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Date: 10 December 2024
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Dear Councillor

PLANNING COMMITTEE - WEDNESDAY 11TH DECEMBER, 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 | |
|-------------------|-----------------------------|----------------|
| 1. | Late Representations | (Pages 3 - 10) |

Yours sincerely,

P. Porter

Chief Executive

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Planning Committee: 11th December 2024 Late Representations/Information

Appendix 4 – Approvals

Item 4A: DC/2024/01492 - Land at Pendle Drive, Litherland

Procedural

An amended plan has been received to include the whole of the building to be demolished within the red line plan -Location Plan drawing no. 20033-XX-XX-DR-A-A100 rev B, which will supersede the existing location plan in condition 2) where the approved plans and reports are listed. Further consultation has been carried out to re-notify the neighbours, a further site notice and press notice are also required. As delegated authority is being sought, we would also seek an opportunity to deal with any further correspondence if necessary.

Changes to Conditions

The following plans and reports should be included in condition 2):

- Proposed GA Plan 20033-THPM-XX-XX-DR-A-0103B
- Proposed Roof Plan 20033-THPM-XX-XX-DR-A-0104B
- Site Layout Indicating External Lighting to Car Park and CCTV 5586/G/102 Revision A
- Lighting Specification Report ILP GN01/21
- Ecology Report 17070_R01a_LJ 28th November 2024; instead of the one referenced dated 13th September 2024.

Condition 13 is no longer required as further information was requested and the Merseyside Environmental Advisory Service and the Environmental Health Manager state the lighting proposals are acceptable and the lighting plan can be secured as an approved document, which is listed above.

It is recommended that the additional conditions are included:

- The premises shall not open for business outside the hours of 0600-2300 Monday to Saturday and 0900-1800 Sundays.

Reason: In order to safeguard the living conditions of neighbouring residents and occupiers.

- No deliveries shall be taken at or dispatched from site outside the hours of 0600-2300 Monday to Saturday and 0900-2000 Sundays.

Reason: In order to safeguard the living conditions of neighbouring residents and occupiers.

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- Details of all fixed plant and machinery, together with any acoustic treatment/design, shall be submitted to and approved in writing by the local planning authority prior to their first installation in order to demonstrate compliance with the plant noise limits specified in the submitted Noise Impact Assessment prepared by Noise Solutions Limited 29th July 2024. The plant and machinery shall be installed in accordance with the agreed measures which shall be maintained thereafter.

Reason: In order to safeguard the living conditions of neighbouring residents and occupiers.

- The Class E foodstore hereby permitted shall have a maximum Gross Internal Area of 1,915 sq. m and a maximum net sales area of 1,356 sq. m. The sales area shall be used primarily for the sale of convenience goods, with a maximum of 300 sq. m used for the sale of comparison goods.

Reason: For the avoidance of doubt.

- The foodstore hereby permitted shall be used as a single unit and shall not be subdivided into two or more retail units without express planning permission being granted by the Local Planning Authority.

Reason: For the avoidance of doubt.

- No concession units shall be provided within the foodstore without express planning permission being granted by the Local Planning Authority.

Reason: For the avoidance of doubt.

- A further bat survey will be required if the building B2 as set out in the Ecology Report ref: 17070_R01a_LJ 28th November 2024 remains in situ after the bat hibernation period November 2024-March 2025.

Reason: To safeguard conservation of species/habitats.

Further Representations

Since the agenda was published a letter of objection has been received on behalf of Tesco Store Ltd. Their grounds of objection include:

- Irreversible loss of important allocated housing land at a time when housing supply requirements are being substantially tightened.

At the time of the request for pre-application advice, submission of the planning application and to date, the Council has sufficient housing land supply. The Council's housing requirement is due to substantially increase (578 to 1,466) under the proposed methodology which has yet to be confirmed. The site is allocated in the Sefton Local Plan for just 29 homes, which equates to <2% of one year's housing supply under proposed figure. In this

context, it cannot be considered 'important' and its loss to another use would not be determinative in whether the Council can maintain a 5 year supply of housing land.

- The failure to have regard to the proper process of overriding housing allocations as recommended by paragraph 126 of the NPPF.

Paragraph 126 of the NPPF states 'Planning policies and decisions need to reflect changes in the demand for land. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan...applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.' The site has been allocated for housing for approaching 8 years and, in that time, there have been no proposals to bring the site forward for housing. It is not included in the Council's 5 year supply position. This proposal would offer local consumer choice in an area with low household incomes. The sequential test has shown that there are no locations for this choice to be in or adjacent to an existing centre.

Paragraph 126 of the NPPF does not require sites allocated for housing to be reallocated prior to any alternative uses being considered, the proposal complies with paragraph 126.b.

- The significance of the low local threshold for in identifying retail impact.

In terms of the local impact threshold, the threshold is set at a level which allows the Council to consider in appropriate detail the impact arising from retail applications that have some potential to result in material impacts on defined centres. In this case, the applicant has undertaken a formal Retail Impact Assessment (RIA). LSH's Retail Planning Appraisal report of September 2024 reviewed the key inputs and assumptions relied upon by the applicant's RIA. In doing so, we provided our own view in respect of where trade diversion impacts were likely to fall.

The Council can be confident that the principal in-centre impacts are likely to arise at Netherton town centre. Whilst the impact will be negative, paragraph 4.52 of our Retail Planning Appraisal report found that – due to the magnitude of trade diversion and the fact that Netherton is 'reasonably vital and viable' – the impact is below significant adverse level as referred to in the NPPF impact test. The impacts associated with the proposal have been comprehensively assessed and informed the conclusions of LSH's report to the Council.

- Limiting sequential site search to the proposal's catchment area rather than starting with relevant defined centres in accordance with policy.

In terms of the sequential test, the catchment area of the proposal has been considered with reference to the geography of the area and the distribution of existing stores. The purpose of the sequential test is to consider whether there are any available and suitable sites within or well-connected to a centre that could support the subject proposal (allowing

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for flexibility in respect of format and scale). The catchment area served by a proposal is an important consideration in reviewing the suitability of sites/potential town centre locations.

The applicant has suggested that the catchment area should be defined with reference to a five-minute drivetime area. In practice, discount supermarket operators can draw trade from a wider area. However, in this instance Crosby district centre, Waterloo district centre and Old Roan local centre are located a substantial distance away from the application site. We do not believe that it would be reasonable to conclude that these centres are suitable locations to meet the same market opportunity as the application proposal. The same applies to Aintree Racecourse Retail Park and Grand National Retail Park, which are afforded sequential superiority over other out-of-centre locations by the Council's development plan.

LSH has objectively reviewed the area of search for the sequential test and is satisfied that only sites within and well-connected to Netherton town centre could be potentially suitable to serve a similar market opportunity. We are satisfied that there is no available and suitable site in and around Netherton town centre in practice.

- The application's unacceptable contribution to potentially severe traffic conditions.

This has been addressed in the report and an update will be provided to committee by the Highways Manager.

The recommendation, as set out in the report, is approved with conditions & request for delegated authority to the Chief Planning Officer to finalise detailed highways requirements specifically in relation to the Gorsey Lane/Pendle Drive junction, and subject to a Section 106 legal agreement in relation to highways works, a Travel Plan and an Employment Skills and Development Plan.

- Flawed approach to the decision-making process in terms of s38(6) of the Act.

A38(6) of the Planning and Compulsory Purchase Act (2004) states:

'If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'

The application has been advertised as a departure from policy and consideration has been given to all relevant material considerations.

Officers do not consider that this raises any issues which are not addressed within the committee report or that the approach to decision making would be flawed.

Item 4B: DC/2024/01644 - The Cloisters, Halsall Lane, Formby

Additional comments have been received from Councillor Harvey in relation to the proposal, they are as follows:

Firstly, as a ward councillor for Harington (Formby and Freshfield) I welcome the prospect of new business and investment, especially in vacant units. I also recognise the growing customer demand for home delivery of hot food - the UK market has trebled over the past decade due to apps such as Deliveroo, Uber Eats and Just Eat. The market is predicted to further grow by around 7.5% annually over the next few years.

As part of my role as a councillor I have canvassed views of residents who may be affected by this application.

My primary concern, as the application stands, is the lack of parking provision in the immediate vicinity, especially considering the nature of the proposed business, i.e. takeaway food, and its reliance on pick-ups either from customers or intermediary delivery staff. Parking is not allowed at any time on either side of this stretch of Halsall Lane. The nearest on-road parking is in School Lane, outside Our Lady of Compassion Church. Paid-for parking is available in Furness Avenue car park behind the proposed takeaway business.

In these circumstances, customers and delivery staff (proposed opening hours are 12:00 till 22:00, seven days a week) may be tempted to park on double yellow lines on Halsall Lane while they collect takeaways, causing potential disturbance to nearby residents, as well as traffic hazard, and subsequent monitoring and enforcement issues. Noise and odour impact assessments should also be considered. Overall, these factors - primarily the lack of nearby parking - will negate any potential benefit to Formby of the proposed change of use from a café to takeaway outlet.

The matters raised have been addressed within the case officer report.

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Item 4C: DC/2023/01277 – Land to the east and west of West Lane, Formby

Ecology

Full comments have been received from the Council's Ecological Advisors at the Merseyside Environmental Advisory Service (MEAS) who do not object to the proposal subject to a number of conditions.

As initially submitted further information was sought in respect of mitigation on the neighbouring Local Wildlife Site (in respect of visitor pressure, hydrology and increase of red squirrels) but an addendum note has superseded paragraphs relating to these matters. MEAS considers that part of the previously agreed commuted sum to mitigate recreational pressure, an amount to be agreed by the Council, shall be directed towards the Local Wildlife Site. This will be secured within the section 106 legal agreement.

MEAS have provided an updated Habitats Regulation Assessment, which is considered acceptable. This has been forwarded on to Natural England for comment which the Council are awaiting.

Conditions and section 106 Legal Agreement

Condition 2 to be amended to include the Stratford Lifestyle house type drawing that was omitted from the list of plans.

The Council's Flooding & Drainage Manager considers that a further pre-occupation drainage condition is necessary and that this will be added before Conditions 18 and 19 (both addressing drainage matters). This will require the submission of a scheme for the details and implementation of the re-profiling of open channel sections of the watercourse to the north (a tributary of Wham Dyke) to create a uniform gradient throughout. This work is mentioned within the Watercourse Modelling Technical Note and while the Note stated it would have negligible impacts it is considered that this will still be a benefit by helping to further reduce flood risk within and outside of the application site.

The ongoing maintenance of retention of the re-profiling will also need to be secured within the section 106 legal agreement.

In response to the comments made by MEAS a number of additional conditions would be added to any approval to cover the following matters:

- A further condition is to be added to require the provision of a colour copy of the Respecting Nature in Sefton Information Leaflet to all first-time occupiers of new homes as referenced in paragraph 7.5 on page 54 of the full agenda.
- As the proposal will involve the destruction of eight common pipistrelle bat roosts a further condition is to be attached to ensure that a copy of a licence issued by Natural England authorising the specified development to go ahead is submitted to the Council.

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- A condition ensuring that development is carried out in accordance with all of the recommendations for mitigation and compensation set out in the approved Bat Mitigation Strategy

The section 106 legal agreement will also include provisions for the directing of part of the commuted sum for recreational pressures to the Freshfield Dune Heath Local Wildlife Site.

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