
Report to: Planning Committee **Date of Meeting:** 29th March 2017

Subject: TOWN AND COUNTRY PLANNING ACT 1990 APPEALS

Report of: Stuart Barnes
(Chief Planning Officer) **Wards Affected:** All

Is this a Key Decision? No **Is it included in the Forward Plan?**
No

Exempt/Confidential No

Purpose/Summary

To advise Members of the current situation with regard to appeals. Attached is a list of new appeals, enforcement appeals, developments on existing appeals and copies of appeal decisions received from the Planning Inspectorate.

Recommendation(s)

That the contents of this report be noted for information since the appeal decisions contained herein are material to the planning process and should be taken into account in future, relevant decisions.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		✓	
2	Jobs and Prosperity		✓	
3	Environmental Sustainability		✓	
4	Health and Well-Being		✓	
5	Children and Young People		✓	
6	Creating Safe Communities		✓	
7	Creating Inclusive Communities		✓	
8	Improving the Quality of Council Services and Strengthening Local Democracy		✓	

Reasons for the Recommendation:

What will it cost and how will it be financed?

(A) Revenue Costs – N/A

(B) Capital Costs – N/A

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal		
Human Resources		
Equality		
1.	No Equality Implication	<input checked="" type="checkbox"/>
2.	Equality Implications identified and mitigated	<input type="checkbox"/>
3.	Equality Implication identified and risk remains	<input type="checkbox"/>

Impact on Service Delivery:

None.

What consultations have taken place on the proposals and when?

The Head of Corporate Resources (FD 4575/17) has been consulted, and notes that there are no financial implications for the Council as a result of this report

The Head of Regulation and Compliance has been consulted and has no comments to make (LD 3858/17)

Are there any other options available for consideration?

No.

Implementation Date for the Decision

N/A

Contact Officer: Debbie Robinson
Tel: 0345 140 0845 (Option 4)
Email: monitoring@sefton.gov.uk

Background Papers:

Background documents can be viewed for each application at <http://pa.sefton.gov.uk/online-applications/>

Appeals Received and Decisions Made

Email: planning.department@sefton.gov.uk

Contact Officer: Mr Steve Matthews 0345 140 0845 (Option 4)

Please note that copies of all appeal decisions are available on our website:

<http://pa.sefton.gov.uk/online-applications/>

Appeals received and decisions made between 17 February 2017 and 12 March 2017

Appeal Decisions

St Matthews Parochial Hall Thornton Road Bootle

Reference: DC/2016/00590 (APP/M4320/W/16/3162579)

Conversion of existing church hall into 13 self contained residential flats including external alterations, cycle store and bin storage

Procedure: Written Representations

Start Date: 08/12/2016

Decision: Dismissed

Decision Date: 23/02/2017

New Appeals

Cafe D' Art 26B Chapel Lane Formby Liverpool L37 4DU

Reference: DC/2016/00621 (APP/M4320/W/16/3154587)

Removal of Condition 2 of Application Reference Number N/2003/1180 restricting opening hours from between 9.00 am to 11.30 pm to allow unrestricted operating hours

Procedure: Written Representations

Start Date: 24/02/2017

Decision:

Decision Date:

Land To The South Of Andrews Lane Formby

Reference: DC/2016/01740 (APP/M4320/W/17/3167849)

Outline planning application (with details of access) for residential development comprising of up to 95 dwellings and public open space

Procedure: Public Inquiry

Start Date: 27/02/2017

Decision:

Decision Date:

Lidl Bridge Road Litherland Liverpool L21 6PA

Reference: DC/2016/01250 (APP/M4320/Z/16/3164968)

Advertisement consent for the display of two 48 sheet billboards signs at the front and two 48 sheet billboards signs at the rear of the premises

Procedure: Written Representations

Start Date: 20/02/2017

Decision:

Decision Date:

Wickes 75-91 Ormskirk Road Aintree Liverpool L9 5AE

Reference: DC/2016/01839 (APP/M4320/Z/16/3162177)

Advertisement Consent for 1 free standing pole mounted internally illuminated LED 48 sheet sign facing Ormskirk Road

Procedure: Householder Appeal

Start Date: 06/03/2017

Decision:

Decision Date:

Appeals received and decisions made between [17 February 2017](#) and [12 March 2017](#)

Appeal Decision

Site visit made on 31 January 2017

by **Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 February 2017

Appeal Ref: APP/M4320/W/16/3162579 **Parochial Hall, Thornton Road, Bootle, L20 5AE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Peter McGovern against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2016/00590, dated 23 March 2016, was refused by notice dated 20 June 2016.
 - The development proposed is the conversion of existing church hall into 13 self contained residential flats with cycle store and bin storage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: (i) whether the future occupants of the proposed flats would be likely to experience acceptable living conditions in terms of amenity space provision; and (ii) the effect of the proposed parking arrangements on highway safety in the local area.

Preliminary Matters

3. An Accessibility Assessment (AA), Parking Assessment (PA) and Financial Appraisal (FA) were submitted by the appellant at the outset of the appeal. While the Council has raised issue with these and referred me to the decision at Gordon Road¹, as they do not change the appeal scheme, I have taken them into account in reaching my decision. In the interests of fairness, I invited the Council to submit any comments, however none were received.
4. The Council consider significant weight should be attached to policies in the emerging Local Plan for Sefton (Local Plan), but I am unclear if the policies that are before me have since been changed or if there are any unresolved objections. Also as, the examining Inspector has not issued their findings, I attach the policies in the Local Plan a very limited weight, given their general consistency with the National Planning Policy Framework (the Framework).

Reasons

Living Conditions

5. The Council's adopted Houses in Multiple Occupation (HMO) and Flats Supplementary Planning Document 2013 (HMOSPD) explains that "It is

¹ Appeal Decision Ref: APP/M4320/W/14/3001221

important that some private outdoor space is provided for residents for outdoor activities where possible. The current standard for new flats is 30m² per flat."

However I also appreciate that the more recent New Housing Supplementary Planning Document 2016 (NHSPD) seeks a provision of 20m² of garden space for each flat. Thus, at a minimum the proposed flats would need to provide 260m² to fully address the NHSPD.

6. Regardless of the standard sought, the proposal would not provide any amenity space for the future occupants. Instead, it has been put to me that there are publically accessible outdoor and indoor recreation facilities a short walk away from the site at North Park. North Park offers a range of facilities which include Bootle Leisure Centre², a children's playground, playing fields, skateboard park, basketball court, community allotments and outdoor exercise equipment. Due to the facilities on offer and their proximity to the site, future residents are likely to walk to and use North Park. This would, to an extent offset the lack of on-site amenity space, as it does offer a mix of recreation facilities for the local community and there would be knock-on benefits in terms of the on-going vitality of Bootle Leisure Centre and North Park.
7. Despite this, I am not satisfied that North Park would fully address future occupants' needs or provide the same convenience or privacy that a garden or amenity space would offer, given that residents may only wish to be outside for a short period of time, have a barbeque at home or dry clothes outside, even if tumble dryers are installed. Moreover, as only one of the flats to be rented out would be a one bedroom unit, they could well be occupied by families with children. Although there are play facilities at North Park which occupants with children would in my view use, I do also consider that an amenity space at home in this Primary Residential Area is likely to be an attractive and convenient option compared to solely relying upon the facilities at North Park which does need to be accessed along the busy Stanley Road.
8. I appreciate that flatted developments may not always provide areas of outdoor amenity space, whether this be communal or private and that over time it may not be well used. Despite this, and even though future occupants renting the flats would be mindful of the facilities on offer and not everyone wishes to have an outdoor amenity space, the Framework does in one of the twelve core planning principles in paragraph 17 seek a good standard of amenity for all existing and future occupants of land and buildings. In this respect, the appeal scheme would not, without some form of on-site amenity space, fulfil this as future occupants would be reliant upon the facilities and public space at North Park which are not private and may not always be convenient, attractive or suitable for future occupants to use. Consequently their living conditions would be detrimentally affected.
9. Even though the nature of terraced dwellings locally means that those occupants can only call on a rear yard, despite its size, it is a private amenity space which is specifically to be used by the occupants at that property. While some properties may have extended their homes, permitted development rights do not enable the whole amenity space to be developed. Thus, while I appreciate the site's constraints, the proposal would not even reflect this relatively small amount of amenity space that is common place locally.

² Facilities include a fitness suite, swimming pool, leisure pool with flume, sports hall, activity studio, sauna and steam rooms.

10. I therefore conclude, on this issue that the future occupants of the proposed development would experience detrimental living conditions in terms of amenity space provision. The proposal would not accord with saved Policies CS3, DQ1 and H10 of the Sefton Unitary Development Plan (UDP), Policies HC3 and HC4 of the emerging Local Plan, the HMOSPD and NHSPD and paragraph 17 of the Framework. Collectively these require, amongst other things, to ensure that all development proposals would not cause significant harm to future occupants living conditions.
11. Although the Council refer to saved UDP Policy MD2, this policy is concerned with the living conditions of future occupants, in terms of overlooking, noise and disturbance. Thus it is not relevant to the consideration of this issue.

Highway Safety

12. The appeal scheme does not propose to provide any off-street car parking provision and it would not therefore meet the requirements of saved UDP Policy AD2 1(d), even if it refers to maximum parking standards. Still, it is the appellant's view that the site fulfils the Council's AA as set out in the Ensuring Choice of Travel Supplementary Planning Document (ECTSPD) and that there is sufficient on-street parking in the local area to accommodate the 13 vehicles that are sought by the Council³ on the basis of one space per flat.
13. It is suggested by the appellant that the Minimum Accessibility Standard Assessment (MASA) submitted shows that the proposal meets or exceeds all of the criteria set out in the SPD. The site is not in Bootle Town Centre, but this is a short walk or bus journey away. Thus, together with the other factors set out in the MASA, I consider that the proposal meets the criteria in the SPD.
14. I have also had regard to the appellant's PA. The PA was undertaken at different times of the day and on five different days of the week. Having regard to the study area⁴, I consider, having walked the local area that this is a reasonable approach due to the distances involved and the presence of footways. Turning now to the on-street parking on Thornton Road and Hornby Road. This is except for a small section of Hornby Road next to St Matthew's Church, limited to resident permit holders only (zone 405). Even on the section of Hornby Road that is available, like others on Melling Road and Stanley Road, it is limited to two out of every three hours between the hours of 09:00 and 18:00 Monday to Saturday. The PA supports my own observations which indicate that residents in the area are heavily dependent upon on-street parking, which is a result of the terraced properties which populate the local area which do not offer potential for off-street parking.
15. The PA indicates that there are a considerable number of spaces available across the various roads within the study area throughout the day. It is typical that the demand for on-street parking spaces would increase once residents have returned home from work. However, the PA does not suggest that this seems to affect the availability of on-street parking. While, one single road in the study area may not be able to accommodate the 13 spaces at any one time, I consider that they could be accommodated across the study area as a whole. I appreciate that this may result in inconvenience to existing residents whom may be used to parking outside of their homes. However there is no

³ Ensuring Choice of Travel Supplementary Planning Document, Appendix B

⁴ Parking Assessment, Appendix A

- need for residents to be able to do so. Also, I am not certain that the future occupants' of the flats would not be able to secure a resident's parking permit.
16. On-street parking near to the site takes place on the sides of local highways. Parked vehicles, do not, as far as I could see, even with the areas around local highway junctions being protected, prevent the safe movement of vehicles or pedestrians. I am also mindful that the Council has not shown in evidence how the proposal would be detrimental to highway safety given the appellant has shown that sufficient on-street parking is available locally. Furthermore I note the leisure use of the building could attract a parking requirement of up to 38 vehicles. Thus, despite the previous apartment scheme⁵, I consider that there would not be a detrimental effect on highway safety, as future occupants' would be able to park in the on-street resident permit holders only (zone 405) areas near to the site.
17. For these reasons, on this issue, despite the conflict that I have identified with saved UDP Policy AD2.1.d, I conclude that the proposed parking arrangements would not affect highway safety in the local area and as such outweigh the harm that I found. Thus, the proposal would comply with the remaining parts of saved Policy AD2 of the UDP, emerging Local Plan Policy EQ3, the ECTSPD and paragraphs 32 and 39 of the Framework. Mutually, they seek accessible development that provides a realistic choice of means of travel for occupants to use, whilst having regard to the Council's parking standards, so that a safe and suitable access to the site can be achieved for all people.

Other Matters

18. In refusing planning permission, the Council referred to a commuted sum for off-site greenspace under saved UDP Policy DQ4. However, the Council now consider it to be no longer a requirement under Policy EQ9 of the Local Plan. Also, given the appellant's subsequent FA I concur with the Council that a commuted sum is not necessary in this instance.
19. The appellant has advanced other points in favour of the appeal scheme, which include; the re-use of the whole building which is in a distressed condition, preservation of a building that has played an important social, cultural and religious role in the community and avoiding the demolition of the building in order to bring forward an alternative development proposal. I recognise that these matters do lend positive weight in the appeal scheme's favour and I also note the contribution that the flats would make to the borough's housing supply. However, these matters together with my findings in relation to highway safety do not outweigh my findings in respect of the effect of the proposal on the living conditions of the future occupants of the flats.

Conclusion

20. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR

⁵ Council Application Ref: S/2007/1129