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Date: 24 August 2021

Our Ref:

Your Ref:

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Dear Councillor

## **PLANNING COMMITTEE - WEDNESDAY 25TH AUGUST, 2021**

I refer to the agenda for the above meeting and now enclose the following documentation which was unavailable when the agenda was published.

<b>Agenda No.</b>	<b>Item</b>
7	<b>Late Representations (Pages 3 - 12)</b>

Yours faithfully,

Democratic Services

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## Planning Committee: 25 August 2021

### Late Representations/Information

#### Appendix 4

##### Item 4a

**DC/2018/00093: Land north of Brackenway, Formby**

Please see attached representations from Formby Parish Council and Avison Young.

The Parish Council Office  
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20 August 2020

Planning Department  
Sefton MBC

### **D/2018/00093 Outline application Land North of Brackenway.**

In response to the officer's report concerns remain that the proposal fails to satisfy Local Plan policy MN6 and a number of Formby and Little Altcar Neighbourhood Plan policies considered necessary to be addressed at this outline planning stage before it can be determined whether the scale and nature of the proposed development would be acceptable.

#### **Housing Density**

As the Parish Council's Planning Consultant points out

*"Policy H1 requires the density of development to maintain the 'prevailing character of the immediate area' and Policy HC3 supports a lower density where it 'can be justified having regard to the layout and character of the immediate surrounding area'. A desktop analysis exercise suggests Hawksworth Drive and Deansgate Lane have a density of less than 25 dwellings per hectare and Brackenway has a density of less than 20 dwellings per hectare. Therefore, it is considered that a density of 29.5 dwellings per hectare as proposed might not be in-keeping with the character of the immediate area which enjoys a substantially lower density".*

**Therefore we would ask that the application be refused or that the number of dwellings (286) be reserved for a later application** where an appropriate quantum of development can be proposed which accords with the development plan policies, in particular the density of development in the immediate area.

Of more concern are the comments raised by Flood Risk Consultant Ruth Goodall BSc in Geology and Geography, MSc in Surface and Groundwater Management, Chartered member of the Institute of Water and Environmental Management (C.WEM) and a Chartered Environmentalist (Cenv), made on behalf of the Parish Council.

In regard to the on-site flood mitigation she comments specifically on the viability of the flood storage areas to the east of the site, these had initially been removed but have now returned in order to comply with the Environment Agencies requirement for compensatory storage. Ms Goodall comments in her Flood Risk analysis;

*“The change in flood management strategy away from storage areas addresses concerns I had when reading the original 2018 Environmental Statement and Flood Risk Proposals that due to high groundwater levels the flood storage areas as proposed in the first application [and currently being considered] were potentially impossible to design and deliver”.*

**The scheme as proposed, in the view of Ms Goodall is unlikely to provide the storage required by Policy MN6 and for this reason the Parish Council ask that the application be refused.**

Not only is the on-site strategy undermined by Ms Goodall's report, but she raises the following concerns with regard to surface water flooding off site in Hawksworth Drive.

*“The proposals do not seem to include any strategy that delivers a significant reduction in surface water flood risk to Hawksworth Drive”.* (Review of Flood Risk Proposals in Planning Application DC/2018/00093 on behalf of Formby Parish Council)

Much is made in the officer's report about the reduction in risk of fluvial flooding (from Eight Acre Brook), however the requirements of Policy MN6 specifically refer to surface water flooding.

***Policy MN6 states that Development of this site must:***

***a. Include a flood risk mitigation scheme that:***

***ii) ensures that there is no increase in flood risk elsewhere caused by the development; and***

***iii) significantly reduces the existing surface water flood risk to properties on Hawksworth Drive by directing flood flows away from Eight Acre Brook to new flood storage areas adjacent to the Formby Bypass.***

The Parish Councils Flood Risk Assessment Review provided by Ruth Goodall and submitted in support of the Parish Council's previous objection shows that the applicant has **failed to demonstrate that new storage areas can be achieved** and failed to show that there will be a **significant reduction in surface water flood risk to Hawksworth Drive.**

Therefore we ask that this application be refused for

Failure to comply with Local Plan Policies

- MN6 section a iii. Significant reduction in surface water flooding in Hawksworth Drive, failure demonstrate the viability of new storage areas adjacent to Formby

Bypass.

- HC3 (the need for) lower housing density where it can be justified.

#### Failure to comply with Neighbourhood Policies

- H1 Housing Density not in keeping or character with the surrounding area.
- F2 Application fails demonstrating how all sources of flood risk will be managed now and over the lifetime of the development
- F4 development will not be permitted in flood attenuation areas where the development would reduce the ability of the area to alleviate flooding (fails to demonstrate the viability of new storage areas).

Yours sincerely

Claire Jenkins BA honrs  
Parish Clerk

Our Ref: Ref EM/PN  
Your Ref: Ref DC/2018/00093

18<sup>th</sup> August 2021

Kevin Baker  
Senior Planning Officer  
Development Management  
Planning Services  
Sefton House  
Magdalen House  
30 Trinity Road  
Bootle L20 3NJ

Dear Kevin

**Land at Brackenway, Formby: LPA Reference: DC/2018/00093**

On behalf of Taylor Wimpey UK Ltd, I write with regards to the planning application at the land north of Brackenway, Formby (LPA reference: DC/2018/00093). The purpose of this letter is to provide a response to the Parish Council Letter (reference 60625126 15<sup>th</sup> March 2021) in respect of the revised proposals.

It is acknowledged that since the application was determined at Planning Committee in March 2019, the Formby and Little Altcar Neighbourhood Plan has progressed and was adopted on 21<sup>st</sup> November 2019. It forms part of the Development Plan since the positive referendum. The policies contained within the Neighbourhood Plan have been reviewed by the Parish Council and form the basis of their response. Avison Young has assessed the application against the relevant Neighbourhood Plan policies within the updated Supporting Planning Statement submitted to the Council in January 2021. The purpose of this response is not to repeat the detailed analysis provided within the submission documents but to respond to a number of key points.

**Density & Housing Mix**

The planning application is made in outline and it is anticipated that detail relating to density will be dealt with at the reserved matters stage. The Illustrative Masterplan provided as part of the outline planning application, shows a potential configuration and layout for a residential development comprising up to 286 dwellings and provides a broad platform upon which the details of the Reserved Matters application can be agreed. It has been developed through an iterative design process taking into account key site constraints and opportunities paying due regard to the findings and recommendations of the various technical reports and surveys submitted in support of the application. The Masterplan is indicative at this stage with the final scheme layout, which will include details of density, will be considered and at the reserved matters stage and only approved via a reserved matters approval.

Policy H4 of the Neighbourhood Plan requires new housing development to provide a mix of difference housing types. It specifies that for schemes of 15 or more dwellings, appropriate provision of homes for elderly people should be made. It also specifies the following mix of dwellings:

- 1 and 2 bed properties, no less than 30% of the total; and
- 4 or more bed properties, no more than 15% of the total.

# Agenda Item 7

This differs from policy HC2 (Housing Type, Mix and Choice) of the Sefton Local Plan which requires developments of 25 or more dwellings to have the following mix:

- A minimum of 25% of market dwellings must be 1 or 2 bedroom properties; and
- A minimum of 40% of market dwellings must be 3 bedroom properties.

The planning application is made in outline only so exact details of housing mix will be provided at the time of any reserved matters application. However, it is proposed that the scheme will comply with the Neighbourhood Plan policy.

## **Affordable Housing**

Policy H3 of the Neighbourhood Plan states that affordable housing will be provided onsite and shall be integrated with the market housing throughout the development. It states that to address Formby's affordable housing needs, 30% of new dwellings on all development of 15 or more dwellings shall be affordable and it shall be of a type, size and tenure that meets the local needs of Formby and Little Altcar.

Policy H3 differs to policy HC1 (Affordable and Special Needs Housing) of the Sefton Local Plan which specifies that for new developments of 15 or more dwellings, 30% of the total scheme (measured by bed spaces) will be provided as affordable housing. The draft S106 refers to 30% of dwellings being affordable, rather than 30% of bed spaces.

## **Green Infrastructure**

Policy ESD6 of the Neighbourhood Plan requires a commitment to the delivery and maintenance of high quality green infrastructure including accessible open space commensurate with the scale of the development and consistent with Local Plan policy EQ9. The application provides a significant amount of open space including approximately 8.2ha area of land to the north of Wham Dyke which will also act as a natural buffer to the proposed nature reserve extension of the existing Lancashire Wildlife Trust Freshfield Dune Heath Reserve. The application is made in outline and therefore green infrastructure will be considered in detail at the reserved matters stage and as such, no detailed breakdown, as requested by the Parish Council, . In addition, the response requests "*evidence of the addressing of recreational pressure (recreational tramping) resulting from new residential development*". An Appropriate Assessment (prepared in accordance with the Habitat Regulations) has been prepared by MEAS<sup>1</sup> which recommends suitable mitigation in the form of a financial contribution together with the provision of information in sales packs, measures that are consistent with Council's Guidance on Nature Conservation to improve and/or manage access to and/or within the internationally important sites.

## **Flooding and Flood Risk**

Policy F1 of the Neighbourhood Plan states that in areas at risk of flooding from any source, developments shall not lead to an increase in flooding or increased flood risk on either the application site or elsewhere within the Plan area. Where reasonably practicable, developers shall demonstrate tangible, definite and measurable reductions in flood risk and actual flooding. As set out in Policy F2 and in accordance with Government guidance, planning applications in areas at risk of flooding shall be informed by a site-specific Flood Risk Assessment (FRA) demonstrating how all sources of flood risk will be managed now and over the lifetime of the development (taking into account, for example, climate change). Whether as part of the FRA or otherwise, scheme designs shall address the requirements of the Plan's flooding policies.

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<sup>1</sup> Merseyside Environmental Advisory Service



The application is supported by a Flood Risk Assessment. As part of the assessment process, an extensive hydraulic modelling exercise has been undertaken by JBA Consulting and has been used to inform a flood risk and compensation strategy which has been accepted by the relevant bodies (Environment Agency, Lead Local Flood Authority and United Utilities). The hydraulic modelling carried out and confirmed by the Environment Agency and the Lead Local Flood Authority show that these measures not only ensure the proposed development remains flood free, but also offers benefits elsewhere by reducing the fluvial flood risk to properties located on Hawksworth Drive. The proposals therefore accord with this policy within the Neighbourhood Plan and other relevant policies contained within the Local Plan.

The Parish Council request that the Parameters Plan is amended "*to include minimum ground levels and that the developable area for residential use in the Parameters Plan and other plans is amended to ensure no residential dwellings will be located within Flood Zone 3 as shown in the JBA Flood Map and for this to be secured through planning conditions. It is also requested that the minimum level for dwellings be conditioned above the 1 in 1,000 year flood level*".

As demonstrated by JBA's Consulting updated hydraulic modelling, no area of land proposed for residential use is located within Flood Zone 3 or Flood Zone 2. The proposed ground modifications ensure that the proposed residential properties will be located within Flood Zone 1 and therefore acceptable in planning policy terms. Please refer to the supplementary Mitigation Report (JBA Consulting May 2021).

The proposed flood risk mitigation strategy ensures that the flood risk is managed on site through the use of ditches and storage areas. The proposals will also significantly reduce flood risk to properties on Hawksworth Drive. An extensive area of downstream flooding is removed as a result of the proposals. This is driven by the proposed site modifications and the access road acting to sever the connection between Wham Dyke and Eight Acre Drain. The modelling is based on the maximum ground level as identified on the Parameter Plan which does not require to be updated. It is acknowledged that the finished floor levels of each residential plot will be determined at the reserved matters stage and will be developed in accordance with a detailed flood risk and surface water drainage strategy to be secured by condition.

### **Reduced Surface Water Discharge**

The policy states that developments shall seek to maximise reductions in surface water run-off as compared with the pre-development situation. Designs shall also lead to a reduction in the speed at which surface water discharges from the site.

Increased rainfall due to climate change is accommodated for within the drainage strategy produced for the site, with attenuation sized to accommodate up to a 1 in 100 year plus 40% rainfall increase over the lifetime of the development. The strategy for surface water drainage therefore accords with this policy.

The Parish Council response states that "*the current proposals do not deliver any significant reduction to surface water flood risk to properties on Hawksworth Drive*".

Extensive work has been undertaken as part of the application process to understand the nature of the flood risk which has previously impacted upon those residential properties in Hawksworth Drive. This has been informed by consultation with the LLFA, EA and UU. Through extensive further investigation by the Applicant's technical team and detailed discussions with the LLFA it is agreed that past flood events in this location do not relate to the application site and are due to the existing sewer outfall located within Hawksworth Drive becoming tide locked at its outfall to Eight Acre Drain, meaning that it becomes blocked with raising water levels. As a result of these tide-locking occurrences of the sewer network, the manhole with the lowest cover level in the southern areas of Hawksworth Drive surcharges and results in flooding of the surrounding area. Therefore, despite the existing flooding to the properties on Hawksworth Drive not being caused by the application site from this source, the Applicant has

# Agenda Item 7

investigated a series of potential mitigation measures as agreed with the LLFA previously to seek to address this source of flood risk.

As a result of this extensive work, it can be concluded that the greatest benefit in terms of flood risk reduction comes from the flood mitigation works proposed which reduce the water levels in Eight Acre Drain together with a non-return valve and a maintenance and management plan for Eight Acre Drain. As a secondary measure, a response plan will also be put in place which deploys temporary emergency flood barriers to contain any flood water in the highway boundary in the event that flooding occurs. It is also proposed that as part of the management and maintenance plan for the site, which will include Eight Arce Drain, a collaborative agreement is adopted between the necessary statutory authorities including the LLFA, EA and UU. This will ensure that the management of the watercourse is managed effectively in the long term. These measures are detailed within the agreed A106 Agreement. It should be noted that previously it was proposed to extend the bund along the southern bank of the watercourse to tie into higher levels along the by-pass. However, this is no longer proposed because with the other measures now proposed, this is no longer considered necessary.

In summary, the Applicant's technical team have demonstrated through extensive work that the flood risk associated with Hawksworth Drive is not caused by the existing site and is not increased by the proposed development, rather it is reduced. The existing flood risk is due to the existing surface water drainage system and its interaction with Eight Acre Drain. By offering a package of measures that go beyond just directing flood water away from Hawksworth Drive, reduces the existing flood risk issue to existing properties. This is a benefit of the proposed development as without these measures the existing flood risk situation remains. The future management and maintenance measures will be secured by condition and via the S106 Agreement.

## **Exceptions Test**

In relation to the relevant flood risk policies of the NPPF, Paragraph 162 is clear that "*where planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the sequential test again*". In light of this, there is no requirement for Taylor Wimpey to reapply the sequential test given that it was soundly applied at the Local Plan stage.

Paragraph 162 goes on to state that the exception test may need to be reapplied if relevant aspects of the proposal had not been considered when the test was applied at the plan-making stage, or if more recent information about existing or potential flood risk should be taken into account. It is the Applicant's position that the exception test does not need to be re-applied again because:

- 1) The application proposals align with Local Plan Policy MN6 and all aspects of the proposals were considered when the exception test was applied by Sefton Council at the plan-making stage. The location of housing is proposed on the area of land allocated for housing in the Local Plan and the maximum number of dwellings proposed as part of this application is up to 286 dwellings which accords with the estimated number of dwellings in Local Plan Policy MN2.
- 2) Furthermore, the principal vehicular access will be taken from Formby Bypass, a 7.9 hectare extension to the Nature Reserve is proposed to the north and flood compensation is proposed to the east. All these aspects of the application proposals were considered when the Exception Test was applied by Sefton Council at the plan-making stage.
- 3) In terms "*more recent information about existing or potential flood risk*", the flood risk associated with this site is well understood and understood at the plan-making stage hence the strict requirements of Local Plan Policy MN6. This includes the risk of flooding to properties on Hawksworth Drive. The work undertaken during the course of the preparation of this application only seeks to validate what was known and to ensure that appropriate mitigation measures are secured.

Even if the Exception Test were to be re-applied again, the application proposals would be passed and meet the exceptions tests as set out in paragraph 160 of the NPPF for the following reasons;

*a) the development would provide wider sustainability benefits to the community that outweigh the flood risk;*

The development would provide wider sustainability benefits to the community that outweigh the flood risk. The Local Plan is up to date and there are no immediate plans to review it. The Council cannot currently demonstrate a deliverable 5-year housing supply and the application proposals will make a positive contribution towards both the Council's identified open market and affordable housing requirements. Furthermore, the application will secure significant flood risk and drainage benefits to Hawksworth Drive and an extension to the nature reserve which will be managed in perpetuity. The development will also secure a range of socio-economic benefits in terms of job creation and investment which will be delivered during the construction and operational phases.

*b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall*

The extensive flood risk investigations undertaken by the Applicant's technical team have demonstrated that the development will be safe for its lifetime taking account of vulnerability of its users, without increasing flood risk significantly elsewhere, and will reduce flood risk overall and specifically to the properties on Hawksworth Drive. The hydraulic modelling undertaken by JBA Consulting demonstrates that the proposed measures not only ensure the proposed development remains flood free (up to the 1 in 1,000 year), but also offers benefits elsewhere by reducing the peak flood levels within Eight Acre Drain.

## **Summary**

The proposals have been developed in consultation with the Local Planning Authority and statutory consultees. Changes have been made to the proposals which provide significant benefits to the local community, in particular in relation to the existing flood risk associated with Hawksworth Drive. The extensive technical work that has been undertaken demonstrate that the proposals are acceptable and compliant with both national and local planning policy.

If you require further information, then please do not hesitate to contact me.

Yours sincerely |

A black rectangular redaction box covering the signature of Paul Nellist.

**Paul Nellist**  
**Associate Director**

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