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Date: 4 June 2024
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Dear Councillor

PLANNING COMMITTEE - WEDNESDAY 5TH JUNE, 2024

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

| Agenda No. | Item | |
|-------------------|----------------------------------|----------------|
| 8 | Late Representations | (Pages 3 - 16) |
| | Report of Chief Planning Officer | |

Yours faithfully,

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

Democratic Services

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Planning Committee: 5th June 2024

Late Representations/Information

Appendix 4 - Petitions

Item 4A: DC/2023/01041 - Land at Durants Cottages, Melling Lane, Maghull.

Highways

For clarity the Highways Manager comment is amended to the following:

Highways Manager

Objection to the proposal access arrangements. No objections to the internal layout and parking provisions.

Para 6.2 has also been amended as follows:

6.2 The proposal is to widen the access road from 3m to 5.5m plus a 2m wide footway on the west side for the first half of its length and then reduce to a width of 4.5m without the footway for the remaining length. The Highways Manager objects to the provision of pavement on only one side and suggests a footway should also be provided on the eastern side of the site access for at least 30m into the site to overcome the objection.

Conditions

Following the submission of an updated Woodland Management Plan and Method statement the Tree Officer has advised they are satisfactory and can be listed within the approved documents. Condition 2 has been amended to include the latest documents within the list of approved details, as follows:

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

1552/08H - Site Plan as Proposed

1552/09 -No.4 Melling Lane Plans and Elevations as Proposed

1552/13B - Plot 5 &6 Plans and Elevations as Proposed

1552/14 A - Plots 1,2,3 &4 Plans and Elevations as Proposed

1552/15C - No.4 Durrant's Cottage Plans and Elevations as Proposed

1552/17D - Proposed Access from Melling Lane

*Howell Acoustics Pace Homes Ltd. NOISE ASSESSMENT Project No. HA141.
REF. HA141. Report No. R01. DATE: 31/07/2023.*

Arboricultural Implications Assessment - Ref: TRE/DCML, Date: 4 April 2024

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Arboricultural Method Statement - Ref: TRE/DCML/Rev A, Date 23 May 2024
Woodland Management Plan - Ref: TRE/DCML/WMP/Rev A Date 23 May 2024

Reason: For the avoidance of doubt.

Condition 11 requiring the submission of a woodland management land is no longer needed as a satisfactory management plan has been provided. The wording of condition 27 is also amended to the following, removing reference to condition 11.

27) Within the first planting/seeding season following completion of the development, all planting, seeding or turfing comprised in the approved details of the woodland management plan and the landscaping covered by condition 26 shall be carried out.

Any trees or plants, outside of the woodland area, which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

The trees within the woodland management plan, shall be managed over the 30 years plan as per the approved management plans.

Reason: To ensure an acceptable visual appearance to the development.

Appendix 5 – Approvals

Item 5A: DC/2024/00627 – 101 South Road, Waterloo.

Further representation

A further letter of objection has been received from a previous objector. The representation suggests that the current use and layout of the building is unlawful and that a 8 bed HMO has been operational at the site since early May.

We are not aware of the current layout and the current use is not material to the decision on this application. However, the Council's Enforcement team have been made aware of the claimed situation and are due to visit the property shortly. Appropriate action will be taken, if necessary, to ensure any ongoing layout reflects a lawful permission.

The objection also highlights that the current application is to be assessed against the new 2023 Flats and Houses in Multiple Occupation Supplementary Planning Document (SPD), whereas the previous application granted at appeal was assessed against the previous 2018 version of the SPD. The 2023 version made different requirements with regards to the outdoor amenity space and introduced Appendix B to provide a more prescriptive definition of when exceptional circumstances are identified to allow lower amounts of outdoor amenity space. The objection identifies two applications which were dismissed at appeal (DC/2023/00401 and DC/2023/00828) due to amenity shortfall that were assessed against the new SPD and suggests that the application allowed at appeal (DC/2022/01358) no longer holds any sway as it was assessed against the previous SPD. However, the two applications dismissed at appeal under the new SPD proposed significantly different layouts from the current scheme, including 8 bedrooms and no outdoor amenity space.

The scheme for a 5 bedroom HMO allowed at appeal remains a material consideration. While it is acknowledged the outdoor amenity space remains deficient in the current scheme, with regards to the Flats and Houses in Multiple Occupation SPD, it will provide more outdoor amenity space than the 5-bedroom scheme which included none. The quantity of indoor communal space is also increased from the 5-bedroom scheme. The appeal decision is a genuine 'fallback position' with a realistic chance of being implemented. The current scheme, as per the flow chart guidance, represents an improvement to what could be implemented through the upheld appeal.

All other matters within the objection relating to the deficiencies in amenity space and commercial space retained were covered in the previous representation.

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Objection to planned redevelopment of 101 South Road, Waterloo (DC/2024/00627)

Representation ahead of Sefton Planning Committee session, 5th June 2024

Details of all applications and appeals directly referenced below may be found within Appendix I.

Current condition of property

A HMO consisting of eight bedrooms – appearing to align in form with plans described under DC/2024/00287 – has been operational at this site since early May. Lacking permission (DC/2022/01358 is to accommodate only five residents), it is, as far as can be seen, unlicensed. For sources of the evidence affirming these claims, please refer to the accompanying Appendix II.

The images below illustrate the key points concisely. Depicted within A, the “lounge” is an essential feature of this application – intended as is to provide additional internal communal space for residents. However, if we take into account the positions of the windows belonging to that room and to the room adjoining (with reference to B), then the promotional photograph (i.e., C) indicates quite clearly that the area is, in fact, occupied by an additional bedroom. To clarify, it would only be possible for the view shown – that is, square-on to the rear edge of the wall of 103 South Road, and beyond to the back of 1 Curzon Road – to be obtained through the “green” (i.e., the supposed “lounge”) windows. Those highlighted red are evidently positioned too near to the Neville Road-South Road junction in order to afford this perspective.



- A. From DC/2024/00627 “Proposed floor plans” Please note green/red highlighting of windows
- B. Positioning of “green” and “red” windows, alongside “blue” wall edge (103 South Road)
- C. Image of bedroom (HMO advertising material) Illustrates view past 103 South Road, incorporating “blue” rear wall edge, only attainable through “green” window.

It should further be noted that a review of the wider pool of promotional photographs, as accessible through the links provided within Appendix II, reveals no indication that the “lounges/dining areas” (of which plans suggest there to be three) exist. Are these present solely on paper – in rooms which are, rather, intended as bedrooms beyond the six proposed? As the evidence above would suggest, this is true certainly of at least one of their number. Instead, we see illustrations only of a second-floor kitchenette, and external amenity space.

In light of these developments, serious doubts must be raised with respect to the circumstances which surround this application. In any case, the building is now in a state very different to that suggested within the “*Existing Floor Plans*” which accompany it – these presenting the property in a form identical to that in which it would have appeared immediately following its closure as a bank (in 2021). On account of the restructuring work which has, in reality, taken place (including some partial demolition), the feasibility of implementing *DC/2022/01358* would now have to be considered remote.

Present policy relating to deficiencies in HMO external amenity space

The terms of the 2023 SPD *Flats and Houses in Multiple Occupation* permit a below-standard provision of external amenity space within HMO developments only on occasions whereby conditions justifying “*exceptional circumstances*”, as expressed within its *Appendix B*, are met in full. Crucially, these directives differ significantly from those which were operative at the time of the Planning Inspectorate judgment in relation to *DC/2022/01358* (i.e., as were contained within the now-obsolete 2018 iteration of the *Flats and Houses in Multiple Occupation* SPD).

Within the 2018 document, there appeared (*Paragraph 67*) a condition which allowed for a potential reduction in allocation of outdoor amenity space, on occasions where “*The proposal is within easy walking distance to a local centre, where the benefits of being close to community facilities and public transport are significant.*” It was this directive which was cited specifically within reasoning provided by the Inspectorate for their decision in overturning Sefton’s initial refusal call. However, such a stipulation is absent from the 2023 revision – in which it is replaced by the far more prescriptive directives of *Appendix B*. Critically, these see the removal of ill-defined terms such as “*easy walking distance*” and “*being close*”, and the introduction of the precise “*Is the proposal within 200 m of a main park...*”. Likewise, justification in terms of regeneration is now applicable only within appointed “*regeneration areas*” (*Paragraph 3.27*) – within which Waterloo does not sit.

Since the issuing of this verdict, a further two applications (*DC/2023/00401* and *DC/2023/00828*) have advanced to appeal. These, likewise, saw initial refusal on account of outdoor amenity shortfall. Applying the updated, 2023 SPD articles, the Inspectorate acted in support of Sefton – dismissing both. In doing so, it was affirmed that the prior decision (i.e., allowance of *DC/2022/01358*) could, in light of the subsequent amendments to policy, no longer hold sway over those made in the present:

“Furthermore, the Inspector determining the 2023 appeals [i.e., DC/2022/01358] was doing so with reference to the guidance in the 2018 SPD, rather than the 2023 SPD...

The 2023 SPD sets a higher requirement for outdoor amenity space in HMOs than was previously the case...and generally provides much more detailed advice as to what might be considered exceptional circumstances (including defining an appropriate proximity to, and securing a financial contribution towards improving, alternative public outdoor space). The guidance before me now is therefore very different to that in the 2023 appeals.”

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Inadequacy of DC/2024/00627 against present policy

These particular proposals fail to match current criteria defining “*exceptional circumstances*”, within which a reduced allocation of external amenity might be deemed acceptable:

| SPD Appendix B condition | DC/2024/00627 |
|--|--|
| Are the converted flats/HMO provided with the full outdoor amenity space requirement? | No. Required: 6 x 10 m ² = 60 m² Provided: 27 m² |
| Have the applicants taken all reasonable opportunities to minimise the shortfall to the outdoor amenity space? | No. <i>Please refer to plans DC/2022/01947.</i> |
| Is the converted flats/HMO provided with at least 80% of the outdoor amenity space requirement? | No. 27 of 60 m ² = 45% |
| Is the proposal in an identified Regeneration Area (as identified in Local Policy ED6) | No. |
| Is the proposal within 200 m of a main park and is a proportional financial contribution to the park secured? | No. Crosby Marina gardens, L22 8QP: 420 m Victoria Park, L22 2AP: 550 m |

As is the case here, both *DC/2024/00287* (eight bedrooms) and *DC/2024/00288* (seven) offered a mere 27 m² of outdoor space. In the recent refusals of these, the above conditions were cited:

“The development also fails to meet the criteria listed with the Flats and HMO SPD [i.e., 2023 edition] whereby exceptional circumstances are demonstrated to allow for lower levels of outdoor amenity space.”

Falling as they do, once again, beneath both “full” and reserve (i.e., 80% of full) external space minima, the dimensions of 27m² are no more compliant with the policy requirements for six residents than they are for seven or for eight. Given that, within *DC/2022/01947*, the applicants were willing to suggest removal of part of the property roof as a means of minimising shortfall in exterior amenity, it cannot be said that “all reasonable opportunities” to do so have, in this instance, been taken. Furthermore, internal shared amenity is an aspect of design to which, as relates to influencing whether or not a reduction in exterior space might be permissible, the same directives give no mention. The resulting conclusion is one which sits at odds with the eleven preceding Planning Officer judgments – each of which cites deficient outdoor space as a prime reason for application refusal.

Wider significance of case

The aforementioned criteria were evidently introduced by Sefton Council with the specific intent of removing elements of ambiguity present in the 2018 SPD as related to external amenity provision – such as those exploited in order to elicit justification for the granting of *DC/2022/01358*. To disregard the clear wording found within the current SPD would have the effect of creating an unwanted precedent – opening a route for the reintroduction of arguments similar to those previously employed against Sefton’s planners, and thus undoing efforts expended in the redrafting of policy.

Unsuitability-for-purpose of commercial space

It should be noted that the commercial unit likewise appears unfit for purpose – lacking any form of toilet provision for staff (the previous such amenities having been torn out in order to maximise the number of residents who might conceivably be fitted into the HMO).

Appendix I

The following applications and appeals, each concerning the establishment of a HMO at 101 South Road, are referenced directly within the main text:

| Case reference ID | | Judgment | | SPD edition informing judgment |
|-------------------|-----------------------|----------|-----------------------|--------------------------------|
| Sefton | Planning Inspectorate | Sefton | Planning Inspectorate | |
| DC/2024/00288 | <i>Not appealed</i> | Refuse | - | 2023 |
| DC/2024/00287 | <i>Not appealed</i> | Refuse | - | 2023 |
| DC/2023/00828 | M4320/W/23/3326424 | Refuse | Dismiss | 2023 |
| DC/2023/00401 | M4320/W/23/3321797 | Refuse | Dismiss | 2023 |
| DC/2022/01947 | <i>Not appealed</i> | Refuse | - | 2018* |
| DC/2022/01358 | M4320/W/22/3307322 | Refuse | Approve | 2018* |

**Policy now obsolete, having since been superseded by its 2023 equivalent.*

Please note that, in addition to the above, a further five related submissions have been assessed over the course of the past two years (with two brought to appeal). These are: [DC/2022/01875](#), [DC/2022/01874](#), [DC/2022/01407](#), [DC/2022/01399](#) (appeal [M4320/W/22/3307028](#)) and [DC/2022/01361](#) (appeal [M4320/W/22/3307024](#)). All were either refused or dismissed.

Appendix II

Evidence concerning the current presence of an operational, 8-bedroom HMO at 101 South Road.


Room listings:

<https://www.spareroom.co.uk/flatshare/merseyside/waterloo/17226880>

<https://www.spareroom.co.uk/flatshare/merseyside/waterloo/17226887>

Please note the excerpt:

Current household

| | |
|---------------|---|
| # flatmates | 1 |
| Total # rooms | 8  |
| Smoker? | No |
| Any pets? | No |
| Language | English |
| Occupation | Other |
| Gender | Male |

Through each of the above links, various advertising/promotional images referred to or reproduced within the main text may be found. The room featured within the second link contains a feature present only within submissions [DC/2024/00287](#), [DC/2024/00288](#) and [DC/2024/00627](#). If the details within either these pages should change, archived forms can be provided.

Further material is present upon: <https://www.facebook.com/eliteestatedevs>

In relation to HMO licensing, no record is traceable when performing a search upon: <https://housinglicensing.sefton.gov.uk/>

It should be further be noted that we have ourselves become definitively aware of at least one resident, who has occupied a room at the address since the first half of May.

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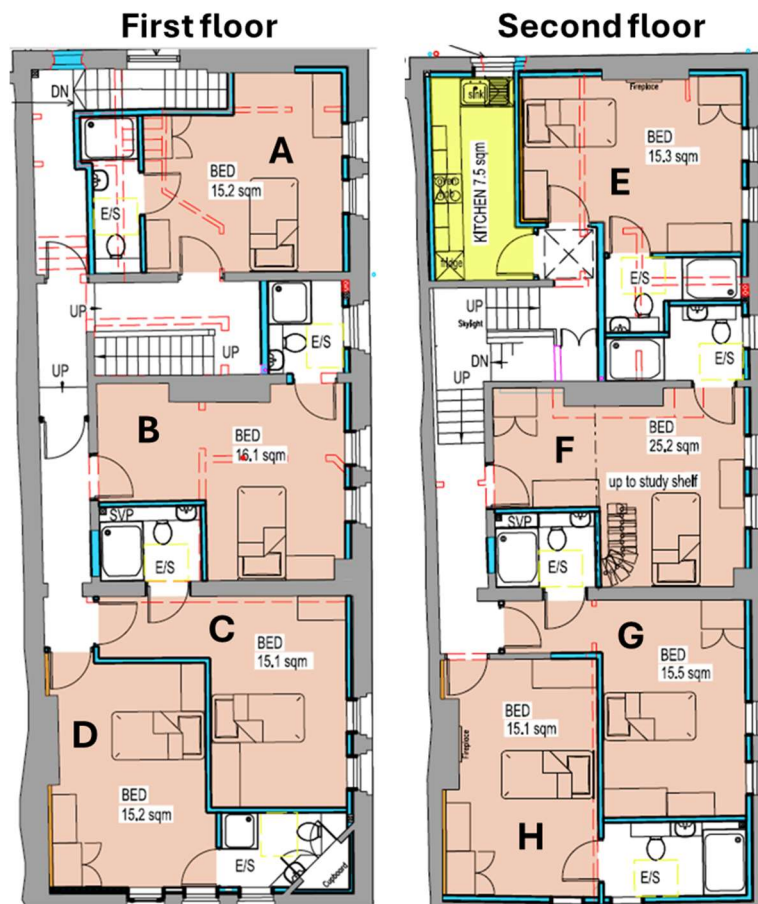
Objection to planned redevelopment of 101 South Road, Waterloo (DC/2024/00627)

Representation ahead of Sefton Planning Committee session, 5th June 2024

Addendum

Following on from evidence supplied within the main body of our representation, we illustrate further that at least seven HMO bedrooms are currently present within property 101 South Road – with one occupying a site, Room A (please see figure below, taken from submission DC/2024/00287), alleged within this application (DC/2024/00627) to serve instead as a lounge area.

The function of Room E is presently unclear. If a lounge, then layout of building would appear to align with the recently-refused, DC/2024/00288. If a bedroom, then DC/2024/00287 (refused simultaneously).



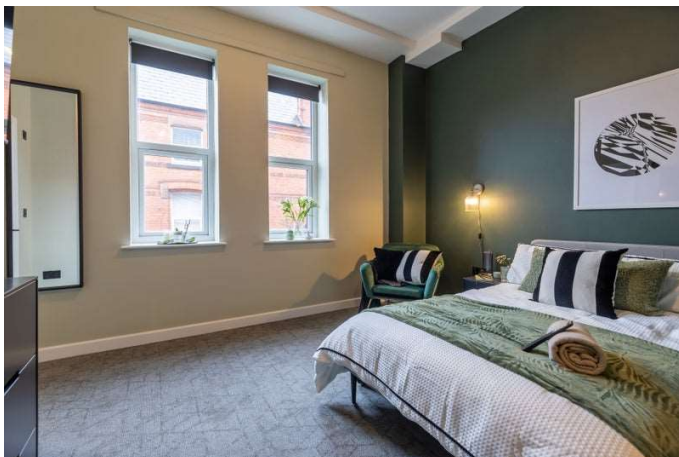
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Room A (portrayed within DC/2024/00627 drawings as communal lounge)



Evidence: Position of door on opposite side of room from windows is unique to this and to Room E. However, E is to contain an additional door, further to right. Please see main text for further evidence, taken from window view (noting the identical décor).

Room B



Evidence: View from windows differs from that of Room A (please see main text), suggesting closer proximity to junction. Corner details and décor further differ.

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Room C



Evidence: Tight placement of bed between wall and window within the “L-shaped” layout. Cannot be Room F, situated directly above, which instead features its own distinctive configuration.

Room D



Evidence: View from windows, looking across to 98 South Road (and beyond to Hougoumont Road). Distinct from H, which incorporates fireplace to right.

Room E

Not readily identifiable in any images – either as lounge, (as intended within DC/2024/00288 and DC/2024/00627), or as bedroom (as within DC/2024/00287).

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Room F



Evidence: Distinctive inner-staircase.

Room G



Evidence: Sloping structure of roof indicates second floor. Clearly distinct from F (in which bed is situated on mezzanine). View from windows (which are less centrally-placed than those of Room E) incorporates 104 South Road.

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Room H



Evidence: Presence of fireplace. Whilst this is also true of Room E, the wider distance between chimney breast and windows is characteristic of H.

Item 5C: DC/2024/00159 - 12 Northway, Maghull

Alterations to paragraph 6.6

The Highways Manager has objected to the proposal on the grounds that no off-street parking is provided. However, the factual assessment of the lawful uses of the site and the absence of parking restrictions to Northway demonstrates that the proposal would not cause significant harm with regard to highway safety when compared to the existing lawful situation. The additional measures set out in the Travel Plan further seek to reduce an impact on on-street parking beyond anticipated levels. The proposal therefore complies with policy EQ2 (Design) and EQ3 (Accessibility) within the local plan.

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