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Bootle
L20 7AE

Date: 31 May 2022
Our Ref:
Your Ref:

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Dear Councillor

PLANNING COMMITTEE - WEDNESDAY 1ST JUNE, 2022

I refer to the agenda for the above meeting and now enclose the following report(s) which were unavailable when the agenda was published.

Agenda No.	Item	
8	Late Reps	(Pages 3 - 38)

Yours faithfully,

A handwritten signature in black ink, appearing to be "Ian Barton".

Democratic Services

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Planning Committee: 1st June 2022 Late Representations/Information

Appendix 4

Item 4A

DC/2021/01739: 102 The Serpentine North, Blundellsands Liverpool L23 6TJ

List of documents attached:

Letter from objector, Ms Sass, 27 May 2022

Letter from objector, Ms Sass, 30 May 2022

Letter from Paul Crisp on behalf of Ms Sass, 30 May 2022

Response on tree matters from Sefton's Arboriculture Officer

Response on ecological issues from Merseyside Environmental Advisory Service 30 May 2022

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Blundellsands Hall
The Serpentine North
Blundellsands
Liverpool L23 6TJ
27/5/2022

Dear Mr Salisbury,

Thank you for your response to my request for a Tree Preservation Order and your explanation.

Thank you also for your explanation as to why you have accepted the applicants Tree Survey and revised plans. Due to the importance and your confirmation that you accept there are inaccuracies in the applicants' submissions, I will deal with this matter here and why I respectfully suggest this requires your urgent review.

On The 3rd of March 2022 I wrote to Case Officer Steve Faulkner, detailing and providing supporting evidence as to the applicants false location of trees in the critical area you are assessing for RPA, canopy clearance and shading which I am aware is a requirement for Tree Officers to comply with as part of their fiduciary duty as Council employees when assessing impact on trees within a conservation area, which is an assessment in accordance with the British Standard BS5837:2012.

I now aim to provide you with factual evidence which shows you have been asked to make your assessment base on critically false information provided by the applicant.

1. I attach the applicants original 'Proposed Ground Floor Plan' dated 2/6/2021 (Drawing No. 686-03). On this document you will see the '**EXISTING WALL**' of the garage running along the boundary to the North with Blundellsands Hall, my property. This existing garage wall is marked in red. I have indicated on this plan attached with an asterix where the wall ends to the East. The remaining boundary is fence. You will note this wall ends in line with the original back wall of the garage and parallel to the proposed WC. This wall is 6.9m in length, in line with the scale measurement included on this plan. It is detailed on the uploaded documents as 'Plan showing retained walls'.
2. I attach the same 'Proposed Ground Floor Plan' dated 22/2/202 (Drawing No. 686-03-D). This is the final Ground Floor Plan on which your assessment has been based and which is presented to you and the Planning Committee for determination. This should of course have shown the same retained brick wall (albeit lowered) with the revisions of the 'Cinema / Games Room. As can be clearly seen on this plan the 'existing wall' is detailed as '**Brick wall retained and lowered from 2.5m to 2.1m**'. This is now shown as finishing parallel to the East wall of the boiler room and is 10m long according to the same scale on this plan. **THIS IS A FALSE MEASUREMENT.**
3. The critical implication of this is the location of the trees shown in this plan which, because of this false measurement, are now some 3.1m further East and away from the development.

4. I presented factually correct images in the evidential document dated 3rd of March 2022 sent to the Case Officer, also showing the closer proximity inward towards the applicant site of these trees, some a mere 30cm from the boundary.
5. The false measurements of the trees themselves, detailed in the applicants Tree Survey by Treestyle Consultancy, are highlighted in detail within Jonathan Cocking's Arboriculture Report, which was commissioned by us. Mr Cocking as you know is Arboriculture Expert to the Planning Inspectorate and is an Expert Witness with 43 years' experience. He gives an example of the applicants' false measurements in T30 on Blundellsands Hall land shown as 5m high when it is in fact 12m. Mr Cockings' report includes the correct measurements and details many other inaccuracies in the applicant report. Supporting images have been presented to Sefton Council showing these factual inaccuracies. Mr Cocking states almost all trees are **under sized** by the applicants (not **OVER SIZED** as written in the **Case Officers Report** in determining this application). **THE CORRECT HEIGHTS ARE UNDISPUTABLE**. This has direct impact on the Root Protection Area, canopy clearance and shading that is required under the British Standards detailed in BS5837:2012.
6. I further attach the applicants original '**Site Plan**' presented on the 21/7/2021 – incorrectly dated 2020 (Drawing No 686-01-B) which shows the garage wall again correctly at 6.9m according to the scale measure on this plan.
7. I attach the applicants' final same '**Site Plan**' revised on 22/2/2022 (Drawing No. 686-01-B) and on which your assessment is based which shows the same existing garage wall to have suddenly extended in length. The length of this wall shown in this plan a **FALSE MEASUREMENT** now shown as 10m according to the scale measure provided. It is stated as '**Brick Wall retained and Lowered**'.

As clearly shown above, the 'errors' (as with multiple other documentation advised to Sefton Council, always in the developers' favour) are on several different plans with earlier submissions correct and the final ones on which you are assessing the application to have been altered. I suggest this may be a deliberate attempt by the applicants to falsify the documentation knowing that to correctly show the garage wall as it is, the factually correct location of the trees and in their correct size (RPA, canopy and shading influence), the application would be unsupportable under policy, case law, best practice, guidance and Sefton Councils fiduciary duty.

To further demonstrate the close proximity to the development, I use here the applicants own photograph, taken from the top of their garage roof, which is included in their updated Ecology Report of the 31st of March 2022. This photograph below shows the very close proximity of the trees of concern.

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It should be of significant note that the proposed first floor 'Sunset Lounge' even cantilevers over this garage further to the North, meaning it is scientifically impossible to avoid the canopy of the nearby trees if the correct location of that tree is shown on the plan.

8. On the 3rd of March 2022, I sent an email to Case Officer, Mr Faulkener and copied in Steve Mathews, Derek Mckenzie and Dwayne Johnson. With reference to the revised plans in relation to the proximity of the trees, I noted the omission of the boundary wall to the North on the '[Proposed First Floor Plan](#)', despite the Southern boundary wall being included in this drawing (Drawing No. 686-04-D) [dated 23/2/2022](#). I stated 'The omission of the boundary to the north on this plan is misleading as the exact location of the northern edge of this additional significant room cannot be easily determined. Curiously only the southern boundary is shown on this plan'. No further plans have been provided and I received no response to this issue. This is the final 'Proposed First Floor Plan' in the public domain. I assume this is what you have based your assessment on. It is difficult to understand how you could have assessed the canopy clearance when the exact location of the boundary is not shown on the plans provided.
9. On the 3rd of March 2022, the email I sent to the Case Officer, Mr Faulkener and copied in Steve Mathews, Derek Mckenzie and Dwayne Johnson, highlighted in the strongest terms the false, amended length of the garage wall and therefore the false location of trees on the revised plans.
10. On the 9th of March 2022, I sent the same report to Sophie Leadsom of MEAS due to the significance of the tree corridor for wildlife, it's extensive known use as a foraging route for bats and the numerous tree hollows for bat roosting – potential or actual (see images below)



Whilst you have told me your interest is not in ecology and your only concern is trees, these vast, established trees, some nearing veteran status, do have significant ecological importance and once lost would be almost impossible to replicate in the salt-laden, windy location. There has been no mitigation for the loss of these trees, only for the applicants' desire to remove virtually all trees from their plot.

Returning to your reasoning (email of 25th of May 2022) as to your approval decision, I appreciate I have only now highlighted directly to you the false representations by the applicant which I appreciate may not have been passed to you by the Case Officer prior to your determination.

11. You state: (email of 25th of May 2022) **'With specific regards to my comments in relation to this application I have provided them below for you'**. Mr

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Salisbury, I do believe your reasoning should be in the public domain and available to the Planning Committee in a Consultee Document. This is of particular importance when there is very significant differences between the applicants tree surveys (which you accept are flawed) and the report written by someone of such considerable note as Jonathan Cocking who has spent 9 years as the Arboriculture Advisor to the Planning Inspectorate, is current President of the European Arboriculture Council, Professional Arboriculture Advisor to DEFRA, FERA, English Heritage, The Forestry Commission, The National Trust, Royal Parks Commission, The Foreign and Commonwealth Office, actively involved in arboriculture policy advise across Europe, with 43 years professional experience including extensively as an Expert Witness. If his professional opinion is not accepted by you, it is important to know specifically why (particularly in categorising the tree retention value which you have committed to saying you do not agree with, the scale of trees and his general assertion that this development would kill the tree corridor within Blundellsands Hall grounds).

12. You reason Treestyle Consultants have generally categorised the trees lower than Jonathan Cocking. I point out there is some very significant disparity when the applicants desire a tree to be removed for their development (example T28 the applicants misidentified as White Willow and propose to fell categorising it as U2 whereas Jonathan Cocking advises it to be a mature Black Poplar nearing veteran status and therefore an A1 specimen).

You suggest the reason for Jonathan Cockings higher categorisation is being '**collectively the trees providing excellent visual amenity to the properties and surrounding**', therefore in your view the development site and surrounding properties do not contain any category A trees. **This is incorrect and not representative of what Mr Cocking has written in his report.** Jonathan Cocking explains very clearly in Appendix 2 of his very comprehensive report, how he has categorised each tree. In section A2.3 he states Category 'A' trees are considered trees of high quality and value with a life expectancy of 40 years (category 'B' trees have a slightly more modest quality and life expectancy, category 'C' trees are of low quality with a life expectancy of at least 10 years). The number following the letter is also set out very clearly in section A2.3.4 as follows: '1' is mainly arboricultural quality, '2': is mainly landscape quality, '3': is cultural values, including conservation value. Therefore, your suggestion that his categorisation of A1 trees is collectively due to amenity value to the properties and surrounding is not a fair representation of what is set out in his report (or he would have categorised them as '2' – mainly landscape quality). Mr Cocking must also be able to validate his categorisation and he has – comprehensively.

13. You reason Jonathan Cocking (referred to as his company JCA) as '**JCA provides comment in relation to an earlier layout and Treestyle Consultancy report**' and that the more recent report by the applicant is acceptable, suggesting '**it has been noted that the updated submission from Treestyle Consultancy has addressed a number of these identified inaccuracies**'. This implies they have not addressed ALL the inaccuracies. It

must be known both in the public realm and by the Planning Committee what inaccuracies have NOT been addressed as it may have a material and significant implication on the survival of the trees (as I have demonstrated earlier in this document such as the false location). You should also reason why inaccuracies are acceptable.

14. You state **'It is clear when reading both submissions there are some inaccuracies within each'**, highlighting Jonathan Cocking's report commenting on the destruction of trees on all 3 boundaries which you suggest the document does not identify any loss along the rear boundary. **This is incorrect.** When Jonathan Cocking completed his report, the applicant plans showed a wall surrounding all three boundaries. In an apparent attempt to suggest the wall was existing (detailed in words several times in the applicant documents referring to 'the high stone wall surrounding the property' etc when in fact it is a fence. If the wall was subsequently built (as it was on the plans if approved) with the required foundations, tree loss would occur on all three boundaries. Therefore, Jonathan Cocking was not inaccurate due to his diligent scrutiny of the plans in association with the tree assessment. **I wrote to the Case Officer on the 16th of February 2022 highlighting this false representation of the wall and the impact this would have on all boundary trees.**
15. You state: **'I have not gone into detail of each specific inaccuracy and given my view relating to these'**. When multiple inaccuracies have been noted throughout this application and when the implications can relate to tree loss on neighbouring lands, it is vital that we are made aware of what inaccuracies you are prepared to accept and your reasoning. For transparency and in the fair assessment of the application, I would also suggest that the Planning Committee similarly should know that inaccuracies are noted by Sefton Council and the reason they are deemed to be acceptable to you.
16. You state: **'The amended layout has addressed some of my original concerns by setting back the design from the northern boundary with Blundellsands Hall providing a greater interface distance'**. Once again this indicates the amended layout has not addressed ALL of your concerns in relation to the boundary to my property. As this is a concern relating to my trees, may I ask what are the original concerns not yet satisfied by the amended layout? Furthermore, I am glad, as demonstrated earlier in this document, you are now aware your assessment is based on false location of the trees on the applicants plans, which must now be addressed.
17. You state: **'However, I do have some concerns in relation to the southern boundary. The updated tree report from Treestyle Consultancy shows trees T13 and T14 within the neighbouring property. However, the proposed ground floor plan by Diaz Associates shows these trees as being within the application site and requiring removal due to them being located within the retaining wall. Therefore further clarification is required in terms of the tree impacts within this area. If it is proposed to construct the foundation of the property within the RPA of trees to be**

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retained the design of this foundation would need to be considered by the Arb Consultant and included within their reports. Taking the above into account I am unable to support the application in its current form. However, further consideration and clarification of the above issues may resolve my concerns'. You then state 'Following these comments further dialogue was entered into with the applicant who provided sufficient detail to resolve these issues and to allow my support of the scheme'.

Once again, the information you have been provided by the applicant, may again be false. **The trees are NOT in the applicant site and not within the retaining wall.** What 'further dialogue with the applicants' resolved to move the trees from the ownership of Mr and Mrs Hargreaves at 98 to them now miraculously moving several metres over the fence to the applicant site? You correctly note Treestyle Consultancy, the applicants chosen tree specialists, show Trees T13 and T14 are very clearly NOT on the applicant site and sufficiently away from the boundary to not in any way be considered within the retaining wall. Only the RPA is within this area.

I now point you specifically to the objection by the householders and owners of these trees, neighbours of the applicants, who raised an objection to Sefton Council on the 6th of December 2021 which I am pleased to attach. In it, the householders categorically state (referencing Treestyle Consultancy Report) **'The report seems to suggest the removal of two trees on our property – T13 and T14. This is not acceptable'**. I also remind you of your site visit when you pointed out to me these trees on the neighbouring property, commenting that they weren't of great quality. You clearly saw they were behind the fence in the neighbouring garden and not on the applicant site. I also made Sefton Council (and I believe you) aware of the pressure being asserted on the neighbouring residents by email and phone calls to agree the removal of their T13 and T14 trees which they refused.

18. You confirm Jonathan Cocking report identifies 31 individual trees, 4 groups and 2 hedges as being relevant in terms of this application. Of the 36 tree assets assessed, 6 are classed as category A, 14 as category B, 15 as category C and 1 as U. His assessment of classification appears to have been misunderstood by you although it is in line with guidance and accepted practice.
19. You say you believe the report by Mr Cocking related to earlier plans which have now been revised to your satisfaction and therefore are acceptable. Mr Cockings' report, from one of the leading authorities in arboriculture, was based on exactly what he observed and assessed on site on the day of his visit. His correct measurements and photographic evidence was taken, as were the location and assessment of each tree which was documented. The revised plans from the applicant, as demonstrated here, when the correct tree location and correct individual assessment is presented, simply cannot be supportable.

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I would therefore respectfully ask you to very carefully and speedily revisit the documents provided, make available a Consultee Document both publicly on Sefton Council planning portal and also given to the Planning Committee. I hope in light of the issues highlighted here, you are able and willing to revise your assessment of this application. If you wish me to put you in touch with the neighbours at 98 to verify their robust unwillingness to entertain destruction of their trees, I am happy to do so. They are vehemently against this proposal as they have already shown in a number of objections to Sefton Council.

Please see all attached documents and thank you for this further consideration.

Yours Sincerely,

Lorraine Sass
On behalf of the objectors

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Blundellsands Hall
The Serpentine North
Blundellsands
Liverpool L23 6TJ
30/5/2022

Dear Mr Matthews,

Thank you for your visit to my property today along with the Planning Committee Members, which is appreciated.

Thank you also for your acknowledgement of my email of last week and your confirmation that you do not consider my highlighting to you the irregularities, false measurements and false location of trees away from the development in the applicants' documents, add anything material that has not been addressed in the officers' report.

Going forward, particularly if this is approved and moves towards a Judicial Review, I am thankful to have your confirmation that you are aware I have reported this to you before determination.

However, I would also respectfully ask you to note the following and add this letter to the late representations please:

1. The Case Officers Report incorrectly states the applicant has **OVERSIZED** the trees in Blundellsands Hall grounds. **This is incorrect.** Sefton Council and the Tree Officer have been made aware the trees are **UNDERSIZED** considerably. The applicant states trees to be 5 metres high when they are 12 metres high, significant girth diameter differences and several even a different species. The Root Protection Area and canopy spread requirements are therefore very considerably different. Coupled with their incorrect location of the existing trees away from the development on the applicants most recent plans (which do not correlate even with their own Tree Report), it is difficult to understand your suggestion that my comments have not added anything material. It implies that the required RPA and canopy spread are not affected by the proposal which is wholly incorrect. The Case Officers reference to oversizing is wrong and has a direct impact on survival of trees on Blundellsands Hall site.
2. The Case Officers Report states there will be no harm to surrounding tree cover. **This is incorrect.** If the correct location and correct size of trees is used, it would destroy a wildlife tree corridor and shelter belt for the Nature Reserve to the rear (confirmed by Jonathan Cocking, President of the European Arboriculture Society and advisor to the Planning Inspectorate).
3. The Case Officers Report opening section states the proposal would preserve the character of the conservation area. It then states the Art Deco style is not characteristic of Blundellsands Park Conservation area (i.e., it is a different character). This comment is therefore contradictory. A style that is not characteristic cannot preserve the character. It

cannot, as the Case Officer Report states 'as a minimum preserve the character and appearance of Blundellsands Conservation Area as required by Policies NH9 and NH12'.

4. The Case Officer Report states 'No evidence to advocate that 108 Blundellsands Hall merited NDHA status was supplied at the time of submission or since'. **This is untrue.**
 - I. On the 2nd of November 2021, my partner, David Campbell, wrote to Steven Healey (the then Case Officer) referencing the bay on Blundellsands Hall and its direct association with historical properties lost due to the erosion of the coast at Blundellsands. It is the only remaining property on the coast with this feature. Images were supplied both of Blundellsands Hall and the historical images featuring similar bays.
 - II. A further letter was sent to Derek Johnston, Steve Faulkener, yourself and Dwayne Johnson on the 6th of January 2022 from me, giving comprehensive reasoning as to a challenge made to the Heritage at Risk Officer, Daniel Longman, who did not include any direct reference to Blundellsands Hall in his Consultee Document. Mr Longman had not considered Blundellsands Hall or indeed any heritage property in Blundellsands Conservation area as an NDHA and this was challenged. Indeed, he simply stated he didn't consider Blundellsands Hall to be so and had therefore given it no further consideration in this planning application. A full reasoning was provided to Sefton Council as to why we believed Blundellsands Hall was a non-designated heritage asset, using the Planning guidance for councils and Historic England' guidance on determination of NDHA sites, plus previous references by Sefton Council and their assessment of Hawkstone next door being considered as a NDHA.
 - III. Smith Jenkins Planning & Heritage Consultants with contribution by the country's leading Heritage Lawyer, Nigel Hewitson, provided further detailed comments by letter on this subject. They suggested dialogue with Sefton Council but had no response.
5. The Case Officers Report states there has been no supporting evidence to suggest the prima facia aspects which contribute to its significance will be harmed by the development. **This is untrue.** Images have been provided within the documents indicated above as far back as November 2021 and January 2022 showing how the bay in Blundellsands Hall would be obscured from the **ROAD** (not the coast as the Case Officers' Report states).
6. The Case Officers' Report states 'The development would therefore conserve those aspects which contribute to the significance of 108 Blundellsands Hall and would be compliant with the aims of policy N15 (if applied).
7. The Case Officer Report confirms the Planning Inspectorate NDHAs' may be identified through the planning process, if accompanied by sufficient evidence of merit to do so. We have provided that evidence - if more evidence was needed, in addition to the many references already provided by Sefton Council themselves as to the positive contribution Blundellsands Hall makes to the heritage environment.
8. On the site visit to Blundellsands Hall by Case Officer Steven Faulkener, he informed me that Sefton Council were presently compiling a Heritage List. He agreed that when that was done Blundellsands Hall would be on it

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9. If Sefton Council needed to investigate further whether Blundellsands Hall was considered an NDHA or not, they have had ample time and detail from a number of sources. Therefore, the statement in the Case Officers report as to having been provided with no evidence is incorrect.
10. The Case Officers Report references an appeal at 23 Park Drive (Hawkstone). The Case Officers of the original application of this case commented Hawkstone **'makes a wholly positive contribution to the character and appearance of the Conservation Area. it could be regarded as a non-designated heritage asset through its special character and type, with the retention of many of its original features'**.
11. The Case Officers Report draws comparison with Blundellsands Hall in this case, but there is confusion in his report as to the outcome of Hawkstone as an NDHA. Whilst undoubtedly a magnificent original property, Hawkstone has two features which Sefton Council have already determined to be detrimental to the property. A large platform on the roof which is featured in the Blundellsands Conservation Area Appraisal as being a negative factor to the building. A further glass balcony has been added which the Conservation Officer determined (in this application) as an 'undisputable modern addition'. If Hawkstone had not achieved NDHA status this is likely to be the reason. Blundellsands Hall has no features assessed by Sefton Council to be detrimental or could conceivably be considered to be so.
12. The Case Officers Report comments that the existing building and boundary treatment does not allow for significant views through the CA. This is untrue. As I have repeatedly included in numerous submissions with supporting images, 'Blanefield', featured in the Blundellsands Conservation Area Appraisal, will be lost from the public view by the proposed construction. Current full bloom of trees may mask this at present. However, as stated, through autumn to spring this magnificent property can ONLY be seen from sections of the coast across the applicants 'garage. The removal of this heritage property from public view is detrimental to the historic environment and this issue has never been properly acknowledged.
13. The Case Officer Report suggests Blundellsands Hall is not mentioned in the Conservation Appraisal as a significant view into the CA. NO heritage properties are mentioned in his appraisal – not even the grade II listed monument immediately in front of the applicant site. This is a fundamental flaw of the appraisal, and any non-inclusion of specific properties cannot therefore be seriously considered in this context.
14. The Case Officer Report reference to Ecology matters.
 - I. On the 3rd of March 2022, I wrote to Steve Faulkener and copied in you, Derek McKenzie and Daniel Byron, highlighting the many irregularities in the revised plans (moved location of trees and falsely lengthened existing walls etc.), noting the implication to the tree corridor and wildlife.
 - II. On the 18th of March 2022, I sent a further email, detailing these many irregularities with the recent (and now final) plans. I asked was Sefton Council not yet at the point of refusing this application on the basis of so many errors, false and misleading

- statements. I said if they were not, I would obtain our own Ecology Report at the optimal time (which was imminent). I received no reply.
- III. On the 18th of March 2022, I asked for a response to that email as I was mindful of the optimal time for assessing lizard habitat particularly and said I had an Ecologist ready to attend the site but that I was awaiting his reply. I received no response.
 - IV. During the next few weeks, I made several calls to Sefton Council, to speak to the Case Officer on this matter. I had refused a request for the applicants Ecologist to attend my site as I was not confident (due to their previous misreporting) that they would convey accurately our site. I had though invited MEAS themselves on site to assess Ecology matters on several occasions and had discussed my reasoning with them. I spoke to the Enforcement Officer, detailing my concerns. He assured me he would ask the Case Officer to contact me. I received no response
 - V. Following this lengthy delay while awaiting a response, I eventually instructed an Ecologist who submitted his initial assessment on the day we were informed of this case being determined on Wednesday. He highlighted many irregularities, inaccurate and misleading statements (particularly as to the surrounding habitat) in the applicants Ecology Report. He concluded further assessments were vital before determination when endangered species may be affected by the proposal.
 - VI. We have been given no time to instigate a full Ecology Survey, despite the many attempts to engage with Sefton Council and our requests that this is done in the optimal time.
 - VII. MEAS have assessed the application only on what they had available, the applicants' documentation which is flawed, misleading and suboptimal.
15. The Case Officer Report states the tree officer has no objections following receipt of revised plans and tree survey details. However, the Tree Officer has not produced (or not presented) a Consultee Document, available to the public or the Planning Committee, showing how his assessment has been made. This has been requested and remains unavailable. As there is such discrepancy as to the size (and therefore RPA / Canopy spread) and the true location of trees, there is no opportunity for the determining Planning Committee to understand why our Arboriculture Specialist, who is advisor to the Planning Inspectorate, with 43 years' experience, is President of the European Arboriculture Society and is considered the countries most eminent Expert Witness I Arboriculture, is not believed by Sefton Councils tree officer who chooses instead to rely on the applicants tree report which the Case Officer confirms has error.
16. The Case Officer Report says the applicant has submitted a plan indicating the majority of existing load bearing and exterior walls would be retained, and this is accepted. This is untrue. Virtually no exterior wall is retained on the exterior (only minor corner sections). Any wall that has been retained is now interior. The doubling in size of the property is not contained in the main structure of external walls.
17. The Case Officer Report references Policy HC4 Extensions quoting a proposal must ensure **'The size, scale and materials are in keeping with the original dwelling and the surrounding area;** He finds the application is acceptable under HC4 Extensions. Yet elsewhere in his report he confirms the quotes below:
- I. (Size should be in keeping with the original): **The size will double**

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- II. (Materials should be in keeping with the original): **'the property will resemble a replacement dwelling in appearance', 'the proposed extensions would substantially alter the appearance of the dwelling', the proposal would result in a significant change to the appearance of the existing dwelling'**
- III. (Must be in keeping with the surrounding area): **'the Art Deco style is not characteristic of Blundellsands Park Conservation area'**

18. The Case Officer Report says the grade II listed public drinking fountain is already undermined by the application property as it does not possess any historic interest relative to the fountain. The Grade II Listing was only issued in 1998 when the applicants' property was already established. Historical association was clearly not a requirement or any influence on the designation. What has failed to be addressed is the requirement, in policy, for the Grade II Listed asset to retain primacy. Doubling the size of the property and finishing in white render undermines this requirement.

19. In the ongoing conditions, it references only replacement of trees in the applicant site that are damaged. This makes no requirement whatsoever for trees damaged on neighbouring properties. There is no mitigation of tree loss on adjoining sites.

Kind regards,

Lorraine Sass

On behalf of the objectors

SmithJenkins

PLANNING & HERITAGE

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Mr Derek McKenzie
Head of Planning
Sefton Metropolitan Borough Council
324 Stanley Road
Bootle
L20 3ET

30th May 2022

Dear Mr McKenzie,

Re: Application Reference: DC/2021/01739, No. 102 The Serpentine North, North Blundellsands, Liverpool, L23 6TJ

I act on behalf of Ms Lorraine Sass in respect of the above matter and wrote in respect of the application on 6th January 2022 and I am aware that Ms Sass has corresponded with the 2 exited Case Officers over the last months in respect of various matters relating to the above application.

Since the lodging of the application, Ms Sass has sought to engage with the local authority in respect of the application and its implications on the local environment. Ms Sass has engaged myself, a planning and heritage specialist, an ecologist, an arboriculturist and a planning lawyer. These particular specialists have reviewed the submitted material and provided comments to the local planning authority and, importantly, a number of these comments have raised significant concerns over the handling of this application.

This engagement of specialists has been undertaken in the interests of a fair and honest decision. We are extremely concerned that ~~the~~ matters raised by Ms Sass (which she has gone to considerable extent to provide independent review) has not merited any response from the Council before a decision was announced for the application to go to the Planning Committee on Wednesday.

We remain concerned that despite the inaccuracies being drawn to the attention of the Council, the application has been reported to Committee for their determination when the inaccuracies and misrepresentation of the situation have not been properly identified and instead, the applicants reports have been accepted without any assessment of the baseline information. In this regard, we provide a summary of the concerns raised regarding the ecology and arboricultural impacts of the proposals.

Further the Officers Report to Committee does not report the impacts of the proposed development in a proper and correct manner and instead, Members are being asked to determine an application without a fair and rational presentation of the facts.

Ecological considerations

Independent review of the ecological report by JCA, Ecology Consultants, dated 8th May 2022.

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JCA cast doubt on the accuracy of the applicants report and clearly states:

'The reports contain numerous inconsistencies and inaccuracies, along with examples of practices which fall short of the standard I would expect of a professional ecological consultancy.'

Despite this assertion, there has been no direct response to the independent review.

Other comments include:

- The applicants report does not accurately refer to its limitations – the extent of inspection was limited, yet there is no reference to how this has been mitigated (paragraph 5.2);
- A misrepresentation of the site – referring to as a densely populated urban area. This is simply not correct. The houses are set in extensively landscaped grounds. This is a basic misrepresentation and fails to properly understand the site and the surroundings (paragraph 6.2);
- Not recognising the habitat connecting the site and Seaforth Nature Reserve is a significant misrepresentation of the potential impact on breeding sand lizards and natterjack toad (paragraph 6.3);
- Misrepresentation of the distance between Key Park and the application site – the applicants report it is 100m, when it is actually 50m. Such fundamental errors are redolent of the application in that information lacks any accuracy and does not form a basis for the consideration of the scheme impacts;
- By not understanding the built form of the area, it is then not possible for the applicants advisors to properly report potential impacts. There is a suggestion that the presence of high density development limits any movement between buildings. However, there are numerous green corridors which could be used to species to travel around the area. Again, this is a basic error and questions the accuracy of the report (paragraph 6.9);
- Despite the applicants ecologist assertion, the site is not surrounded by stone walls. There is no barrier to movement around the area and, as a result, this has not been given any consideration in the report.
- In respect of bats, fundamental errors in the survey which would have not allowed a proper survey of potential bat roosts. The Council have to be aware that bats are a protected species yet the submitted report is fundamentally flawed and lacks any rigour.

Arboricultural considerations

My client has sought the advice of Jonathan Cocking, an expert witness of some 43 years who has assessed the impact of the proposals on the tree corridor in the adjoining site, Blundellsands Hall. These comments were relayed to the Council on 25th May 2022.

Firstly, we note that the consultee response from the Council's own Tree Officer is not publicly available on the Council's website, yet we know that comments have been made, as we have seen reference to comments sent to the Case Officer in 2022.

Mr Cocking has reviewed the submitted material and also visited the site to understand the precise impacts arising from the proposals, from which he deems an entire tree corridor could be lost. He notes:

- There is no detailed assessment of the proposals by the Council's Tree Officer;

- There are inaccuracies within the Applicants Arboricultural Statement which appear to have not been challenged;
- The submitted plans do not accurately report the location of trees. If such basic information is inaccurate, any report relying on this inaccurate information can not be given any significant weight in the planning process. This is not a means on which any application should be determined;
- These inaccuracies remain despite the amendments to the submitted drawings.

Again, the deficiencies of the applicants own arboricultural statement is illustrative of the lack of attention and due consideration given to the preparation of reports. Factual statements have not been challenged and, as my client has demonstrated, such inaccuracies are a misrepresentation of the actual situation.

Heritage Considerations

Smith Jenkins Planning & Heritage provided detailed comments on the application by letter dated 6th January 2022. This included an extensive assessment of whether my client's property constituted a non-designated heritage asset.

That assessment concluded that as the Council's own published Conservation Area Appraisal had identified Blundellsands Hall as a 'secondary landmark', it has to be considered to constitute a non-designated heritage asset.

We note the comments in the Officer Report to Planning Committee that identification of a building as making a positive contribution to the character and appearance of a conservation area does not automatically qualify a building as a non-designated heritage asset. In this case, this is simply not true. In preparing the conservation area appraisal, the Council's Conservation Team have sought to identify a handful of building – five to be exact – which have a 'landmark' status. These are considered to be buildings so important to the conservation area, that they must be identified as buildings of specific interest. These therefore must, with all logic, be identified as non-designated heritage assets. Paul, is it worth putting in her that our house is also referred on plan 11 in the Blundellsands Conservation Area Appraisal as 'Building that contributes to the character of the area'. This therefore requires the particular policy tests are engaged (requiring a balanced judgement of the potential impacts), and which have not been undertaken or even considered by the Council's Conservation Officer.

We have also offered substantive advice on the impact of the proposals on the conservation area, and the inaccuracy of Mr Longman, the Council's former Conservation Officer, who has provided commentary on the application which is inaccurate and contradictory. Despite our comments, we have not been provided with any response and instead, any decision on the application will be based on misleading and inaccurate information.

Committee Report

We attach our comments dated 6th January to this letter which provided a response to the Council's Conservation Officer own response to the application. Over the last 5 months, there has been no update to the Council's comments and there have been no substantive changes to the scheme or Mr Longman's views which are in response to our comments made. Members should read these previous comments as there are fundamental failings and inaccuracies in the comments from Mr Longman.

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There is also a misrepresentation of the proper facts of the case, and a failure to properly consider the impacts arising from development, a matter which my client has raised with the Institute of Historic Building Conservation, the professional accreditation board for heritage professionals.

In addition to the matters raised by our letter dated 6th January, we would highlight the following matters, which are relevant to the consideration of the application and which could, if the application be approved, lead to a successful appeal to the High Court for Judicial Review:

1. The character or appearance of the conservation area is not identified in the Officers Report, and there is no proper assessment of the effect of the proposals on that significance;
2. The onus is on other parties to provide evidence to support the case that the neighbouring property, identified in the adopted Conservation Area Appraisal as a 'secondary landmark' is a non-designated heritage asset. This is not the case and is illustrative of the handling of this application, where the proper effects are not given any real consideration and inaccurate statements are given inadequate weight;
3. The Council's own conservation area appraisal identifies that modern development has eroded the character and appearance of the conservation area, yet, these proposals are for an Art Deco inspired building which, in the Council's own admission, is considered to be alien to this conservation area. There is no logical basis to therefore suggest that there would be no harm or, that there would be an enhancement.
4. On page 31, the Council state that there are no objections to the proposals. However, it must be noted that there are a swathe of objections to this application. Stating that there are none is simply not correct.
5. Turning to whether the advice from the conservation officer is rational. As will be seen in our comments dated 6th January 2022, and put simply, Mr Longman's advice is not rational and does not provide a solid basis for the determination of this application. His advice is confused and irrational. His comments refer to the juxtaposition or the differing style of the proposals to the rest of the conservation area, yet, this is an area which is known for its homogeneity rather than its divergence of architectural styles. Concluding that there would be no harm is therefore irrational.
6. Finally, in coming to a judgement on the proposals, Officers fail to correctly apply the statutory duties relevant to listed buildings and conservation areas, relying in proposals not being in conflict with those proposals. This is simply not the correct manner in which to consider the proposals and, as in the Forge Field High Court decision, would open the Council up to High Court Challenge.

Summary

Ms Sass does not suggest that she has an in principle objection to the proposed development. The intention of Ms Sass is to ensure that decisions are made in an open and transparent manner, based on a full understanding of the relevant policy considerations.

As Ms Sass has demonstrated in her submissions, supported by her professional advisors, the current application is misleading and inaccurate. Indeed, reports also fall short of what would normally be expected from a professional ecologist.

The Officers Report is inaccurate and there is a continued fundamental mis reporting of the precise heritage impacts of the proposals which, if the Council were to approve the application, would open themselves up to a High Court challenge.

We therefore respectfully request that this application be refused on the basis of inaccurate and misleading information and, as a minimum, deferred for the updating and proper assessment of the merits of the case.

I look forward to hearing from you in regard to this matter.

Regards



Paul Crisp MRTPI IHBC
Director, Heritage & Townscape
Smith Jenkins Planning & Heritage

Mr S Faulkner
Sefton Metropolitan Borough Council
324 Stanley Road
Bootle
L20 3ET

6th January 2022

Dear Mr Faulkner

Re: Application Reference: DC/2021/01738, No. 102 The Serpentine North, North Blundellsands, Liverpool, L23 6TJ

I act on behalf of Ms Lorraine Sass in respect of the above matter. I understand that you have recently taken over as the case officer for this application. Ms Sass has asked me to review the handling of the current application with a view as to whether the correct procedures have been followed to ensure that the application can be properly determined.

This letter has been reviewed by Nigel Hewitson, partner at the law firm, Davitt Jones Bould and co-author of "Listed Buildings and Other Heritage Assets (5th Ed)" published by Sweet and Maxwell. It incorporates his comments.

Merits of the case

I appreciate that Ms Sass, and many of the neighbours and those in the local area, have provided comments on the merits of the case, particularly whether it complies or not with the development plan. The comments made provide a thorough and eloquent review of the proposed development and I highlight that main considerations below:

- The application proposals are located within a heritage sensitive context, being the:
 - Blundellsands Conservation Area;
 - The setting of the grade II listed St Nicholas Fountain;
 - the 'secondary landmark' of Ms Sass' own dwelling, Blundellsands Hall, 108, The Serpentine North (which I will return to).
- The existing building on the site is considered within the Blundellsands Conservation Area Appraisal as making a neutral contribution to the character and appearance of the area, and the proposals will have a similar, if not further detrimental impact on the area;
 - The design of the proposed building is out of character with the conservation area and is alien form unrelated to any other building;
 - The design references are obscure and bear no relation to this conservation area;
- The loss of trees (which are important to the conservation area) as a result of the proposed development;
- The loss of important views from the beachfront to 'Blanefield' on Warren Road (identified by the Appraisal as a building which makes a positive contribution to the character and appearance of the conservation area).

The Adopted Conservation Area Appraisal makes a clear assessment of the character and appearance of the conservation area, including appearance, materials, roofs etc. The application proposals would be a clear breach of the guidance within that document.

Having reviewed the application documentation, the application should be refused on the basis of the conflict with the statutory duty (that it does not meet with s. 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in that the proposed building would further harm the character and appearance of the Blundellsands Conservation Area, and would also conflict with the development plan, including policy EQ2 (Design), NH9 (Heritage Assets), NH11 (Listed Buildings), NH12 (Conservation Areas) and NH15 (Non-designated Heritage Assets). On this basis, and as set out in the various objections, it is considered that planning permission should be refused.

Determination Process

Turning to the process of determination, I am concerned that this application has not been properly considered in light of the manner in which the local planning authority is exercising its statutory duty as required by the Planning (Listed Buildings and Conservation Areas) Act 1990, specifically, the duty set out under s. 66(1) relating to listed buildings and s. 72(1) relating to conservation areas.

The general duty in respect of listed buildings

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

'In considering whether to grant planning permission, or permission in principle, for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'.

In respect of this matter, I draw your attention to the comments received from your Conservation Officer, Mr Longman. These are undated, but were recorded as being uploaded to the Council's online planning records on 13th September 2021. The Officer's comments only consider the impact on the Blundellsands Conservation Area and only reference policy NH12 from the Local Plan (being the conservation area).

This is a fundamental failing of Mr Longman's as he makes no reference whatsoever to the presence of the grade II listed St Nicholas Foundation, just a few metres to the west of the site. This is an error of Mr Longman and it clearly shows that due consideration has not been given to the significance and setting of listed buildings within the surrounding area.

This failing to identify and consider the significance of the listed building has been highlighted to the local planning authority by a number of the objectors and, I note that Mr Longman responded to the comments received from consultees in another undated document, which was uploaded to the Council's online planning records on 6th December 2021. In that document, Mr Longman responds to the question over why he had failed to mention that the application site is within the setting of a grade II listed building. In his response, Mr Longman cites that definition of setting as taken from the NPPF, as well as policy NH11 of the Local Plan and concludes that:

"...the proposal will not have a perceivable impact upon the setting of the asset."

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However, Mr Longman does not support this assertion with any assessment of significance or supporting justification. Such an assessment is flawed and cannot be given any significant weight in the decision making process.

You should be aware of the High Court Case between Obar Camden Limited and the London Borough of Camden and Vidacraft Limited ([2015 EWHC 2475 (Admin)]) dated September 2015. This judgment hinged on whether Members were provided with sufficient information to be able to come to an informed and proper judgment on the application proposals. Mr Justice Stewart concluded that the statutory duty had been brought to the attention of Members and, further, that it is not possible to come to a conclusion about harm (or indeed about the impact on significance) until an assessment has been made of the significance of the asset affected.

Taking into account the Koko case, one must therefore ask, how can a decision on this application be lawful, if the specialist advisor – the Conservation Officer – did not identify the listed building to start with and, more importantly, provide an assessment of its significance to be able to demonstrate compliance with the statutory duty. This is simply not possible. This is a fundamental failing of Mr Longman and is one that opens the local authority up to challenge through Judicial Review, as the Council has not discharged its statutory duty properly and any Members decision on the application would similarly be fundamentally flawed.

The general duty in respect of conservation areas

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act (1990) sets out the Council's statutory duty in respect of conservation areas:

'In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'

The designation of the conservation area is supported by a detailed Appraisal, adopted in March 2008. This sets out a significant amount of information as to why the conservation area was originally designated, with sections on historic development, townscape and focal buildings, materials and detailing as well as negative factors and opportunities.

The Blundellsands Conservation Area Appraisal identifies the building on the application site as one that is of neutral interest, but the Conservation Area Appraisal does make reference to the reasons why a building might or might not contribute to the character and appearance of the conservation area, yet no reference is made to which of those four criteria apply in this case. Without this information, it is simply not possible for Members to make a decision about the impact of the application proposals on the character and appearance of the conservation area unless they are presented the full amount of information. I would expect an assessment to have been undertaken along the lines of that within table 1 of Historic England's Conservation Area Appraisal, Designation and Management. This table provides a basis for understanding how buildings contribute to a conservation area.

Turning to Mr Longman's specific comments on the design of the proposals and their impact on the conservation area

'The works would create a particularly unique addition to the conservation area, but one which would not be strictly harmonious to its 19th century/Arts and Crafts neighbours found elsewhere in the conservation area'

It is difficult to understand how Mr Longman can suggest that the character and appearance of the Blundellsands Conservation Area would be preserved on the basis of the introduction of a building which in his own words would be a *'unique addition'* to the conservation area. By definition - the dictionary defines *'unique'* as *'one of its kind'* – and by its nature, the design of a building in this context would have no regard to the character and appearance of the conservation area (unless the conservation area was designated on the basis of its diversity in design – which the Appraisal does not).

At this point, it is helpful to refer back to the statutory duty, in that development should preserve or enhance the character or appearance of the conservation area. How is it possible for development to meet this statutory requirement when it as Mr Longman puts it “would not be strictly harmonious to its 19th century/Arts and Crafts neighbours”? I would go further and say it bears no relation to the character or appearance of the conservation area in which it is located.

Perhaps Mr Longman is suggesting that replacing a building which he deems to make a neutral contribution to the character and appearance of a conservation area with one that makes a similar contribution – i.e. that also makes a neutral contribution, is acceptable. Such an approach would certainly meet the tests of the South Lakeland case, but that is simply not the case here.

I consider that the replacement dwelling detracts from the character and appearance of the conservation area significantly more than the existing building does. For instance, the replacement dwelling stretches the full width of the site (From boundary to boundary), which is more than the existing building and has been specifically noted by the adopted Conservation Area Appraisal as being a detracting feature. I therefore have to conclude that whilst the existing building may make a neutral contribution to the character and appearance of the conservation area, the proposed replacement building would be a detracting feature on the basis of it extending to the full width of the plot by itself. On that basis, the proposals would actually harm the character and appearance of the Blundellsands Conservation Area. The application should therefore be refused as it would harm the character and appearance of the conservation area.

Does Blundellsands Hall, no. 108 The Serpentine, constitute a non-designated heritage asset?

Non-designated heritage assets are described by the Planning Practice Guidance note (Paragraph: 039 Reference ID: 18a-039-20190723) as:

'Non-designated heritage assets are buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions but which do not meet the criteria for designated heritage assets'.

The Planning Practice Guidance also comments on how non-designated heritage assets are identified (Paragraph: 040 Reference ID: 18a-040-20190723):

'There are a number of processes through which non-designated heritage assets may be identified, including the local and neighbourhood plan-making processes and conservation area appraisals [my emphasis] and reviews'.

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The Adopted Conservation Area Appraisal identifies the neighbouring site, Blundellsands Hall (my clients' property) as one of five buildings considered to constitute a 'Secondary Landmark'. The text supporting this states:

'There are a few further buildings that add to the character of a specific point within the conservation area and help to provide a point of reference:'

By identifying 'secondary landmarks' in the conservation area appraisal, there is clear intent by the local authority that such buildings are deemed, and accepted, to contribute to the character and appearance of the conservation area. The supporting justification makes it clear that such buildings do add to the character of the area. Whether such buildings constitute non-designated heritage assets is absolutely clear.

Further, plan 11 within the Blundellsands Conservation Area Appraisal identifies those buildings that are considered to contribute to the character of the area. This clearly identifies my clients' property as one of those such properties.

I therefore have to conclude that there can be absolutely no doubt that those buildings that are listed under 'secondary landmarks' do constitute non-designated heritage assets. They have been identified, as the PPG suggests, in a conservation area appraisal and a clear process has been undertaken to support their identification. I consider that there is no argument here to even suggest that such buildings would even be contemplated to not comprise non-designated heritage assets.

This is an important matter, as the identification of the 'secondary landmarks' as non-designated heritage assets requires an assessment to be undertaken against paragraph 203 of the NPPF, and a balanced judgement be made having regard to the scale of any harm or loss and the significance of the heritage asset. This exercise has not been undertaken by Mr Longman. If this exercise were to be undertaken, it would be clear that the proposals would cause a degree of harm to the non-designated heritage asset which must be balanced against the wider benefits of the scheme (which are considered to be limited).

Summary

Whilst the merits of any application affecting heritage assets requires an element of subjective judgement, any decision should be based on a sound reasoned justification.

As has been demonstrated above, the planning considerations of this application are clear. The application proposals are in clear breach of the statutory duty and the development plan in that they would contravene the key principles set out in the Council's Conservation Area Appraisal and they would, as a result, cause a greater degree of harm to the Blundellsands Conservation Area than the existing building. On this basis, the application for planning permission should be refused.

Further, the handling of this case is fundamentally flawed and a proper due process has not been followed. Comments from the Council's Conservation Officer do not provide a sound basis for the determination of this application in that limited reference has been made to either the listed building or the non-designated heritage assets that exist within the surrounding area. There has been no assessment of significance of either of these by the Conservation Officer to illustrate how he has arrived at his conclusions.

I would therefore encourage the local authority to undertake an urgent review of the application and all its material, as well as the consultee comments, to ensure that this application is properly

determined in line with the statutory duty. I would also urge the Council to ask its professional heritage advisor, Mr Longman, to undertake a proper and robust assessment which is supported by the appropriate evidence to be able to come to an informed judgement on the proposals as the current assessment is wholly lacking.

Judicial Review

Finally, I do need to highlight that the behaviour of the local planning authority does open itself up to potential challenge through Judicial Review. Should the application be approved, my client will be reserving her position on this.

I look forward to hearing from you in regard to this matter.

Regards



Paul Crisp MRTPI IHBC
Director, Heritage
Smith Jenkins Planning & Heritage

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Sefton Council's comments on tree-related matters.

The following comments comprise the consultation response from Sefton Planning Department's Arboricultural Officer to the case officer, February 2022.

These remain the view of the Arboricultural Officer in response to the comments submitted by the objector as part of these late representations.

"Further to our ongoing discussions in relation to the above-mentioned application I have now had time to review the updated tree report from Treestyle Consultancy Ltd (updated 18 February 2022) and the report from JCA Associates and would provide the following comments:

"It may be worth noting that the report from JCA provides comment in relation to an earlier layout and Treestyle Consultancy report. The updated layout has been considered in the report from Treestyle Consultancy.

"JCA Appraisal – This report identifies 30 individual trees, 4 groups and 2 hedges as being relevant in terms of this application. However, since receiving this submission I have received an email advising that this report and the report by Treestyle Consultancy have omitted one Holly tree in close proximity to T29 making the tally to 31 trees. Of the 36 tree assets assessed 6 are classed as category A, 14 as category B, 15 as category C and 1 as category U. This categorisation is generally higher than that of Treestyle Consultancy. The reason for this is stated as being collectively the trees provide excellent visual amenity to the properties and surrounding. It is my view that the development site and surrounding properties do not contain any category A trees.

"Included within the report is a section which outlines inaccuracies within the submission by Treestyle Consultancy (as detailed above these comments relate to an earlier submission). These inaccuracies generally relate to the recoding of a number of the species, stem diameters and height. It further states that the report from Treestyle Consultancy identifies the development requiring the removal of 17 tree assets along all three of the boundaries bordering adjacent properties; however the document does not identify any loss along the rear boundary.

"It is clear when reading both submissions there are some inaccuracies within each and therefore I have not gone into detail of each specific inaccuracy and given my view relating to these. However, it has been noted that the updated submission from Treestyle Consultancy has addressed a number of these identified inaccuracies.

"With specific regard to the updated layout I would comment as follows:

"The amended layout has addressed some of my original concerns by setting back the design from the northern boundary with Blundellsands Hall providing a greater interface distance. However, I do have some concerns in relation to the southern boundary. The updated tree report from Treestyle Consultancy shows trees T13 and T14 within the neighbouring property. However, the proposed ground floor plan by Diaz Associates shows these trees as being within the application site and requiring removal due to them being located within the retaining wall. Therefore further

clarification is required in terms of the tree impacts within this area. If it is proposed to construct the foundation of the property within the RPA of trees to be retained the design of this foundation would need to be considered by the Arb Consultant and included within their reports.

“Taking the above into account I am unable to support the application in its current form. However, further consideration and clarification of the above issues may resolve my concerns”.

The Arboricultural Officer concludes: “Following these comments further dialogue was entered into with the applicant who provided sufficient detail to resolve these issues and to allow my support of the scheme”.

In response to comments submitted by Ms Sass on 31st May 2022, the Arboriculture Officer notes the following:

“With regards to point 1 Ms Sass is correct in that the trees were originally recorded by the applicant’s Arboricultural Consultant as being smaller than that of Ms Sass’s consultant. However, the height has no bearing on the root protection area. This is determined from the stem diameter.

“With regards to point 2 it is my understanding that these comments etc relate to the original report by the applicant’s arb consultant. As detailed in my previous comments. This was updated taking into account some of the issues raised and the amended layout.

“Point 15 the comments have been provided in the above response

“Point 19 the scheme allows for the retention of the off-site trees therefore mitigating planting is not required”.

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Merseyside Environmental Advisory Service
The Barn, Court Hey Park
Roby Road, Huyton, L16 3NA
Director: Alan Jemmett, PhD, MBA

Enquiries: 0151 934 4951

Contact: Joe Whittick
Email: measdconsultations@sefton.gov.uk

DEVELOPMENT MANAGEMENT ADVICE

To: Steven Faulkner
Organisation: Sefton Council

From: Joe Whittick

Your Ref: DC/2021/01739
File Ref: SF21-116
Date: 30th May 2022

Erection of a two storey extension to one side, a part two storey/part single storey extension to the opposite side, a two storey extension to the rear, single storey extensions to the front and rear of the dwellinghouse, a roof terrace and partial conversion of the existing garages

**102 The Serpentine North, Blundellsands, Liverpool, L23 6TJ
Additional information – 30th May 2022**

1. Thank you for consulting Merseyside Environmental Advisory Service in respect of this planning application. The proposals comprise the erection of extensions, a roof terrace and partial conversion of existing garages.
2. Having reviewed the application and supporting documentation, our advice is set out below in two parts.
 - Part One deals with issues of regulatory compliance, action required prior to **determination** and matters to be dealt with through planning conditions. Advice is only included here where action is required or where a positive statement of compliance is necessary for statutory purposes.
 - Should the Council decide to adopt an alternative approach to MEAS Part 1 advice, I request that you let us know. MEAS may be able to provide further advice on options to manage risks in the determination of the application.
 - Part Two sets out guidance to facilitate the implementation of Part One advice and informative notes.

In this case Part One comprises paragraphs 3 to 10. There is no Part Two.

Merseyside Environmental Advisory Service – delivering high quality environmental advice and sustainable solutions to the Districts of Halton, Knowsley, Liverpool, St.Helens, Sefton and Wirral



Part One

3. The application has received objections from neighbours for several reasons. Objections regarding ecology matters are as follows:
 - The objector believes Sand lizard, Natterjack toad and bats may be harmed by the proposals;
 - The ecological reports submitted to support the application do not do justice to the significance of ecological assets; and
 - Tree removal will result in damage to ecological corridors, bat foraging habitat and dune grassland;
4. In response to these comments the applicant has previously submitted further information from their ecological consultant - *Letter from Tyrer Ecological Consultants Ltd to T Diaz, 30th March 2022.*
5. An assessment of the ecological information submitted in support of the application has subsequently been submitted by a neighbouring property (*JCA Limited, May 8th 2022*), re-iterating previously raised objections.
6. I have reviewed the submitted ecological information and believe that the reports provide sufficient information on which the local authority can determine the application. Appropriate conditions, as outlined below, should however be secured on any approval.

Amphibians and Reptiles

7. The submitted reports states that no evidence of Natterjack toad and Sand Lizard use or presence was found. The nearest confirmed records of these species are beyond 1 km of the site and habitats within the site are sub-optimum for these species. No significant impacts on reptiles and amphibians are predicted, however as a precaution, and to avoid harm to individual amphibians or reptiles that could cross the site, I advise that the following Reasonable Avoidance Measures should be secured by a suitably worded condition:
 - Existing vegetation on the site will be gradually cut and removed under ecological supervision to encourage any amphibians / reptiles present to move away from the affected areas;
 - The working area, together with any storage areas, will be kept clear of debris, and any stored materials will be kept off the ground on pallets so as to prevent amphibians / reptiles from seeking shelter or protection within them; and
 - Any open excavations (e.g. foundations / footings / service trenches etc) will be covered with plywood sheeting (or similar) at the end of each working day. The edges of these sheets will be covered with a thick layer of topsoil or similar) to prevent amphibians / reptiles from seeking shelter beneath them. Any excavation must be in-filled and made good to ground level with compacted

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stone or similar at the earliest opportunity, so as to remove any hazard to amphibians / reptiles.

Bats

8. Habitats on/adjacent to the site may provide roosting, foraging, commuting habitat for bats. Lighting for the development may affect the use of these areas. A lighting scheme can be designed so that it protects ecology and does not result in excessive light spill onto the habitats, areas in line with NPPF (paragraph 180). This can be secured by a suitably worded planning condition. It would be helpful for the applicant to refer to *Bat Conservation Trust website* <https://www.bats.org.uk/news/2018/09/new-guidance-on-bats-and-lighting>

Breeding Birds

9. Built features or vegetation on site may provide nesting opportunities for breeding birds, which are protected and Local Plan policy NH2 applies. The following planning condition is required.

CONDITION

No tree felling, vegetation management or building works are to take place during the period 1 March to 31 August inclusive. If it is necessary to undertake works during the bird breeding season then all buildings, trees, and vegetation are to be checked first by an appropriately experienced ecologist to ensure no breeding birds are present. If present, details of how they will be protected are required to be submitted for approval.

Landscaping

10. The submitted reports recommend replanting of native woody species, which will add to the local commuting lines, to be planted along the boundary features, particularly along the eastern/north-eastern boundaries. This is accepted and native species can be included within a landscape planting plan that should be submitted to the Council for approval. Any planting plan should be in accordance with previous comments regarding red squirrel (*MEAS, 6th September 2021*). This can be secured by a suitably worded planning condition.

I would be pleased to discuss these issues further and to provide additional information in respect of any of the matters raised.

Joe Whittick MCIEEM
Ecologist

Merseyside Environmental Advisory Service – delivering high quality environmental advice and sustainable solutions to the Districts of Halton, Knowsley, Liverpool, St.Helens, Sefton and Wirral



Item 4B

DC/2022/00087: Land at Crosby Coastal Park

An email has been received from the Chair of the Seafront Residents' Action Group. This raises the following points and a response is given to each point:

- The statement made in the committee report that the need for the proposed path is not a material consideration is astonishing.

Response: Whether a particular consideration is material will depend on the circumstances of the case. The scope of what can constitute a material consideration is very wide but ultimately it is what is 'relevant' to making the planning decision in question in the public interest. It is for the decision maker to make the primary judgment as to what should be considered in the circumstances of any given case. For this application, the 'need' is considered to be subjective, and the perceived need for the path does not make it a material consideration as to 'why' it is acceptable and sustainable development in the public interest and in planning terms.

- At the bottom of page 43 of the agenda, under the sub-heading 'Objections' the report states that the petitions have been signed by almost 300 residents but our records show it was 471 residents.

Response: This is an error and the report should state 471 mainly local residents have signed the petitions.

- The report states that the path will have a grey bituminous macadam surface for the shared use sections and the cycle only sections will have a light buff coloured surface but there is no reference to these colours in the application.

Response: This information has been provided by the applicant and is now published online. It clarifies that the small cycle only section at the bottom of South Road and the cycle only section running from Great Georges Road to Cambridge Road are to be light buff in colour. All other sections of the shared use path will be in standard grey coloured bituminous macadam. These colours are reflected in the Construction Details drawings.

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Item 4C

DC/2022/00454: College Green Rest Home, 14 College Road

The applicant's agent has provided a letter outlining how the business will be operated and managed. This states that the facility will be for low-risk fee paying clients and will be staffed 24 hours a day. During their stay clients will not leave the premises except to attend medical appointments or go on a walk when they will be accompanied by staff. No one will use illicit substances or alcohol. Clients will attend a daily program of therapy from 8.30am to 9pm 7 days a week. The estimated fee for a 28 day stay is likely to be around £13,000.

Item 4D

DC/2022/00569: 6 Roehampton Drive, Crosby, Liverpool, L23 7XD

A further objection has been received which reiterates the concerns raised on page 75 of the committee report including:

Issues are raised in relation to the site location plan being inaccurate. The term used for the extension being modest is not considered to be accurate. The objector claims that the report is inaccurate as they do not have a patio area in the front garden.

Overshadowing

Extension will block light into main living room, the two side windows, the window on the rear elevation, and also the kitchen and dining room. The two-storey extension will overshadow garden/patio area outside main lounge area. With reference made to foliage in the report, this is not a permanent feature, nor is the height permanent. It is significantly cut back once the growing season ends to maximise sun into living areas. It is disputed that the 45-degree guideline has been taken from the mid-point on the first-floor window. In the winter and autumn, the sun will sit lower, meaning even less sunlight.

Privacy

Current plans including covered terrace area would significantly breach privacy. Plans would give applicants full view of main patio area and garden.

Loss of Outlook

Allowing two storey extension will have an overbearing and oppressive effect reducing current outlook across large gardens, creating a feeling of being fenced in. Outlook from the rear will be significantly impacted

Response:

The location plan is only used to show the location of the site rather than the actual build of the property. An updated site plan will be used within the presentation.

In relation to a front patio, this was a misunderstanding of the original objection.

The issue of windows has been covered in the report.

The amended site plan has now been accurately added. The objector has been informed of this. Having calculated the 45 degree daylight test, the measurement provided by the applicant is accurate. A new block plan has also been received and the objector has been made aware of this. Condition 2 has now been changed to read:

Agenda Item 8

The development shall be carried out in accordance with the following approved plans and documents:

0.01PL (Rev A) Proposed Plans

0.05PL (Rev A) Proposed Site Plan

0.02PL (Rev A) Location Plan & Block Plan

Reason: For the avoidance of doubt.

Agenda Item 8

Appendix 5

Item 5A

DC/2022/00375: Deyes High School Deyes Lane, Maghull Liverpool L31 6DE

Amendments are proposed to the following conditions as shown :

- 4) Demolition of the school buildings ~~No development shall commence~~, including any ~~demolition~~, site clearance or ground works, shall not commence until a scheme setting out arrangements on the procedures to be adopted during the commencement of the proposed demolition has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: These details are required prior to the commencement of demolition development in order to ensure that the phases of development are managed properly and in order to safeguard the living conditions of the surrounding occupiers.

The proposed changes require a demolition method to be submitted prior to demolition rather than before the development commences. This ties it more clearly to when it is needed.

- 9) ~~Site arrival shall be restricted to the following times:~~
~~Monday to Friday – 07:30 to 18:00~~
~~Saturday – 08:00 to 13:00~~

Site construction shall be restricted to the following times:
Monday to Friday ~~08:00~~ 07:00 to 18:00
Saturday - 08:00 to 13:00.

No construction activity which generates noise shall take place prior to 08:00 on any day

~~During term time at this site~~ construction vehicle arrivals or departures shall not take place during the following hours:
08:00 to 09:15 and 14:45 to 15:30

The proposed amendment would allow construction workers to arrive by 7am but no noisy construction activity to begin until 8am.

- 17) Prior to reinstatement of the Northern part of the playing field shown on drawing number 10I 7-DEP-00-ZZ-DR-L-0002 Rev 2.4 (Annotated Site Plan) Legend No.1, a scheme for ~~the removal of conifers, bunds, gravel car park~~ and the reinstatement of the affected playing field shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The scheme must be in accordance with Sport England guidance "Natural Turf for Sport" (2011) to ensure a uniform surface across the playing field and provide a timetable for implementation. ~~In the first planting season following the removal of conifers, bunds, and gravel car park~~

~~the affected~~ The playing field must be reinstated in accordance with the approved scheme.

Reason: To ensure the site is restored to a condition fit for purpose and to accord with Development Plan Policy EQ2 and paragraph 99(b) of the NPPF.

The purpose of the proposed amendment to condition 17 is to simplify it.

PROPOSED ADDITIONAL CONDITIONS

No development of the service compound shall commence until details of the design, appearance and layout of the fire water tank and boundary fencing have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory form of development.

This is proposed to be a condition instead of approving the plans upfront

Car parking spaces 79 to 89 on the approved layout plan shall be equipped with the ducting to enable future electric vehicle infrastructure and chargers to be installed.

Reason: To facilitate the use of electric vehicles and to reduce air pollution and carbon emissions.

This is to require ducting to enable future electric vehicle charging points to be provided when needed

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