
19. The Heritage Impact Statement submitted by the developer has not fully addressed the broader historical context of the Preston Brook Canal Tunnel and its place within the wider network of heritage assets along the Bridgewater Canal. The tunnel's significance is not just as an isolated structure but as a vital component of the Cheshire Ring Canal Walk, a popular and well-travelled route that connects a network of canals across the region. This walking trail provides a greater context for the experience of visitors to Halton, as it enables them to engage with a rich tapestry of heritage sites, including the Preston Brook Tunnel, as they traverse the canal network.

20. The Cheshire Ring Canal Walk brings together multiple heritage assets, offering a broader and more immersive historical experience for those exploring the area. The walk allows people to connect with the history of the canal system in a way that isn't confined to any one specific site. Ignoring the importance of the Cheshire Ring Canal Walk in the Heritage Impact Statement overlooks the integral role that the tunnel plays in the broader experience of canal heritage. Visitors don't just travel past the development in isolation; they engage with a wider historical and cultural context that helps to deepen their understanding of the region's industrial and engineering achievements.



Cheshire Ring Canal Walk Maps

21. In light of this, it is essential that the Heritage Impact Statement reassesses its appraisal of the Preston Brook Canal Tunnel, considering its placement within the context of the Cheshire Ring Canal Walk. As outlined in the National Planning Policy Framework (NPPF), it is crucial that development proposals fully understand and protect heritage assets in their entirety, considering both direct and indirect impacts. This should include acknowledging the broader context in which these heritage assets exist, particularly when they form part of a well-established route that contributes to the heritage experience of a large number of people.
22. The Parish Council strongly disagrees with the conclusions presented in Section 4.7 of the Heritage Impact Assessment, which asserts that the potential heritage sensitivity is “within a very limited area of the overall site allocation”. Moreover, the Council takes issue with Section 4.12, which claims that “the proposal will cause no harm to the significance or setting of the listed buildings”. These statements do not align with the Parish Council’s understanding of the site’s historical significance, and we believe that the development proposal fails to comply with Policy CS(R)20.
23. A critical concern is the omission of the Preston Brook Canal Tunnel from the Heritage Impact Assessment. This Grade II listed heritage asset is of considerable local significance, yet its status and potential impact from the proposed development have not been adequately addressed. Such an omission could be seen as evasive, undermining the full extent of heritage protection required under both national and local planning policies.
24. In the case of *Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council [2014] EWCA Civ 137* (Court of Appeal), it was established that the impact on the setting of listed buildings must be given significant weight in the decision-making process, even if a heritage asset is located a considerable distance away from a development site. The Court ruled that the desirability of preserving the setting of listed buildings, as enshrined in Section 66(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*, requires that this consideration be afforded “considerable importance and weight” when balancing the potential harm and benefits of development proposals. This is consistent with the NPPF, which states that in

making decisions that affect heritage assets, the "great weight" should be given to the conservation of such assets.

25. Currently, the planning authority has not sufficiently engaged with the significance of the Preston Brook Tunnel or its wider context as part of the Bridgewater Canal's network of heritage assets. The tunnel is not only a listed structure in its own right, but it is also part of a much larger historical and cultural fabric, including the Cheshire Ring Canal Walk, which has not been sufficiently considered. This wider context is crucial to understanding the impact that the proposed development might have, not just on the immediate vicinity, but also on the experience of heritage that visitors and residents derive from these assets.
26. As the *Barnwell Manor* case further reinforces, local planning authorities are required to consider the full impact of proposals on heritage settings, and the omission of such a significant listed asset leaves a gap in the heritage assessment. The failure to properly appraise the Preston Brook Canal Tunnel is a serious oversight and compromises the ability of the planning authority to properly assess whether the proposal will cause harm, or whether such harm can be mitigated, in line with NPPF guidance.
27. It is the position of the Parish Council that the absence of adequate consideration for the Preston Brook Tunnel and other heritage assets, as well as the inadequate treatment of their settings, means that the proposal does not comply with the necessary legal frameworks designed to protect such assets. The Council respectfully urges the planning authority to reconsider the proposal with a more thorough and transparent understanding of the potential impacts on local heritage.
28. In addition to the above, the Parish Council are in firm opposition against the use of chain-link fences⁵ along the canal, and have concerns regarding the visual impact of the development on the Canal. Fencing and development along the waterway should be appropriate to the character and appearance of the area, as supported by GR3(1)(3) detailed above.
29. Similarly, policy HE3(3), which concerns waterways and waterfronts, states:

⁵ See Plan "Amended – N1160-ML01-MATERIALS LAYOUT."

“Development alongside Halton’s waterfronts should ensure that:

...

e. New development presents a public face to the waterway and is in keeping with local character in terms of scale, design and materials.”

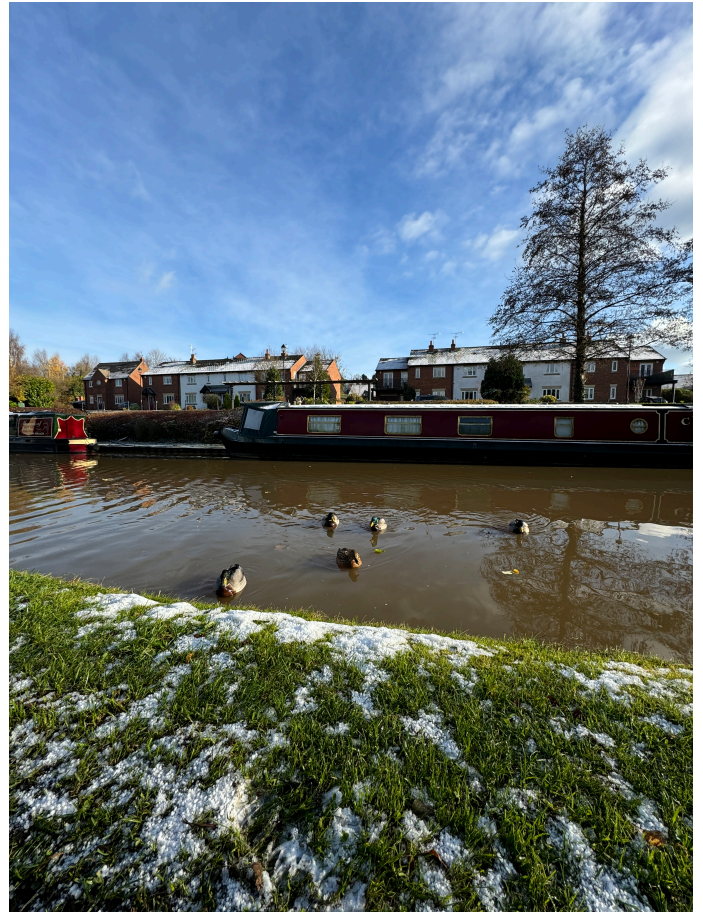
30. The current fencing proposals do not present a “public face to the waterway” and would be incongruous with the location next to the canal and more suitable fencing should be implemented and set further back behind the green corridor so that wildlife from the canal continues to enjoy the same unrestricted access to its habitat as it currently does. The canal is an important community asset and should be protected from development consisting of unsuitable design and materials. There is no reason, let alone good reason, to allow for departure from these requirements of the development plan. A condition should be imposed to enable this scheme change.

Infrastructure

31. The Council strongly opposes any loss of the roadside verges next to Chester Road where it intersects the Canal. This area is a key viewpoint, attracting many tourists on weekends. We would like to see the existing single bench increased to three, with adequate bins to manage waste properly. While we welcome the addition of a bike lane, which promotes active lifestyles, it’s vital that cyclists have a safe, scenic spot to pause. Extending the cycle path a few feet at the expense of these verges would damage a valued community space. If the cycle path must continue, it should shift to a shared space on the existing highway at this point, rather than sacrificing an area that holds both practical and sentimental value for the community. The Council requests that it be made a condition of planning for the cycle path to either stop prior to the driveway of Midland Chandlers (The Wharf) or transition into a shared space at this point. The grass verge over the bridge must be fully retained to preserve this important community viewpoint and tourist spot.
32. Heritage-style infrastructure compatible with the history and design of the area should be employed across the development. This would include heritage-style streetlights, benches, and other features in all public spaces. This must be secured through

conditions or through approved documents, or else there is no guarantee the character of the surrounding area will be suitably preserved. To put this into perspective, just 10 metres away on the other side of the bridge, the Canal offers a completely different experience - gardens, green space, and a peaceful path where locals and visitors enjoy the Canal's natural beauty and historical charm (photographs below). This development, as proposed, risks undermining that. We're concerned it will significantly alter the area's character and disrupt the tranquil experience that people value, particularly for those using the Cheshire Ring Walk that runs alongside the Canal. The Council's position is clear: development should not discourage visitors from exploring this stretch of the Canal or disturb the quiet, serene space the community treasures. The current proposals, with their lack of consideration for the surrounding environment, are not sympathetic to this cherished space and would result in harm that's difficult to overlook.





33. The development plan, through policy GR1(1), would support this proposal:

“The design of all development must be of a high quality, and must demonstrate that it is based upon the following principles:

- a. A clear understanding of the characteristics of the site, its wider context and the surrounding area;
- ...
- c. The creation of visually attractive places that are well integrated with the surrounding buildings, streets and landscapes.”

34. Para 13.2 further emphasises the importance of good design, stating that it “should be a key objective of all those involved in delivering sustainable development. Development should take the opportunities available to improve the quality and appearance of an area and the way it functions.”

35. Ensuring that public utilities and furniture such as streetlights and benches are of good design, reflect the wider heritage context of the surrounding area and the characteristics of the Parish would therefore be in keeping with the development plan. Such an approach should be prioritised in accordance with the policy and the corresponding explanatory text.
36. That natural materials such as stone and timber wood will be used for the natural play areas is endorsed.⁶ However, those materials should be locally sourced, in order to support carbon reduction and sustainable development. Again, this ought to be secured by condition.
37. This sustainable approach to development is reflected in Policy GR1(4):
- “All major development proposals involving the construction of new buildings must demonstrate how sustainable design and construction methods will be incorporated to achieve resource efficiency and resilience to climate change in accordance with CS(R)19 taking into account the site specific viability of the development, where appropriate.”
38. The same is endorsed in policy CS(R)19(1):
- “All new development should be sustainable and be designed to have regard to the predicted effects of climate change including reducing carbon dioxide (CO₂) emissions and adapting to climatic conditions.”
39. As such, local stone and timber should be utilised for the development of the play areas identified in the Open Spaces Strategy produced by Morris Homes. Again, a suitable condition ought to be imposed.
40. Without each of the above proposed changes, the Development will conflict with the Development Plan and do so in circumstances where no cogent reasons are provided for why departure is appropriate. The Parish Council considers that would not be a lawful approach, or one that is justifiable in planning terms, but

⁶ “Amended - M3364 Open Space Strategy V2,” page 4.

that these deficiencies can and should be remedied through the determination of the Application.

Section 106 and the Community Infrastructure Levy

Wigg Island

41. The Planning Position Statement, dated May 2024, produced by Morris Homes states at paragraph 2.1 that part of the amendments to the application includes:

“An agreed financial contribution to mitigate the loss of Green belt which occurred when the site was allocated for development, which the Council intends to spend at Wigg Island.”

42. Paragraph 2.2 also explains that, as part of Morris Home’s financial contributions:

“A draft s.106 Agreement has been submitted which contains provision relating to... off-site open space contribution (*anticipated to be £131,000*), with element to be used at Wigg Island.”

43. It has therefore been accepted that such a contribution is in principle necessary, directly related to the development and fairly and reasonably related in scale and kind, and therefore passes the tests set in Regulation 122(1)(a) of the Community Infrastructure Levy Regulations 2010. However, it follows from this conclusion that the monies must be spent in a way that mitigates the planning harm identified. The Supreme Court held in *Wright v Resilient Energy Severndale Ltd* [2019] UKSC 53 at [44] that a financial contribution which does not relate directly to the use of the land in question, but is instead proffered as a general inducement to the community at large, will not be a lawful material consideration. Therefore, these developer contributions must be targeted to support local community infrastructure. Policy HC5 of the Delivery and Allocations Plan states that the Council will plan for “the following community facilities up to 2037:

- a. Education

- b. Health and Social Care Facilities
- c. Sport and Leisure Facilities
- d. Youth Facilities
- e. Community Facilities
- f. Cultural Facilities”

44. Further, pursuant to policy HC5(2), “the Council will support the retention and enhancement of Community Facilities.”

45. This approach is reflective of paragraph 97 of the National Planning Policy Framework (“**NPPF**”), in Chapter 8 entitled “Promoting healthy and safe communities”:

“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;

...

e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.”

46. Projects such as Wigg Island do not pose any direct benefits to the inhabitants of Preston Brook and as such should not be in receipt of the developer’s funds. Wigg Island is a nature reserve some distance from the proposed development and financial contributions to its maintenance or enhancement would not serve the residents nor their immediate surrounding area. The contribution, which is indeed necessary, would not pass the 2010 Regulations tests if it was spent in this location, given the lack of proximity. Instead, such contributions should be spent on heritage, environmental sustainability, leisure and recreational facilities in the local community which are

required to meet the needs of the Parish's growing population and where the harm of this development would be mitigated through the contributions.

47. The Council firmly believes developer contributions should be directed towards mitigating this harm and enhancing the Canal's historic environment. For example, there is currently a lack of interpretation boards or information along the Canal and the Cheshire Ring Canal Walk to educate visitors about its historical importance and the Tunnel's role. The Council proposes allocating funds to improve this, alongside practical enhancements such as planting, benches, bike racks, and improved lighting to make the Canal a more welcoming space for the community and visitors alike. The Council also wishes to collaborate with the Canal & River Trust on projects that celebrate the Canal's heritage, such as interpretation boards, birdhouses, and infrastructure to support future initiatives like a "canal classroom" for educating children on the historical significance of the canal system. These projects would not only offset the harm caused by the development but also create meaningful, long-lasting benefits for the area. We hope Halton BC will give due regard to the National Planning Policy Framework and ensure developer contributions are spent fairly and appropriately to support the heritage and community assets impacted by this proposal.

Governance

48. Given it acts as representative to the immediate community, Preston Brook Parish Council is the best steward for managing the proposed s.106 and CIL funds.⁷ It has a deep understanding of local needs and can efficiently allocate those funds in a manner that is most beneficial to the residents of the area. Importantly, the s.106 funds should be reserved for projects that also anticipate the future widespread development of Preston Brook, with additions such as a local allotments; tennis/pickleball courts; heritage protection, and environmental sustainability projects which focus on woodland creation, community composting schemes, and other schemes designed to future-proof a community which is currently widely under serviced. These projects, which the Parish Council already has a stake in providing and enhancing, would

⁷ The maximum 15% available pursuant to s.59A(5) Community Infrastructure Levy Regulations 2010.

foster community ownership, as well as improve local resident's health and well-being, in accordance with policy HC5 and paragraph 97 NPPF detailed above. The Parish Council is best placed to deliver on such infrastructure and should take the lead in its implementation.

49. Further, the Parish Council is currently in the process of producing a Neighbourhood Development Plan.⁸ As such, it should have a substantial role in the allocation of s.106 and CIL funds, given that it will soon have a structured plan in place for development in the area, allowing for the effective delivery of projects which provide maximum benefit to the local community.
50. Finally, the Parish Council would recommend that public spaces within the development (such as the community orchard⁹) be transferred to them for a fee upon completion. Similarly, the Parish Council should be the sole managing administrator of any future ground maintenance fees, so as to ensure local oversight and management.

Community Safety and Assets

51. The Parish Council supports the view that the speed limit on Chester Road should be limited to 30mph, which would better protect the safety of residents, future and existing.
52. Additionally, the proposed cycle path¹⁰ should be expanded to encompass the addition of a bridleway. This proposal is in accordance with policy GR3, which states:

“Development proposals should make a positive contribution to their surroundings and ensure they contribute to the creation of a high-quality public realm that enhances conditions for pedestrians and cyclists.”

⁸ <https://www.prestonbrookparishcouncil.gov.uk/neighbourhood-plan>

⁹ “Amended - M3364 Open Space Strategy V2,” page 3.

¹⁰ Design and Access Addendum, December 2023, page 4.

53. Further, Policy C1(2) gives support to development provided that:
- a. It gives priority to walking, cycling and public transport within its design where appropriate;
 - b. there is inclusive walking and cycling provision to local facilities and sustainable networks.
54. A bridleway alongside the cycle path would facilitate a greater array of public use and enhance its accessibility. As such, it is a preferable alternative to the 3-metre cycle path and footway proposed, which would limit the available public space and the activities open to the community.
55. The Parish Council seeks also for the scheme to introduce a shared space over the canal. Given the risk that the current public infrastructure such as the grass verges, bins, and bench could be lost to accommodate additional cycleways, it would be preferable that a significant portion of green space be reserved to ensure pedestrians are able to continue travelling to Preston Brook and take a seat, while enjoying the view over the canal, without this being impeded by additional transportation routes. A shared space system, which would allow consideration to be given to all vehicles, cyclists, and horse riders, while crossing the canal bridge, would not only provide a sensible solution, but would also be a nod to the heritage of the village where at one time all such uses would have been found to be sharing the same space.

Conclusion

56. The Parish Council would request that the above suggestions are adopted by Halton Borough Council and Morris Homes. Given the stated position of the developer is to apply for a non-determination appeal¹¹ unless the Council makes its decision prior to the agreed expiry date, it is important that the above proposals are considered and incorporated before any decision is made on the application by the committee. Such matters above should be considered an objection to the application, until such

¹¹ Planning Position Statement, para 4.4.

remedies can be agreed upon in a collaborative way. While the Council notes the developer has made contact a number of times, there has been no solution provided to significant issues, especially the development impact on the canal and the allocation of S106 monies - these are both significant issues to the Parish and without further movement on these matters, any communication is not collaborative or productive. The Parish Council reserves the right to pursue a judicial review on any decisions made that we feel are in breach of planning policy, and especially the allocation of developer contributions to the Parish.

Yours sincerely,

For and on behalf of Preston Brook Parish Council