

Public Document Pack



MEETING: PLANNING COMMITTEE

DATE: 25th August 2021

TIME: 6.30 pm

VENUE: Bootle Town Hall

Member

Councillor
Cllr. Daren Veidman (Chair)
Cllr. Brenda O'Brien (Vice-Chair)
Cllr. Jennifer Corcoran
Cllr. Denise Dutton
Cllr. James Hansen
Cllr. John Kelly
Cllr. Sonya Kelly
Cllr. Steve McGinnity
Cllr. Dr. John Pugh
Cllr. Joe Riley
Cllr. Michael Roche
Cllr. Paula Spencer
Cllr. Lynne Thompson
Cllr. Paul Tweed
Cllr. Carran Waterfield

Substitute

Councillor
Cllr. Natasha Carlin
Cllr. John Sayers LLB. Cert PA.
Cllr. Anne Thompson
Cllr. Terry Jones
Cllr. Susan Bradshaw
Cllr. Patrick McKinley
Cllr. Leslie Byrom C.B.E.
Cllr. Janet Grace
Cllr. John Dodd
Cllr. Sinclair d'Albuquerque
Cllr. Gordon Friel
Cllr. Dave Robinson
Cllr. John Dodd
Cllr. Janis Blackburne
Cllr. Linda Cluskey

COMMITTEE OFFICER: Olaf Hansen
Telephone: 0151 934 2067
email: olaf.hansen@sefton.gov.uk

See overleaf for COVID Guidance and the requirements in relation to Public Attendance.

If you have any special needs that may require arrangements to facilitate your attendance at this meeting, please contact the Committee Officer named above, who will endeavour to assist.

We endeavour to provide a reasonable number of full agendas, including reports at the meeting. If you wish to ensure that you have a copy to refer to at the meeting, please can you print off your own copy of the agenda pack prior to the meeting.

COVID GUIDANCE IN RELATION TO PUBLIC ATTENDANCE

Due to restrictions to allow for social distancing, the amount of room to accommodate members of the public will be extremely limited and we strongly advise anyone who is interested in viewing the event to follow the livestream at the following link: [Planning Committee Webinar 25 August 2021](#)
Passcode: 203746.

However, if you do you wish to attend the Committee, please register in advance of the meeting via email to olaf.hansen@sefton.gov.uk by no later than **12:00 (noon) on the day of the meeting.**

Please include in your email –

- Your name; and
- Your Contact telephone number.

We have been advised by Public Health that persons who do attend the meeting should carry out a lateral flow test beforehand and only attend if that test is negative. Provided you are not classed as exempt, it is requested that you wear a mask that covers both your nose and mouth.

A G E N D A

1. Apologies for Absence

2. Declarations of Interest

Members are requested at a meeting where a disclosable pecuniary interest or personal interest arises, which is not already included in their Register of Members' Interests, to declare any interests that relate to an item on the agenda.

Where a Member discloses a Disclosable Pecuniary Interest, he/she must withdraw from the meeting by switching their camera and microphone off during the whole consideration of any item of business in which he/she has an interest, except where he/she is permitted to remain as a result of a grant of a dispensation.

Where a Member discloses a personal interest he/she must seek advice from the Monitoring Officer or staff member representing the Monitoring Officer by 12 Noon the day before the meeting to determine whether the Member should withdraw from the meeting room, during the whole consideration of any item of business in which he/she has an interest or whether the Member can remain in the meeting or remain in the meeting and vote on the relevant decision.

3. Minutes of the Meeting held on 28 July 2021 (Pages 5 - 10)

4. Applications for Planning Permission - Approvals

A DC/2018/00093 - Land North of Brackenway, Formby (Pages 11 - 158)
Report of the Chief Planning Officer

5. Planning Appeals Report (Pages 159 - 198)

Report of the Chief Planning Officer

6. Visiting Panel Schedule (Pages 199 - 200)

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THIS SET OF MINUTES IS NOT SUBJECT TO "CALL-IN"

PLANNING COMMITTEE

**MEETING HELD AT THE BALLROOM - BOOTLE TOWN HALL,
TRINITY ROAD, BOOTLE, L20 7AE
ON 28 JULY 2021**

PRESENT: Councillor Veidman (in the Chair)
Councillor O'Brien (Vice-Chair)

Councillors Corcoran, Dutton, Hansen, John Kelly,
Sonya Kelly, McGinnity, Riley, Roche, Spencer,
Lynne Thompson, Waterfield, and Blackburne

ALSO PRESENT: Councillors Irving, and John Joseph Kelly

22. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Tweed.

23. DECLARATIONS OF INTEREST

In accordance with Paragraph 9 of the Council's Code of Conduct, the following declaration of personal interest was made and the Member remained in the room during the consideration of the item:

Member	Minute No.	Nature of Interest
Councillor Dutton	27 - DC/2021/00042 - 82 Freshfield Road, Formby	Personal – Gave procedural guidance to the objector, but did not express an opinion on the application. Stayed in the room, took part in the discussion and voted thereon.

24. MINUTES OF THE PREVIOUS MEETING

RESOLVED:

That the Minutes of the meeting held on 30 June, 2021 be confirmed as a correct record.

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PLANNING COMMITTEE- WEDNESDAY 28TH JULY, 2021

25. DC/2021/00759 - LAND BOUNDED BY WANGO LANE, RIVER ALT, AND LEEDS AND LIVERPOOL CANAL, AINTREE

The Committee considered the report of the Chief Planning Officer, recommending that the above application for the erection of 59 dwellings, an alternative to a 53 dwelling scheme (granted on 30 September, 2020), be approved subject to conditions and for the reasons stated or referred to in the report.

Prior to consideration of the item the Committee received a representation from Mr.Scully in respect of a petition objecting to the application.

RESOLVED:

That the recommendation be approved and the application be granted for the reasons stated or referred to in the report and subject to conditions and the completion of a S106 agreement.

26. DC/2021/00069 - 29 ARGARMEOLS ROAD, FORMBY

The Committee considered the report of the Chief Planning Officer, recommending that the above application for the erection of 2 No. four bedroom detached dwellings following the demolition of an existing dwelling be approved subject to conditions and for the reasons stated or referred to in the report.

Prior to consideration of the item the Committee received a representation from Ms.Smith in respect of a petition objecting to the application and a response from Mr.Davies, the agent on behalf of the applicant.

Cllr.Irving, as Ward Councillor, made representations in objection to the application.

RESOLVED:

That the recommendation be approved and the application be granted subject to conditions and for the reasons stated or referred to in the report and subject to the following additional conditions:

"a) No development shall commence above slab level, nor any demolition works or site clearance, until there has been submitted to and approved in writing by the local planning authority details of a scheme for the protection of the mature tree to the rear of the site adjacent to the boundary with Number 31 (stated to be a horse chestnut).

b) The approved scheme shall be carried out during the demolition of the buildings and throughout the course of the construction of the development."

"a) No tree which is to be retained shall be cut down, uprooted or destroyed, or have surgery undertaken, without the written approval of the

Local Planning Authority, within 5 years from the completion of the development.

b) Any such trees removed or dying shall be replaced with trees of a size and species to be agreed in writing with the Local Planning Authority in the next available planting season."

27. DC/2021/00042 - 82 FRESHFIELD ROAD, FORMBY

The Committee considered the report of the Chief Planning Officer, recommending that the above application for the erection of a detached 2 storey dwelling with basement garage and associated landscape and boundary works (retrospective) be approved subject to conditions and for the reasons stated or referred to in the report.

Councillor Irving, as Ward Councillor, made representations in objection to the application.

RESOLVED:

That the recommendation be approved and the application be granted subject to conditions and for the reasons stated or referred to in the report.

28. DC/2020/01729 - FORMER LYDIATE BARN GARDEN CENTRE AND NURSERIES 341 SOUTHPORT ROAD, LYDIATE

The Committee considered the report of the Chief Planning Officer, recommending that the above application for the variation of condition 2 pursuant to planning permission DC/2018/00898 approved 19/12/2020 to allow changes to the overall site layout and house types (alternative to DC/2019/02194 approved 11.6.2020) be approved subject to conditions and for the reasons stated or referred to in the report.

RESOLVED:

That the recommendation be approved and the application be granted subject to conditions and for the reasons stated or referred to in the report.

29. DC/2021/00813 - 40 BLUNDELL ROAD, HIGHTOWN

The Committee considered the report of the Chief Planning Officer, recommending that the above application for the erection of a detached dwellinghouse within the rear garden of 40 Blundell Road, with access, landscaping, and all associated works be refused for the reasons stated or referred to in the report.

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PLANNING COMMITTEE- WEDNESDAY 28TH JULY, 2021

Prior to consideration of the item the Committee received a representation from Councillor J.J.Kelly, as Ward Councillor in support of the application and a response from Mr.Morse, the agent on behalf of the applicant.

RESOLVED:

That the recommendation be approved and the application be refused for the reasons stated or referred to in the report.

30. PLANNING APPEALS REPORT

The Committee considered the report of the Chief Planning Officer on the results of the undermentioned appeals and progress on appeals lodged with the Planning Inspectorate.

<u>Appellant</u>	<u>Proposal/Breach of Planning Control</u>	<u>Decision</u>
Mr.A.Kelleher, York Montague Ltd.	DC/2020/00455 - Abbotsford Court 24 Abbotsford Road Crosby Liverpool L23 6UX - Appeal against refusal by the Council to grant planning permission for the erection of a fourth floor to accommodate 2 self-contained flats.	Dismissed 30/06/21
Telefonica UK Ltd.	DC/2020/01140 - Highways Land Green Lane Thornton Liverpool L23 1TJ - Appeal against refusal by the Council to grant permission for Prior Notification Procedure for the installation of a 20 metre high streetworks column supporting 6 antennas, two 0.3m dishes and ancillary equipment, the installation of 2 equipment cabinets and development ancillary thereto.	Dismissed 26/06/21
Mr.T.Smith	DC/2020/01972 - 144 College Road Crosby Liverpool L23 3DP - Appeal against refusal by the Council to grant planning permission for the Change of use from Retail (E(a)) to Cafe/ Hot Food Takeaway (Sui generis) (EXTENDED DEADLINE).	Dismissed 22/06/21
Mrs.D.Daley	DC/2020/02082 - Meadowcroft 2 Old Rectory Green Sefton Village Liverpool L29 6YD - Appeal against	Dismissed 09/06/21

refusal by the Council to grant planning permission for the Change of use from garden room to office for administration only (retrospective application).

Mr.J.Hobbs

DC/2020/01591 - 39 Harebell Close
Formby Liverpool L37 4JP - Appeal
against refusal by the Council to grant
planning permission for the erection of
a part two storey part first floor
extension to the side of the
dwellinghouse.

Dismissed
08/06/21

RESOLVED:

That the report be noted.

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Report to: PLANNING COMMITTEE **Date of Meeting:** 25th August 2021

Subject: [DC/2018/00093](#)
[Land North Of Brackenway, Formby](#)

Proposal: Outline application for the demolition of existing structures and construction of up to 286 dwellings including flood alleviation measures, extension of nature reserve, public open space, ground re-profiling and associated works. All matters are reserved except for access from the A565 and a new emergency vehicular/pedestrian/cycling access from Paradise Lane (layout, scale, appearance and landscaping are reserved for future consideration).

Applicant: Taylor Wimpey UK Limited **Agent:** Mr Jon Suckley
How Planning

Ward: Harington Ward

Reason for Committee Determination: Major application/Petition

Summary

This application seeks outline approval for the erection of up to 286 dwellings on land allocated for residential development with details of access submitted at this stage and layout, scale, appearance and landscaping reserved for later consideration.

This application was reported to Planning Committee on 6th March 2019, where it was resolved to approve the application subject to conditions and the signing of a section 106 legal agreement (S106). However, prior to a decision being issued (and due to the delay in signing the S106), the Formby and Little Altcar Neighbourhood Plan (Neighbourhood Plan) was made and in some respects became the more up to date development plan for Formby. In addition, the applicant updated various technical documents resulting in a change to the PARAMETERS PLAN and various proposed flooding and drainage measures. These changes have required a need to re-assess the proposal.

The main issues to consider are the principle of development and whether, based on the details provided, the site can sufficiently accommodate the proposal while complying with the aims and objectives of the Neighbourhood Plan, the Local Plan and National Planning Policy.

The report concludes that the proposal would be acceptable in principle and would provide safe access to and from the site, without harming the character of the area or the living conditions of neighbouring residents. Crucially, the proposed development would not give rise to concerns of flooding either on the site or elsewhere, but would bring tangible benefits to existing residents who already suffer from flood risk. The development would also improve local ecology in the area and would be acceptable in all other respects. It is therefore recommended that planning permission be granted subject to conditions and a legal agreement securing affordable housing, the long term management of open space, mitigation of flood risk, management of watercourses within the site, ecological management and mitigation to

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address recreational pressure on sensitive nature conservation sites on the coast.

Recommendation: Approve with conditions subject to the completion of a Section 106 Legal Agreement.

Case Officer Mr Kevin Baker

Email planning.department@sefton.gov.uk

Telephone 0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

Site Location Plan



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The Site

The total site area is 21.7ha. The developable area forms 9.7ha with the remainder forming both accessible and non-accessible open space.

The site is currently accessed via Paradise Lane and is primarily undeveloped. A portion of the site towards the western boundary is 'brownfield' land, providing structures associated with horse stables. The vast majority of the remaining land comprises grazed grasslands bound by timber fencing.

The site is relatively flat and bound to the south by Eight Acre Brook (EAB), while Wham Dyke runs in an east/west direction through the centre of the site. Both are "designated Main Rivers". A number of drainage ditches run north/south across the site. Freshfield Dune Heath reserve lies directly to the north of the site, while RAF Woodvale is further beyond that. The Formby Bypass (A565) is located to the east of the site and to the south lie residential properties to Brackenway and Hawksworth Drive.

History

This application was submitted in January 2018. Following full consideration by officers, it was presented to the Planning Committee on 6th March 2019 with a recommendation of approval. The original case officer report is attached at Appendix A, along with a note of the late representations. At the March Planning Committee, members resolved to grant planning permission, subject to conditions and the signing of a section 106 legal agreement (S106). For the avoidance of doubt, the provisions of the section 106 were:

- Provision of freely accessible public open space within the development
- A financial contribution of £90,690.60 (at £317.10 per dwelling) to mitigate recreational pressure on the Sefton Coast
- Flooding and drainage maintenance and management
- Management and maintenance of Open Space provision and the proposed nature reserve extension in perpetuity
- Affordable housing.

The minutes of this meeting are attached at Appendix B.

However, the S106 had not been signed nor the decision issued when the Formby and Little Altcar Neighbourhood Plan (Neighbourhood Plan) was made in November 2019. This now forms part of the 'development plan' and proposals must be assessed against this.

In January 2020, the applicant submitted further information so the proposal could be assessed against the policies in the Neighbourhood Plan.

However, during 2020 the applicant undertook additional flood risk modelling which provides a more accurate picture of the baseline flooding in the area when compared to the Environment Agency (EA)

published flood risk map. As a result of this work, the applicant now seeks changes to the plans (predominantly the parameters plan – drawing no. 447D 01B), technical reports (including the flood risk strategy) and flood risk measures. The application, therefore, needs to be re-assessed, albeit the original assessment is a material consideration.

Consultations and Neighbour Notifications

The original application submission was subject to consultation and notification prior to being considered by the Planning Committee in March 2019. The response was summarised in the committee report and late representations.

However, since then, there have been a further three rounds of consultation/notification to ensure interested parties are aware of the various changes that have been made since then.

The response to the further consultations and notifications is summarised below. However, they should be read in conjunction with those summarised in the original officer report, attached at Appendix A as these are still relevant to the application as a whole.

Consultations

Highways Manager – no objections subject to conditions and provision of off-site highway improvement works

Flooding and Drainage Manager – no objection subject to conditions

Merseyside Environmental Advisory Service – no objections subject to conditions and securing developer contribution

Natural England – no objection subject to securing appropriate mitigation by way of planning condition or section 106 legal agreement.

Environment Agency – No objection subject to condition.

Contaminated Land Officer – no objection subject to conditions

Environmental Health Manager - no objections subject to conditions

Highways England – no objection

Tree Officer – Has retained no objection to the application, but due to the time which has passed has advised that an updated tree survey should be provided.

Local Plans Manager – no objections

Merseyside Fire and Rescue – no objections

United Utilities – no objection subject to conditions

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Canal & River Trust – no comment

Merseyside & West Lancashire Bat Group

Make comments suggesting that the dusk/dawn surveys are out of date.

Ministry of Defence

No safeguarding objections subject to previous recommended conditions being applied.

Formby Parish Council

Recommend that the application be refused and that the applicant revisits the quantum of development proposed for the site and the Flood Management strategy. Also recommend that the amendments to the flood management be captured in a single new document with the revised Flood Management strategy to provide important clarification on what needs to be delivered and monitored. More detailed comments, supporting the Parish Council's objections, can be summarised as follows:

- Over development of the site, having regard to housing density and policy H1 of the Neighbourhood Plan. The development would be out of character with the surrounding area. Suggest that the quantum of development is reserved for a later application to be more in keeping with policy requirements
- Request that any reserved matters application be supported by an affordable housing and dwelling mix statement to allow consideration of the proposed development against Policy H3
- Request that at least 30% of all new dwellings are reserved for affordable housing that housing mix be in accordance with the requirements of the Neighbourhood Plan. Request that this be secured by either planning condition or section 106 legal agreement
- Request further cross section drawings to fully consider the proposed development against policy H5 of the Neighbourhood Plan (land levels/building heights)
- Concerns over impact of construction vehicles on amenity, health and wellbeing of nearby residents
- Raise in ground level and maximum heights of buildings should be conditioned
- Pedestrian and cycle access within the site to the surrounding area, including the Town Centre and nearby bus stops should be secured by condition
- Details of car parking should be secured by condition to ensure they comply with the Neighbourhood Plan
- Advise that the application should not be permitted until it can be demonstrated that appropriate open space provisions can be met and that it is adequate and accessible
- Also request that recreational pressure be addressed
- Request that the Parameter Plan is amended to include minimum ground levels and that the developable area for residential use is amended to ensure no residential dwellings will be located in Flood Zone 3. Also that minimum level for dwellings be conditioned above the 1 in 1,000 year flood level
- Request that flood safeguard measures be put in place via condition to safeguard the development against fluvial flood risk
- Do not consider the current proposals deliver any significant reduction to surface water flood risk to properties on Hawksworth Drive as compared with the pre-development situation contrary to local plan policy. Should be demonstrated that a significant reduction in surface water flood risk to properties on Hawksworth Drive and the surrounding area can be achieved, managed and maintained in perpetuity and that any surface water management infrastructure is designed for exceedance and system failures

- Site should be designed so that no surface water flow from the entirety of the application site can enter Eight Acre Drain including exceedance events
- Any management and maintenance of the Flood Management Strategy elements should be conditioned, whilst clarity over the maintenance of the Eight Acre Drain and Wham Dyke culverts should be provided and conditioned
- Consider the more recent information on flood risk triggers the need for the exception test to be re-applied.

Formby Civic Society

Object to the development on the grounds of loss of green belt; access arrangements and traffic; flooding; raising of land; impact on services; impact on areas of special natural conservation, natural habitat and wildlife; loss of open views; and failure to comply with Neighbourhood Plan and Nature Conservation SPD.

Ward Councillors

Cllr Killen and Cllr Paige request that the following comments raised from local residents be given full consideration during the planning process and conditions applied where appropriate:

- Should be no overlooking or loss of privacy to existing residents
- Will increase the amount of traffic on roads which are already heavily congested
- Safety of the access from Formby bypass and the impact on traffic flows along the bypass and onto Southport Road
- Impact on local health services and schools and need to secure funding for more provision
- Pressure on local train station car park
- Damage to the local environment and diverse species in the area
- Raising of land
- Inadequate access to public transport
- Use of quatter piling methods
- Inadequate measures to address flooding and risk of flooding for homes on Hawksworth Drive and Brackenway. Flood Risk strategy must demonstrate the development will be safe for its lifetime with increasing risk elsewhere and where possible reduce flood risk. Any flood mitigation measures must be maintained in perpetuity
- Emergency access must be secured with an electronic mechanism to be maintained in perpetuity to prevent Paradise Lane becoming a through road
- Access for all site traffic should be from Formby bypass and not residential streets
- Support delivery of affordable homes, 80% should be social rented and 20% intermediate housing
- Should be appropriate mix of housing, with majority being one, two or three bedrooms
- Dwellings should be accessible for people with additional needs
- Should be measures to reduce greenhouse gas emissions where practicable
- Should be charging points provided for low emission vehicles
- All recreation areas should be fully accessible to the public.

Cllr Irving has objected on the following grounds:

- No direct bus route to the development increasing reliance on cars or need to walk long distances to travel by public transport. Makes the development unsustainable
- Use of Paradise Lane as an access point is not acceptable. If to be used as an emergency access, money needs to be secured for essential repairs or replacement

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- Reports on flooding are not robust and should be reviewed again. Money should be secured to maintain the watercourse
- Impact on nature conservation, in particular, water vole
- Unclear who will be responsible for managing fencing in open spaces and further fencing should be erected along Wham Dyke
- Solar panels and electric heating boilers should be installed to comply with the Local Plan.

Neighbour Representations

The various notifications that have occurred following the March 2019 Planning Committee, have resulted in a significant number of further objections to the application predominantly from residents in the Formby area and particularly within the vicinity of the application site. Whilst many of the objections raise similar concerns to those previously expressed and recorded in the original case officer report, for clarity a further summary of the correspondence received is provided below:

Highways and Travel

- Significant increase in traffic in the area and around the site, which will increase congestion in the area, slow traffic on the by-pass, create longer traffic queues and will impact on local economy
- New access on by-pass will be dangerous and will result in accidents and delays
- Access (main or emergency) should be off Deansgate Lane North
- Introducing bus-stops on the by-pass would be dangerous
- Access onto Paradise Lane must be restricted to emergency vehicles only to prevent additional public thoroughfare onto Paradise Lane
- Concerns associated with the emergency access on Paradise Lane acting as a through route and a rat run for residents trying to get to the Town Centre, and shows the main access is not adequate
- Emergency vehicles would have to negotiate a narrow road, significant on street parking and school children to access, which would make it difficult to use. Just an attempt to grant a general access on this part of the site
- No guarantees that the emergency access will not be used as a general access;
- Emergency access should only be a single access and should be controlled with a set of electronic bollards
- Pedestrian and cycle linkages are poor
- Need to ensure enough car parking
- Distances to amenities are considerable, resulting in long walks, will force people with mobility problems to walk to bus stops and will increase reliance on private car rather than public transport
- Routes and footpaths from the development to the town will need to be updated and extended to cater for the development.

Flooding

- Increased risk of flooding in the area and downstream with poor drainage and impacts on water table
- Consideration needs to be given to where the excess surface water is being sent to
- Flood alleviation measures and measures to protect houses from surface water flooding would be very short sighted, not future proofed and will cause more problems inland. They do not guarantee prevention of flood damage to surrounding properties
- Flood Risk Assessment is based on estimates and best guess and has failed to take account the up

to date effects of climate change and therefore needs to be re-assessed

- If water is displaced on to the bypass could cost lives
- Pumping stations already under significant pressure with little maintenance, has consideration been given to the additional demand Extending the site to Flood Risk Area 3 would put existing houses at greater risk of flooding;
- Development does not maximise reductions in run-off rate. Houses should have large gardens to keep flooding of rain under control
- Developing the site would reduce the ability of the area to alleviate flooding
- Original concerns regarding flooding reinforced by new proposals
- Rainfall during 2021 has proved that flooding in this area is a real risk
- Land is not suitable for housing, is valuable flood-plain which prevents existing residential areas from flooding
- Who will manage and maintain the existing watercourse?
- Flooding reports not been uploaded making it difficult to assess impact on flooding
- Reports contradict previous strategies or fail to address issues identified in previous reports
- Use of ground storage area would be ineffective due to high ground water level
- Comprehensive surface water drainage system should be required as a pre-condition
- Will have a contradictory flood mitigation strategy
- Land adjacent to bypass will be constantly flooded and of little value for flood mitigation
- Flood Risk reports are confusing and contradictory
- Reports clearly show that flood mitigation measures will not prevent Hawksworth Drive being flooded during 100-year flood event
- Mitigation measures that were supposed to alleviate Surface water flooding in Hawksworth Drive appear to be no longer part of the plan
- No longer sufficient compensations for loss of flood plains
- Flooding reports only considers fluvial flooding and not ground water or surface water flooding
- No comprehensive surface water flood and drainage plan
- Impossible to determine whether mitigation is likely to produce the required reduction in both quantity and speed of run off as required by national and local planning policy
- Not clear as to who will be responsible for the management and maintenance of the culverts and ditches
- Must re-apply the Exception Test before the development can be approved
- Doesn't take into consideration how ground raising might affect existing groundwater levels
- New development does not maximise reductions in run-off rates.

Infrastructure

- No plan to future proof infrastructure
- Pressure on services such as GP's, local facilities, schools, dentists, etc
- Development needs to be linked to Formby.

Residential Amenity/Living Conditions

- Overlook and loss of privacy
- Disregard to the impact on health (including mental) and well-being on local residents from disruption and stress
- Amenity space falls short of the amount required and is not high quality, whilst there is a need for large public open spaces
- Increase noise, light and air pollution

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- Overshadowing (including right to light) and loss of outlook
- Increase in land for development will harm residential amenity
- Use of Deansgate North for pedestrian route will destroy the quiet enjoyment and environment of the road.

Ecology and Open Space

- Loss of green space against need for large green spaces
- Impact on nature conservation and biodiversity
- Loss of land as stables
- No evidence that ecology policies have been adhered to
- No measures to protect natural flora and fauna
- Loss of greenbelt whilst empty properties exist locally
- Impact on wildlife, with many important species existing including bats and red squirrels
- Loss of peat deposits as a unique habitat and important carbon store
- Open space would not be accessible as it would be flooded
- Complete breakdown of open space is required
- Mitigation not sufficient to meet legislative requirements.

Character of Area

- The development exceeds density levels and results in an overdevelopment of the land which would be out of character with the local area and would fail to conform with the Neighbourhood Plan
- Significant raising of land would result in a development that would not reflect the character of the local area, would result in houses being too high and would not conform with the Neighbourhood Plan
- Developers have failed to provide cross sections showing impacts on wider area
- Layout of the development would not be in keeping with the area
- Landscaping needs to be in keeping.

Construction

- Access via Paradise Lane for construction vehicles is completely unsuitable, will give rise to safety concerns for children, will cause significant disruption and cannot be accommodated on the local streets
- Why can't the developer start works from the Bypass from the outset
- Being misled on the amount of construction vehicles needed for the site
- Increased dust from the development site onto existing residents
- Impact on quality of life from construction, especially with more people working from home
- Piling, deep foundations and general construction work could cause damage to properties. Impacts of noise and vibration of piling on physical and mental health of residents over long period of time.
- Site compound/offices should be located at the access from Formby By-Pass.

Procedural

- Reports are hard to follow due to the various amendments, applicant should start from scratch
- Should see the impact of other developments before granting more housing
- Proposal does not meet the criteria as set out in the neighbourhood plan
- Query why reports were not published for so long on the website.

Other

- Scheme is not sustainable, will not fit with reducing carbon emissions and meeting carbon targets and is lacking in moving towards vital renewable solutions in using technologies such as heat pumps and solar PV's
- Proposal doesn't include litter bins along footpaths for increased footfall
- Impact on agent for change (re: riding school and introducing sensitive receptors immediately adjacent a working business)
- National changes to housing provision and calculation of local need, which may remove the need for the type of development proposed. Also suggest that there is no need or demand for this type of housing in the area
- Housing Mix does not meet requirements of Neighbourhood Plan
- Formby is already at capacity
- Impact on Woodvale – would cause objections to airfield activity
- Many other more suitable sites in Sefton for housing, should be looking at brownfield site
- Will not be affordable homes
- Council need to show greater control over development of the site
- How can you accept a plan that is now even more built up
- Affordable housing should be provided in accordance with the requirements of the Neighbourhood Plan
- Developers have no intention of meeting housing mix requirements set out in Neighbourhood Plan
- More affordable housing should be provided
- Committee should serve the people who live in Sefton and not developers and their own cash-strapped treasury
- Impact of piling on surrounding environment and properties.

Non-material comments

- Impact on house prices, insurance, sell-on value and damage, loss of a view.

Policy Context

The application site is allocated for housing in the Sefton Local Plan with an indicative capacity of 286 dwellings. Detailed requirements for how the site should be developed are set out in policy MN6.

Assessment of the Proposal

The initial officer report identified the main issues for consideration as “the principle of development, highways, drainage, ecology, impact on services, living conditions, ground conditions, trees and landscaping, design and character, and affordable housing provision”.

It also acknowledged that “Approval of access only is sought at this stage. This means layout, scale, appearance and landscaping are “reserved matters” which would be the subject of a later application. However, the applicant has provided a conceptual masterplan of how the site may be laid out, including the extent of the developable area.”

Whilst the parameters development plan has been amended, the housing numbers, site area, access arrangement and reserved matters have not changed. Subsequently, the main issues identified in the original officer report remain relevant and are addressed in detail below.

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The original application was supported by an Environmental Impact Assessment, which has been updated to address the various amendments to the scheme. The various environmental components have been considered and where necessary assessed in detail below.

Principle of Development

The site is allocated for housing in the Sefton Local Plan as set out under policies MN2 (Housing, Employment, and Mixed Use Allocations) and MN6 (Land at Brackenway, Formby). Despite the increase in developable land under the current proposal, the proposed development remains consistent with the Sefton Local Plan in land use terms.

The Neighbourhood Plan identifies the developable area of the site (including the proposed extension) as part of the Formby and Little Altcar Settlement Boundary, outside of the green belt. It also recognises the need to provide new housing as set out in the Sefton Local Plan.

Policy GP1 (Spatial Plan) of the Neighbourhood Plan looks to direct future housing within the settlement boundary whilst 'containing the spread of the Town, by promoting infilling up to its settlement boundary, essentially the A565 (Formby Bypass)'. It considers that this approach would provide for sustainable growth whilst avoiding the need to develop unallocated greenfield land outside of the settlement boundary.

In this instance, the principle of the development is still acceptable having regard to both the Neighbourhood Plan and the Local Plan. Furthermore, it would continue to contribute towards the Council's '5 year housing supply'.

Access and Highway Safety

As identified above, the access arrangements to the site and housing numbers remain unchanged to that originally proposed. Notwithstanding this, the Neighbourhood Plan introduces a number of transport and highway safety policies which need to be considered.

Policies H2 (New Housing), GA1 (Right of Ways), GA2 (Accessibility Audits and Travel Plans) and GA3 (Provision for Pedestrians and Cyclists) of the Neighbourhood Plan are of most relevance. These policies seek to ensure new homes are well connected both within the site and wider town, support the enhancement of existing public rights of way, require residential developments to comply with the Council's guidance on sustainable travel and development, and ensure the needs and safety of pedestrians, cyclists and other highway users are met.

The original report considered the various documents submitted in support of the application to demonstrate the effects of the development on highway safety and access.

The officer report concluded that *'the proposed development will result in some reductions in capacity at three junctions on the Formby Bypass with some increased traffic flows on the local highway network'* but considered that *'the level of traffic generated as a result of the proposed development would not have an unacceptable impact on highway safety or result in a severely detrimental impact on the local highway network'*.

It recognised that access to the site for vehicular traffic and pedestrians would be by a new signalised junction from the site on the A565 Formby Bypass in accordance with site specific policy MN6 of the Local Plan.

Furthermore, it accepted that the introduction of a pedestrian/cycle/emergency access onto Paradise Lane was also compliant with the Local Plan.

It was accepted that *'with respect to both pedestrian access and access to public transport, the site accessibility is low'*. However, it recognised that *'the site would maintain good pedestrian links via existing and proposed pedestrian/cycle/bridleway facilities giving users the opportunity to use safe and direct routes to the south. In addition, the applicant has agreed to provide a package of off-site highway improvement works to improve links and make it easier to get around'*. This includes the implementation of *'a series of pedestrian crossing upgrades along Deansgate Lane North at its junctions with Brackenway, Hawksworth Drive and Longton Drive'*, and improved signage and re-surfacing to Formby Byway No. 40 and Formby Bridleway No. 39 which border the site's southern boundary. It was also acknowledged that a Framework Travel Plan had been submitted to promote healthy and sustainable travel choices, which would be strengthened as the proposed development progresses through detailed design stage.

The officer report accepted that *'as the site is allocated for housing, appropriate opportunities can be taken to promote sustainable modes of transport and ensure safe and suitable access to the site by all. The site is accessible to a range of local services and facilities and complies with the policies of the National Planning Policy Framework and policies MN6 and EQ3 (Accessibility) of the Local Plan'*. There is little change in this view for the proposed development, whilst it is considered that, for the same reasons, the proposal also meets the identified policy requirements of the Neighbourhood Plan. This is a view supported by the Council's Highways Manager.

Policy H6 (Off Road Parking) and H7 (Design of Car Parking) of the Neighbourhood Plan relate to the provision and design of off-road parking within the scheme. Such information is not currently available as details of siting, scale and appearance have been reserved for subsequent approval. However, it would not be unreasonable to assume that such matters can be addressed through the detailed design of the scheme.

Flood Risk and Drainage

Policies MM6 and EQ8 of the Local Plan and paragraph 163 of the National Planning Policy Framework were of key importance when the application was originally assessed.

In addressing such policies, the applicant submitted a Flood Risk Assessment demonstrating the likely impacts of flooding on the development and surrounding area. A sequential test was not considered necessary, as this was carried out when the site was allocated in the Local Plan.

As part of the overall assessment of matters relating to flooding and drainage, various measures were proposed as outlined in the original officer report.

The report concluded that subject to appropriate conditions and approval of a detailed drainage scheme, and securing measures of mitigation and management in perpetuity, the proposed development would be acceptable.

The Neighbourhood Plan introduces new flooding policies, specifically F1 (Avoiding Increasing Flooding and Flood Risk), F2 (Flood Risk Assessment and Scheme Design) and F3 (Reduced Surface Water Discharge), which are in line with the requirements set out in Policy EQ8 of the Local Plan. Unlike the Local Plan, there is no site specific policy in the Neighbourhood Plan for this site. However, Policy MN6 is a strategic policy and continues to carry full weight in the decision making process. For clarity, with regards to flooding,

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Policy MN6 states:

Development of this site must:

a. Include a flood risk mitigation scheme that:

i) ensures that new dwellings are not at risk from either fluvial flooding in a 1 in 1000 year event, or flooding from any other source; and

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

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

iv) is accompanied by a maintenance plan / arrangement that ensures the flood risk mitigation scheme and existing watercourses within the site are maintained in perpetuity

Notwithstanding the introduction of the Neighbourhood Plan, the applicant has undertaken further technical assessments to assist with the detailed design of the development. This has resulted in the parameters of the proposed development being amended along with changes to the flood risk mitigation measures originally considered. The applicant has submitted an updated Flood Risk Strategy, along with an update to the Environmental Statement which supports the original Flood Risk Assessment, to allow a further assessment to be carried out against the flooding policies within the Neighbourhood Plan, Local Plan and National Planning Policy Framework.

This updated model provides a more accurate representation of the extent of flood risk experienced at the site in the absence of any development. The results of the model showed that present day flood risk on the site and to existing properties in the catchment was underestimated when compared to the Environment Agency's Flood Map, indicating a greater area that would be subject to flooding. Most notably there is a large increase in the extent of the area classified as Flood Zone 2 spreading across the site and extending south of Eight Acre Drain (EAD). It is understood that flooding on the site is controlled by the culverts under the Formby Bypass as these 'throttle' water during flood events which increases water levels upstream and causes flooding on the eastern portion of the site. This effects of this mechanism are not fully apparent in the existing Environment Agency flood maps.

A comparison between the Environment Agency maps and the updated model is below:

Figure 1: Extract of the EA Flood Map for Planning

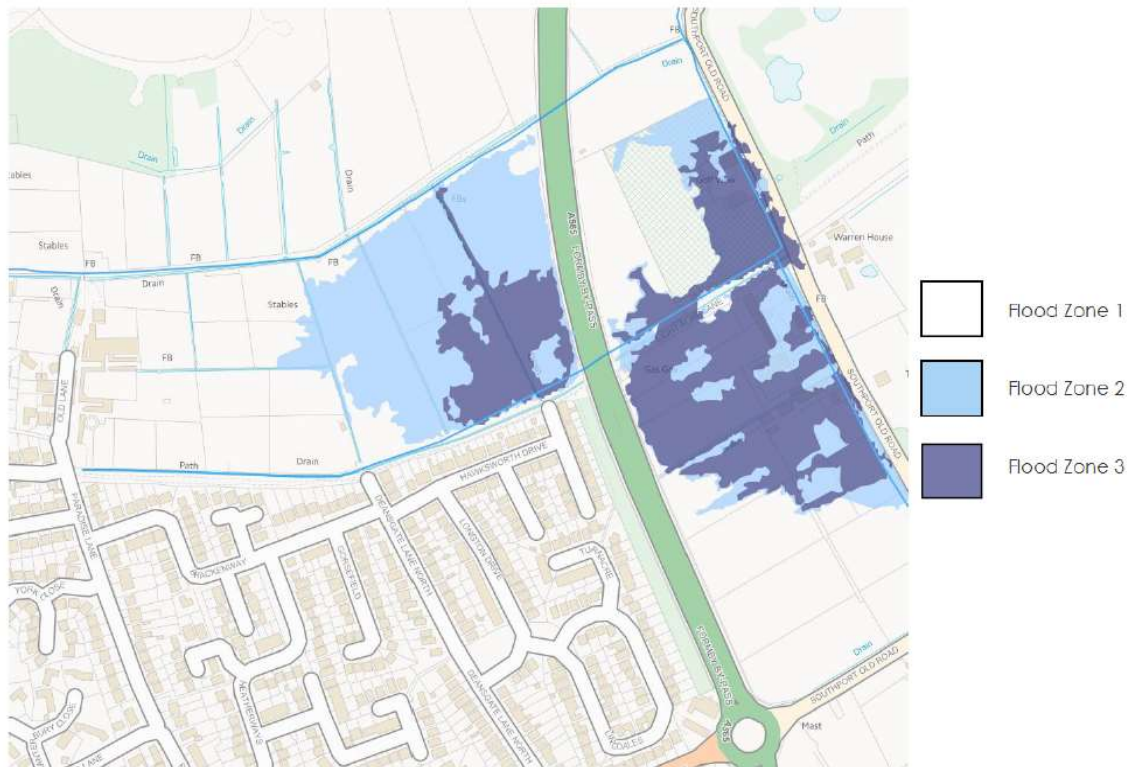


Figure 2: Extract of the updated flood map of the site (Based on modelling by JBA Consulting)



The Environment Agency has been consulted on the updated information. They have confirmed that the revised hydrology and hydraulic model is fit for purpose and can be used to inform a proposed mitigation strategy on site.

Taking on board the updated information and acceptance by the Environment Agency, it is evident from

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the updated plan that the area experiences a greater maximum water level than that initially identified. Furthermore, it is also clear that there is an increase in risk of surface water flooding as water would be unable to discharge effectively into EAD due to high water levels.

Using the updated model, the applicant has been able to test the updated proposed development parameter plan, taking in account the following scenarios:

- Climate Change
- Assuming a 90% blockage of the existing culverts which are located under Formby Bypass
- Wham Dyke discharges into Downholland Brook by means of a flapped outfall and so both an open and shut scenario were considered
- Sensitivity test was undertaken in line with updated Environment Agency guidance to consider extreme climate change uplifts
- Channel roughness which takes account of changes in the watercourse channel
- Storm duration.

The results of the updated modelling and flood risk strategy clearly demonstrate that the amended residential development can be accommodated on site without risk of flooding, either from fluvial (including 1 in 1000 year flood levels) or any other source of flooding. This would be achieved by raising ground levels and providing dedicated areas for flood water to manage the situation (i.e. retained flood plains, underground pipes, swales and ditches). Discharge rates would still be limited to 22.1 litres/second as previously proposed with water directed to Wham Dyke (away from EAD). Whilst there would be a slight increase in the extent of flood water to the north of Wham Dyke, this would only be minor and would be limited to open areas within the application site away from the proposed housing.

Additionally, the modelling shows that flood waters are prevented from travelling overland from Wham Dyke towards EAD, through the raising of the access road. In combination with diverting flood flows away from EAD, the proposed development and flood risk mitigation measures results in a reduction in peak water levels in the EAD, preventing water from overtopping during more extreme events, and allowing the surface water outfall on Hawksworth Drive to discharge back into EAD more effectively (an issue which has been recognised as part of the Council's flood investigations).

The modelling has resulted in a number of changes to the proposed mitigation measures as previously proposed including:

- No lowering to the northern bank of Eight Acre Drain or to the land to the immediate north of this watercourse within the eastern section of the site
- Extending the developable area which will be raised to a maximum of 7.5m AOD, and
- No pumped solution to assist with the discharge of surface water, as discharge would be met by a gravity solution under the new proposals.

The remaining mitigation measures detailed in the previous officer report and identified above are still proposed.

Based on the updated modelling, the proposal would provide a significant benefit to the properties on Hawksworth Drive both in terms of fluvial flooding and surface water flood risk and would accord with the requirements of policy MN6 1a(iii) and 1a(iv). However, as recognised in the original report, due to other constraints (predominantly the existing drainage system serving properties along Hawksworth Drive) there would still be a residual flood risk to Hawksworth Drive despite the improvement proposed. Nevertheless, the applicant is still proposing to manage and maintain EAD. This includes periodic checks and cleaning of

the culvert underneath the Bypass and installation of non-return valves at the discharge points on the existing surface water sewer outfalls to prevent back-flow and surcharge of the existing manholes of Hawksworth Drive.

The Lead Local Flooding Authority and the Environment Agency have reviewed in detail the flood and drainage mitigation proposals. They are satisfied that subject to such proposals being developed in detail and secured by either condition or through a section 106 legal agreement, the development would not give rise to flooding concerns on the site or elsewhere, and would decrease the flood risk to existing properties on Hawksworth Drive.

Paragraph 166 of the National Planning Policy Framework is clear that the “exception test” may need to be re-applied if relevant aspects of the proposal had not been considered when the test was applied at the plan making stage, or if more recent information about existing or potential flood risk should be taken into account. The updated modelling clearly introduces new information regarding flood risk on the site and local catchment.

The applicant does not believe, however, that the exception test would need to be re-applied in this instance because:

- *The application proposals align with Local Plan Policy MN6 and all aspects of the proposals were considered when the exception test was applied by Sefton Council at the plan-making stage. The location of housing is proposed on the area of land allocated for housing in the Local Plan and the maximum number of dwellings proposed as part of this application is up to 286 dwellings which accords with the estimated number of dwellings in Local Plan Policy MN2.*
- *Furthermore, the principal vehicular access will be taken from Formby Bypass, a 7.9 hectare extension to the Nature Reserve is proposed to the north and flood compensation is proposed to the east. All these aspects of the application proposals were considered when the Exception Test was applied by Sefton Council at the plan-making stage.*

Notwithstanding this, the applicant has set out within the Planning Statement the reasons why they believe the exceptions test would be passed for the development as follows:

- *The development would provide wider sustainability benefits to the community that outweigh the flood risk. The Local Plan is up to date and there are no immediate plans to review it. The Council cannot currently demonstrate a deliverable 5-year housing supply and the application proposals will make a positive contribution towards both the Council’s identified open market and affordable housing requirements. Furthermore, the application will secure significant flood risk and drainage benefits to Hawksworth Drive and an extension to the nature reserve. The development will also secure a range of socio-economic benefits in terms of job creation and investment which will be delivered during the construction and operational phases.*
- *The FRA and subsequent addenda have demonstrated that the development will be safe for its lifetime taking account of vulnerability of its users, without increasing flood risk significantly elsewhere, and will reduce flood risk overall and specifically to the properties on Hawksworth Drive.*
- *The hydraulic updated modelling undertaken demonstrates that the proposed measures not only ensure the proposed development remains flood free, but also offers benefits elsewhere by reducing the peak flood levels within Eight Acre Drain.*

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Paragraph 164 of the National Planning Policy Framework confirms that to pass the exception test it should be demonstrated that:

- a) The development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b) The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible, will reduce flood risk overall.

National Planning policy makes it clear that both elements of the exception test should be satisfied for development to be allocated or permitted.

In the case of the amended scheme, despite the changes identified to the flood risk areas across the site, the developable area and housing numbers are still consistent with that originally identified at Local Plan allocation stage in which the sequential and exceptions test were applied.

Subsequently, the supporting information submitted by the applicant including that contained within the flood risk and drainage strategy and planning statement, for the amended scheme, demonstrates that the proposal would provide the same sustainable benefits to the community originally identified, whilst ensuring the development would not be safe from flooding, whilst not increasing flooding elsewhere. Whilst it is recognised that the Council can currently demonstrate a deliverable 5-year housing supply (contrary to the applicant's statement), the proposal will make a positive contribution to maintaining this supply of housing land in the Borough. It must also be noted that the extent of flood prevention to properties on Hawksworth Drive and further afield would be greater than initially anticipated.

It can therefore be demonstrated that the development would pass part (a) and (b) of paragraph 164 of the NPPF and the proposal therefore satisfies the exception test.

Similar to the conclusions of the original proposal, all the amended material submitted in support of the application in relation to flood risk has been subject to scrutiny from the Lead Local Flooding Authority, the Environment Agency and United Utilities. All these bodies agree the technical evidence supporting the application points to a significant reduction in flood risk to properties on Hawksworth Drive, whilst ensuring new dwellings would not be at risk of flooding. No flooding would occur elsewhere off the site as a result of the development and whilst it is recognised that there would be some minor additional flooding within the site to the north of Wham Dyke, this would be away from the proposed housing and would occur at times of more extreme flooding. Subject to appropriate conditions and approval of a detailed drainage scheme and securing measures of mitigation and management in perpetuity, the proposal would therefore accord with the identified policies of the Neighbourhood Plan, Local Plan and National Planning Policy Framework.

Ecology and Open Space

The original report had regard to the effects of the proposed development on ecology and nature conservation. This was assessed having regard to the information contained within the Environmental Impact Assessment, including an Ecological Impact Assessment and supporting ecological surveys. This information was reviewed by the Council's ecological advisors, Merseyside Environmental Advisory Service (MEAS), alongside Natural England and the Environment Agency. The original report concluded:

- the retention of 7.9ha of the Local Wildlife Site (LWS) outside of the housing allocation, when properly managed and with the opportunity to thrive, was considered appropriate and would be consistent with the requirements of policy MN6 of the Local Plan
- There would unlikely be any significant impacts relating to relevant ecological features
- Residual effects on ecological features arising from construction and when the site becomes operational (for residential purposes) can be mitigated to a minimum level
- Subject to appropriate management, the proposed development would deliver significant ecological benefits in the medium to long term, resulting in an overall net increase in biodiversity at the site
- The development proposal would have no likely significant impacts on designated sites, having regard to the Habitats Regulations Assessment and additional measures of mitigation
- Subject to conditions, there would be no conflict with the relevant provisions of Local Plan policies NH1 (Natural Assets) and NH2 (Nature), NH14 (Scheduled Monuments and Non-designated archaeology), EQ4 (Pollution and Hazards), IN3 (Waste) and paragraphs 170 and 174-177 of the NPPF.

The Neighbourhood Plan identifies the importance of nature conservation in the local area. It recognises the important wildlife sites, habitats and green corridors within Formby and the wider area. There are no specific policies within the neighbourhood plan relating to ecology or nature conservation, albeit Policy ESD6 *'acknowledges the need to mitigate for any impacts of additional recreational pressure from residents of new homes on the integrity of internationally important nature sites especially those on the Sefton coast by redirecting recreation away from these fragile sensitive areas'*. However, there is a clear steer towards ensuring compliance with the National Planning Policy Framework and a desire to maximise biodiversity through green infrastructure and the integration of existing features into new development. In this regard, there is no change to the policy stance.

Notwithstanding this, the development has changed both in terms of the parameters plans and flood mitigation measures. To ensure policy compliance, the applicant has submitted updated ecological studies, habitat surveys, and bat roost and water vole surveys as part of the revised Environmental Statement Addendum.

The updated information concludes that the proposed changes to the scheme do not lead to changes in the magnitude of ecological effects previously considered.

It is recognised that the increase in developable area would reduce the amount of public open space provided by the development to the South of Wham Dyke, which may lead to an increase in recreational pressure on nature conservation sites in comparison to the previous proposals. However, the development would still see the retention and management of 7.9ha of open space (grasslands and wetlands) to the north of Wham Dyke as required by policy MN2.2 of the Local Plan, in addition to the provision of informal and accessible open space south of Wham Dyke.

Landscaped linear green corridors would be created accommodating retained ditches and sustainable drainage areas. In addition, the main water courses will incorporate buffer zones whilst the landscape buffer adjacent to the Bypass would also be extended. Such features would provide important green links through the site to the new nature reserve extension in the north which would help to enhance green

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infrastructure across the development as a whole and assist with enhanced biodiversity value.

The amended proposals and information have been reviewed by MEAS, Natural England and the Environment Agency all of whom raise no objection and are satisfied that there are unlikely to be any significant impacts relating to relevant ecology features or adverse effect upon the integrity of European sites, provided various mitigation is secured through condition and/or legal agreement. This includes a revised commuted sum (to that previously agreed) towards the management and monitoring of the Sefton Coast to compensate for the reduced open space, as identified through the Habitats Regulations Assessment. Overall, the proposed development would still deliver significant ecological benefits in the medium to long term, resulting in an overall net increase in biodiversity at the site.

It is therefore considered that the development would support the thrust of the Neighbourhood Plan (including Policy ESD6) in this regard as, despite the amendments, it would still comply with the relevant policies of the Local Plan and the NPPF as identified in the original report.

Impact on Services

Policy CLW1 (Infrastructure Delivery) of the Neighbourhood Plan looks to find ways of securing the delivery of infrastructure priorities for Formby through appropriate funding mechanisms. This is similar to policy IN1 (Infrastructure) of the Local Plan.

The original report concluded that there was no compelling evidence to suggest that local services would not be able to cope with either the development of this site on its own or cumulatively with other housing allocations in Formby, and was therefore compliant with policy IN1 of the Local Plan. This view has not changed and therefore the proposal complies with policy IN1 of the Local Plan and CLW1 of the Neighbourhood Plan.

Living Conditions of Future and Existing Residents

Layout/Scale

The original officer report stated:

'Details of layout and scale have been reserved for subsequent approval. However, in order to obtain an understanding of the potential impact on neighbouring residents an illustrative masterplan has been submitted in support of the application alongside a parameters plan (identifying land use and building heights) and illustrative cross sectional drawings.'

Based on the indicative drawings, it is considered that residential development can be accommodated on the site without causing significant harm to existing residential properties consistent with policy EQ2 (Design) of the Local Plan. Within the development, the Council's guidance for distances between dwellings and private amenity space can be met.

Open space would be provided within the site to add further to the standard of living conditions, this would be accessible for both existing and future residents.'

The proposed amendments do not alter the impact on neighbouring residents, whilst the increased area of 'developable' land promotes reduced density which should help to enhance the standard of living for future

residents as part of any future detail plans. This would be in accordance with Policy ESD2 (High Quality Design) of the Neighbourhood Plan.

It is acknowledged that the area of public open space to the South of Wham Dyke would be reduced. However, the development would still result in an over provision of public open space when compared to that required within the Council's guidelines which would clearly benefit future residents. Although the specific details have been reserved for subsequent approval, it is suggested that the open space provision would offer a mix of recreational opportunities including informal space, green corridors with pedestrian and bridle routes and a more formal play area within the residential element of the scheme.

Concerns have been expressed regarding the raising of land and the impact this would have on the living conditions of neighbouring residents. Reference is made to policy H5 (Storey Height) which seeks to prevent the 'raising of land surface significantly above its natural level'. However, the proposed increase in land levels is no different from that previously considered and found to be acceptable when considering the impact on neighbouring residents.

Air Quality, Noise and Vibration

The original report concluded that the proposed development would not have any adverse impact on air quality, whilst properties close to Formby By-pass would require mitigation to ensure that internal noise levels are consistent with recommended guidance, due to the proximity of the By-Pass. This would be addressed through a detailed acoustic design statement secured by condition. It was also acknowledged that there would inevitably be some disturbance to occupiers of existing properties within the vicinity of the site as a result of construction and piling, but it was concluded that measures could be taken to minimise these.

The Neighbourhood Plan is relatively silent on matters of air quality, noise and vibration except for Policy ESD2 (High Quality Design) which seeks to protect residential amenity in the terms of the design of the scheme. In this regard, the original position taken on the impact of the development remains unchanged.

It is acknowledged, however, that the developable area extends closer towards the By-pass giving rise to greater noise impacts on future residents. The supporting Environmental Statement Addendum has reviewed the proposal in light of the updates to the parameter plan through an updated air quality assessment, and noise and vibration assessment. This update concludes that the proposed changes would not result in any changes to the impacts originally identified, subject to various measures being secured by condition. This would be compliant with policies EQ4 (Pollution and Hazards) and EQ5 (Air Quality) of the Local Plan and ESD2 of the Neighbourhood Plan.

Ground Conditions

In relation to ground conditions the original report acknowledged the findings set out within the Environmental Statement regarding ground conditions, both in terms of existing risks and the potential effects during construction and operational phases.

It was concluded that 'The details submitted, subject to appropriate conditions requiring further investigations and remedial works, demonstrate that future residents of the site, neighbouring resident sites, controlled waters and ecological systems would not be exposed to harmful levels of

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contamination. The submissions supporting the application establish the methodology for assessing the nature, degree and extent of contamination and ground conditions at the site as well as recommending further site investigations. Consequently there is no conflict with policies EQ4 (Pollution and Hazards) and EQ6 (Contaminated Land) of the Local Plan 2017 and the relevant paragraphs within the National Planning Policy Framework.

There have been no changes to the baseline conditions on these matters, whilst there are no specific policies within the Neighbourhood Plan which require any further consideration on such matters to that previously assessed.

Trees and Landscaping

The original report stated:

'Full details of the proposed landscaping scheme will be required at reserved matters stage. The Environmental Statement confirms that tree and shrub planting will be undertaken with species suitable for planting within the Red Squirrel Refuge and Buffer Zone in order to comply with policies NH2 (Nature) and NH3 (Development in the Nature Improvement Area). Full details of the proposed landscaping scheme, including planting schedules can be secured by condition.'

'The size of tree species close to the northern boundary (area north of Wham Dyke) would be strictly controlled to ensure no interference with the High Resolution Direction Finder (HRDF) at RAF Woodvale Aerodrome. Given the context of the site, its proximity from the bypass and extent of developable area, it is considered that any landscaping scheme would be extensive and include structural planting to soften the urban edge along the Green Belt to comply with policies EQ2 (Design) and EQ9 (Provision of Public Open Space, Strategic Paths and Trees) respectively.'

Policies ESD2 (High Quality Design); ESD6 (Green Infrastructure) and ESD7 (Trees and Landscape) of the Neighbourhood Plan are relevant and, like those identified in the Local Plan, promote the need for high quality green infrastructure, open space and landscaping suitable for the development.

The proposed changes would see a reduction in the informal open space to the south of Wham Dyke (due to the increase in developable area), but the size and location of the nature reserve extension and public open space north of Wham Dyke would remain the same, whilst the applicant still seeks to introduce extensive tree and shrub planting throughout (subject to details being agreed as part of any reserved matters application). Whilst the Council's Tree Officer has sought an updated tree survey, as the original is now out of date, it is considered that such survey could be provided at the reserved matters stage to support any detailed landscaping proposals.

Landscaped linear green corridors would be created accommodating retained ditches and Sustainable Urban Drainage Systems. In addition, the main water courses will incorporate buffer zones whilst the landscape buffer adjacent to the By-pass would also be extended. Such features would provide important green links through the site to the new nature reserve extension in the north which would help to enhance green infrastructure across the development as a whole.

Furthermore, the applicant has not proposed any changes to the provisions of the Section 106 legal agreement, including the need to ensure the long term management of the open spaces and wider landscaping.

Overall the amended development complies with the policies of the Neighbourhood Plan and Local Plan.

Design and Character

Policy ESD2 (High Quality Design) of the Neighbourhood Plan requires development to make a positive contribution to the local character. It requires developments to demonstrate consideration towards various matters, such as scale, density, good quality boundary and green infrastructure, and safe movement both within and to/from the site. In essence, this policy is reflective of Policy EQ2 (Design) of the Local Plan, against which the original scheme was initially assessed.

The original report recognised that *'The land held a long-standing Green Belt designation and this is reflected in its presently open nature. It is inevitable that the development of the site will significantly change the appearance of the area. The key lies with how this is contained and how the transition takes place between the built-up area and open areas to the east and north of a completed development. The Inspector noted in his Local Plan report that the development of the site would diminish the gap between Formby and Ainsdale at its narrowest point, but a sizeable gap would remain. The use of the land to the north of the site suggests that further northward sprawl is unlikely.'*

The report confirmed *'The boundary adjacent to the by-pass would include screen planting to soften the urban edge to the east while access from the by-pass and arrival to an expanse of grassland could, subject to appropriate landscaping design, provide for a distinctive form of development which would contribute to the wider character of the area. Such detailed design would be secured at the reserved matters stage.'* It also acknowledged that the *'Design & Access Statement confirms that there would be a mix of house types comprising primarily two storey housing.'*

Despite the increase in developable land, the general design principles of the scheme remain whilst the landscaped buffer along the By-pass would be increased. Consequently, the conclusion set out in the original report remains relevant to the amended proposals.

The Neighbourhood Plan, does however, introduce an additional policy that is particularly relevant to this site. Policy H5 (Storey Height), seeks to limit the scale of developments to no more than 2.5 storeys. It also seeks to restrict the raising of land surface *'significantly above its natural level'*. *The purpose of this is to 'prevent harmful incursions into Formby's very flat, low-lying landscape'*.

As stated in the design and access statement, and recognised above, it is suggested that the housing would be predominantly two storeys in height and a condition could be attached to ensure that any reserved matters application meets that requirement.

Matters relating to the raising of land is somewhat more difficult, as there is no definition of what 'significant' would be. The neighbourhood plan does not provide any definition or clarification with regards to the raising of land surfaces. Nevertheless, the maximum levels that the land would be raised would be 1.5m, with the maximum ground level of 7.5m AOD. The Environmental Impact Assessment has assessed the scheme based on the increase in ground levels and proposed heights of the houses, including cross sectional drawings.

Whilst the landscape character in the local area is very low lying, there is variation both across the site and in the surrounding area. Having regard to the topographic drawing, cross sections and visual assessments, it is clear that the change in levels would not be at odds with the existing landscaping and would not be

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'significant' when having regard to the Neighbourhood Plan policy. Furthermore, it is envisaged that the actual development platform would be designed with gentle slopes to the north, south and east which, along with increased landscaping, would help soften any potential visual harm of the developable area.

It is therefore considered that whilst the development would include the raising of land, having regard to the supporting information, the development can be accommodated on site without impacting on the wider character of the area or the prevailing landscape. The proposal would therefore be compliant with Policies ESD2 and H5 of the Neighbourhood Plan.

Affordable Housing, Housing Mix and Density

The original proposal had regard to Local Plan policies HC1 (Affordable and Special Needs Housing), HC2 (Housing Type, Mix and Choice) and HC3 (Primarily Residential Areas) when considering affordable housing, housing mix and density.

However, the Neighbourhood Plan has introduced several policies which slightly differ from those in the Local Plan.

Policy H1 of the Neighbourhood Plan states that residential development should demonstrate the most effective use of land through high quality design that respects local character and residential amenity. It states that the density of any proposed development should maintain the prevailing character of the immediate area and specifically, Formby and Little Altcar should be characterised by low density housing between 25-30 dwellings per hectare.

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

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

- 1 and 2 bed properties, no less than 33% of the total; and
- 4 or more bed properties, no more than 15% of the total.

Whilst the identified policies of the Local Plan and Neighbourhood Plan are similar, there are differences which need to be acknowledged.

In relation to Policy H1, there is a focus on restricting the overall density of housing within Formby to ensure the prevailing character is maintained, whilst making the most efficient use of land.

Although the detailed design of the scheme has been reserved for subsequent approval, the application has been developed through a comprehensive design process taking into account the character of the local area and key site constraints. It was originally considered that a density of 30 dwellings per hectare was acceptable both in terms of efficient use of land and maintaining the prevailing character of the area. The proposed changes increase the developable area, whilst keeping the number of houses the same. Whilst the density levels are more likely to be towards the upper end of that identified in the Neighbourhood Plan, the identified density within Policy H1 could be achieved and would ensure the land is used efficiently whilst

reflecting the prevailing character of the area (as previously accepted). This could be secured by amending the original condition relating to housing density.

Policy H3 slightly differs from policy HC1 of the Local Plan in that 30% of affordable housing should be provided based on units rather than bedspaces. Similarly, Policy H4 differs from policy HC2 (Housing Type, Mix and Choice) of the Local Plan in relation to housing mix.

The planning application is made in outline only so exact details of affordable housing and housing mix will be provided at the time of any reserved matters application. However, the applicant is committed to complying with the affordable housing and housing mix policies set out in the Neighbourhood Plan and it is recommended that the conditions initially agreed be amended to reflect the requirements of Policy H4, whilst the affordable housing requirement would be secured through the section 106 legal agreement.

Conclusion

This application seeks outline approval for the erection of up to 286 dwellings on land allocated for residential development with details of access submitted at this stage and layout, scale, appearance and landscaping reserved for later consideration.

This application was considered by Planning Committee on 16th March 2019, when it was resolved to approve the application subject to conditions and the signing of a Section 106 legal agreement (S106). However, prior to a decision being issued (and as a result of the delay in signing the S106), the Neighbourhood Plan was made and in certain respects became the more up to date development plan for Formby. In addition, the applicant updated various technical documents resulting in a change to the parameters plan and various proposed flooding and drainage measures. Such changes have led to the need to re-assess the proposal.

The main issues to consider are the principle of development and whether, based on the details provided, the site can sufficiently accommodate the proposal while complying with the aims and objectives of the Neighbourhood Plan, the Local Plan and National Planning Policy.

The principle of development is established given that this site was allocated for housing development in the recently adopted Local Plan. The proposal would provide up to 286 dwellings including affordable homes in line with both Neighbourhood Plan and Local Plan policy, in an area which has a shortage of affordable homes. It would also make a positive contribution to maintaining the Council's supply of housing land and make an important contribution to meeting both the Borough's and Formby's identified affordable housing requirements, as well as achieve the desired housing mix set out in the Neighbourhood Plan.

It is considered that the access arrangements are acceptable, whilst parking standards would be addressed in detail as part of any subsequent reserved matters application.

The conceptual arrangement for the development of the site as described within the Parameters Plan satisfactorily addresses the potential future constraints to comprehensive development. It has also been demonstrated that the raising of land (to ensure any new housing on the site is not subject to flooding) could be accommodated without harm to the character of the area or living conditions of existing residents.

The technical evidence supporting the application concludes there would be a significant reduction in flood risk to properties on Hawksworth Drive. It demonstrates that new dwellings would not be at risk of flooding

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and there would be no increase in flooding elsewhere caused by the development.

The proposal complies with the Neighbourhood Plan, Local Plan and national planning policy. Subject to the conditions below and the completion of a Section 106 legal agreement to secure affordable housing, the long term management of open space, flood risk mitigation, management of watercourses within the site, ecological management and mitigation to address recreational pressure on sensitive nature conservation sites on the Coast, the proposal is recommended for approval.

Environmental Impact Assessment – Reasoned Conclusion

The Environmental Impact Assessment Regulations 2017 set out the general requirements for the content of Environmental Statements in Schedule 4. This includes information on the nature of the development, consideration of alternative options, relevant aspects of the environment, likely impacts arising and their significance, proposed mitigation measures and any difficulties/limitations in compiling the information needed. A non-technical summary is also required.

The Environmental Statement supporting the application is sufficiently detailed in presenting the varying environmental components forming the development proposal. Its scope is acceptable to assess the site's functionality relative to the different environmental elements it contains, the potential and significance of impacts resulting from the proposed development during construction and post development, and identifying appropriate mitigation. The statement is considered to be up to date and, where limitations exist, these have been acknowledged with reasoned justification and, where necessary, conditions have been attached to secure further details.

The Local Planning Authority (LPA) has taken into account comments made during the application process by the public and relevant consultees to secure further information and amend the proposed development. Where the impact of the development would lead to significant effects on the environment, appropriate mitigation measures which are proportionate to the development proposal would be secured by condition and/or legal agreement and accord with relevant policies within the Local Plan. The LPA has examined the details submitted to support this application and assessed the direct and indirect effects of the development proposal and concluded that appropriate conditions and monitoring would be secured to allow the LPA to reach a reasoned conclusion that the proposed development be approved.

Recommendation - Approve with Conditions subject to the completion of a Section 106 Agreement securing the following:

- Provision of freely accessible public open space within the development
- A financial contribution of £188,760 (at £660 per dwelling) to mitigate recreational pressure on the Sefton Coast
- Flooding and drainage maintenance and management
- Management and maintenance of Open Space provision and the proposed nature reserve extension in perpetuity
- Affordable housing.

Conditions

This application has been recommended for approval subject to the following conditions and associated reasons:

Time Limit for Commencement

- 1) An application for the approval of reserved matters must be made no later than the expiration of three years beginning with the date of this permission. The development must be commenced not later than the expiration of two years from the final approval of reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 92 (as amended) of the Town and Country Planning Act 1990.

Approved Plans

- 2) The development hereby approved shall be carried out in accordance with the following approved plans:
 - Site Location Plan (447C 02B)
 - Illustrative Masterplan (447F-02C)
 - Parameters Plan (447F 01B)
 - Proposed Vehicular Access Plan (0087-03 RevB)
 - Proposed Emergency Access Plan (0087-04 Rev B)
 - Demolition Plan 447C 23A
 - Environmental Statement January 2018 (as amended by Environmental Statement Addendum, September 2018, January 2020 and January 2021)

Reason: To ensure the satisfactory development of the site

Before the Development is Commenced

- 3) No phase of the development shall commence until details of the reserved matters (namely, appearance, landscaping, layout and scale) for that phase have been submitted to and approved in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 (as amended) of the Town and Country Planning Act 1990.

- 4) Prior to the construction of any dwelling, a phasing plan including, but not limited to, a site layout plan identifying the proposed number of dwellings and the provision of internal roads, parking areas, footpaths, lighting and cycleways and open space for each phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the phasing details approved under this condition.

Reason: To ensure the satisfactory development of the site.

- 5) No dwelling within a phase shall be constructed until:

- full details of the existing and proposed ground levels (referred to as Ordnance Datum) within that phase and on land and buildings around that phase by means of spot heights and cross sections,

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proposed finished floor levels (FFL) of all buildings and structures, have been submitted to and approved in writing by the Local Planning Authority. Dwellings must have a ground level no higher than 7.50m AOD. The development shall then be implemented in accordance with the approved level details.

- Prior to the construction of external elevations above (FFL) to any plots opposite to existing dwellings, the FFL shall be subject to a topographical survey to be submitted to and approved in writing by the Local Planning Authority. In the event that the survey fails to confirm that the FFL and site levels correspond to the levels as approved, or are not within 100mm of those levels, a new planning application shall be submitted for those plots to which the variation relates.

Reason: To ensure a satisfactory development.

- 6) No part of the development pursuant to the construction of any dwellings (including the raising of land) shall be carried out until the signalised access junction from the A565 Formby By-pass, as detailed in dwg. 0087-03 Rev B has been implemented and is fully operational.

Reason: To facilitate appropriate access to the site for construction related vehicles/materials during the implementation of the approved development.

- 7) No development shall commence until a Construction and Traffic Management Plan for the implementation of the site access from the Formby Bypass as, required under condition 6, has been submitted to and approved in writing by the Local Planning Authority. The plan should include as a minimum:

- A programme of implementation;
- Details of proposed haul routes;
- Approximate number of deliveries to the site required per day;
- Details of the site compound and provision of contractor parking; and
- Location details for the storage of materials.

Approval by the Local Planning Authority for the utilisation of any haul routes other than the Formby Bypass would be limited in terms of duration and to control periods of delivery to the site so as to limit any impact on highway safety and movement on roads to the south of the site.

Reason: In the interests of highway safety and movement and to ensure the amenity of neighbouring occupiers is not significantly harmed.

- 8) Prior to the commencement of any phase of development, a Construction Management Plan for that phase of development must be submitted to and approved in writing by the Local Planning Authority. The plan shall build upon the content of the Draft CEMP as contained at Appendix 5.1 of the Environmental Statement Addendum (GVA How Planning September 2018) and include (but not limited to):

- Site access details, including the creation of any temporary road surfaces;
- Material Management Plan and confirmation of quantity and placement phasing of material to be imported;
- Site Waste Management Plan;
- Incidence response plan and confirmation measures;

- Piling method statement to confirm approach to piling and any associated mitigation measures;
- Methods for the mitigation of noise and vibration from demolition and construction works, and also from the operation of any temporary power generation or pumping plant which will operate overnight;
- Methods for dust control and suppression;
- The areas for the storage of plant and materials;
- Location of site compound, including any loading/unloading areas, turning areas for delivery vehicles, any perimeter fencing and construction staff parking arrangements;
- Control of transfer of mud out of the site and specifically the details of wheel washing facilities including location and type;
- Construction hours; and
- Measures to address any abnormal wear and tear to the highway

All site works shall then proceed only in accordance with the approved management plan unless a variation to the management plan is approved by the Local Planning Authority.

Reason: In the interests of highway safety and movement and to ensure the amenity of neighbouring occupiers is not significantly harmed.

- 9) Prior to the commencement of each phase of the development a full ecological Construction Environment Management Plan (eCEMP) for that phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The eCEMP shall build upon the framework as detailed within the Draft CEMP as contained at Appendix 5.1 of the Environmental Statement Addendum (GVA HOW Planning September 2018). The approved eCEMP shall be adhered to throughout the construction period for that phase. The eCEMP shall secure the following measures:
- An Ecological Liaison Officer, who will form part of the proposed project delivery team, will oversee the undertaking of ecological mitigation works and act as a point of reference for the developer on ecology and biodiversity matters. The CEMP includes the following measures;
 - Scheme details for the provision and management of an 10m no-development buffer zone along banks of Wham Dyke and Eight Acre Brook;
 - All fuelling activities and storage of fuel will be confined to clearly identified areas away from existing watercourses on hardstanding within a bunded area;
 - Noise reduction measures, including the use of silencers / mufflers on equipment and installation of hoarding;
 - Dust suppressant measures;
 - Measures to prevent pollution of surface waters (including Wham Dyke), including storage of soils on impermeable areas away from watercourses and any other measures required to protect retained watercourse;
 - Protection of unimproved neutral grassland habitat through use of HERAS fencing and temporary protective terram matting in areas need to be crossed during works;
 - Protection measures for breeding birds, including confirmation of the timing of vegetation clearance;
 - Reasonable Avoidance Measures (RAMS) for amphibians and reptiles
 - Soil screening protocol for invasive species;
 - Details of construction lighting and a strategy to avoid light spillage to potential areas of bat foraging and commuting habitat; and
 - Procedures for maintaining good public relations during the construction period, including complaint management, public consultation and liaison.

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Reason: To avoid harm to protected species and habitats and safeguard the living conditions of neighbouring occupiers during the construction period.

- 10) No development shall take place until a full Ecological and Landscape Management Plan (ELMP) has been submitted to and approved in writing by the Local Planning Authority. The ELMP shall build upon the management prescriptions for each of the habitat types as detailed within the Draft Ecological Management Plan in Appendix 8.4 of the Environmental Statement Addendum (GVA HOW Planning, September 2018) hereby approved.

The full ELMP shall also include (but not be limited to) the following:

- Details of management of the site in perpetuity, including management bodies responsible for implementation;
- Description and evaluation of the features to be managed;
- Ecological trends and constraints on site which may influence management;
- Aims and objectives of management;
- Appropriate management options for achieving aims and objectives;
- Prescriptions for management actions; and
- Preparation of a work schedule (including an annual work plan and the means by which the plan will be rolled forward annually); and
- Personnel responsible for the implementation for the plan.

Reason: To appropriately manage landscaping and ecological enhancements on site.

- 11) No development shall commence until an updated water vole and otter survey of Wham Dyke, Eight Acre Brook and lateral ditches that cross the site, is carried out. The results of the survey shall inform a Water Vole and Otter Mitigation Strategy to be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of the development. The Water Vole and Otter Mitigation Strategy will contain a programme for the implementation of any requisite mitigation measures which shall be fully implemented in accordance with the approved Water Vole and Otter Mitigation Strategy, such as the creation and early implementation of compensatory habitat.

In addition, no development affecting water vole habitat shall commence until a copy of a Water Vole Development Licence from Natural England or confirmation that works can proceed under a Low Impact Class Licence has been submitted to the Local Planning Authority.

Reason: To avoid harm to protected species and habitat.

- 12) No development shall take place until a scheme for the provision and management of a 8 metre wide buffer zone alongside 'main rivers' Eight Acre Drain and Whams Brook has been submitted to, and approved in writing by, the local planning authority. Thereafter, the development shall be carried out with the approved scheme. Any subsequent variations shall be agreed in writing by the local planning authority, in which case the development shall be carried out in accordance with the amended scheme. The buffer zone scheme shall be free from built development including lighting, domestic gardens and formal landscaping. The scheme shall include:
- Plans showing the extent and layout of the buffer zone
 - Details of any proposed planting scheme (for example, native species).

- Details demonstrating how the buffer zone will be protected during development and managed over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan.
- Details of any proposed footpaths, fencing, lighting, etc.

Reason: This approach is supported by paragraphs 174 and 180 of the National Planning Policy Framework (NPPF) which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused.

This condition is also supported by legislation set out in the Natural Environment and Rural Communities Act 2006 and Article 10 of the Habitats Directive which stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats, and promote the expansion of biodiversity.

- 13) No development approved by this planning permission shall commence until such time as a scheme to ensure the development is flood resilient has been submitted to, and approved in writing by, the local planning authority. The scheme shall include details of finished floor levels, proposed flood proofing measures where required and access and egress arrangements. The approved scheme shall be fully implemented and subsequently maintained, in accordance with the scheme's timing/ phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To reduce the risk of flooding to the proposed development and its future users.

- 14) No development approved by this permission shall be commenced until full details of the proposed flood mitigation measures, as detailed in the Flood Risk Assessment (as amended in the Flood Risk Assessment Addendum September 2018 and January 2021) and the Flood Risk Strategy January 2021 (as amended in the Flood Risk Strategy May 2021) have been submitted and approved by the Local Planning Authority. The approved scheme shall be fully implemented and subsequently maintained, in accordance with the schemes timing/phasing arrangements.

Reason: To reduce the risk of flooding to the proposed development and future occupants by ensuring that there are no detrimental impacts to flood storage.

- 15) No development shall commence until a detailed Drainage Strategy for the site, including details of the sustainable surface water drainage scheme for each phase (including timetable for implementation), has been submitted to an approved in writing by the Local Planning Authority.

No surface water shall discharge into the public sewerage system either directly or indirectly. Any surface sustainable drainage features interacting with sewers offered for adoption should be designed in accordance with CIRIA C753 'The SuDS Manual'. The scheme shall be implemented in accordance with the approved detailed Drainage Strategy and timetable and retained thereafter in perpetuity.

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Reason: These details are needed prior to the commencement of development in order to promote sustainable development, in order to secure proper drainage and to manage risk of flooding and pollution.

- 16) Prior to the occupation of any dwellings for each phase, a validation report demonstrating that the flood mitigation measures and surface water drainage scheme has been carried out in accordance with the details approved under conditions 14 and 15 shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be retained as such thereafter.

Reason: To ensure adequate provision is made for the management of surface water and sewage disposal.

- 17) Prior to the commencement of each phase of development, the details of foul water drainage scheme for that phase shall be submitted to and approved by the Local Planning Authority. The following foul water drainage details shall be agreed with the Local Planning Authority in liaison with the public sewerage undertaker:

- The location of the point of connection for foul water to the existing public sewer;
- The timing arrangements for the pumped foul discharge;
- The storage requirements for the pumped foul discharge; and
- The rate of discharge for the pumped foul discharge.

There shall be no connection of foul water to the public sewer other than in accordance with the agreement reached with the Local Planning Authority in liaison with United Utilities.

Prior to occupation of the first dwelling for each phase, the development shall be implemented in accordance with the approved details for that phase.

Reason: To secure appropriate drainage facilities

- 18) No development of a phase shall commence above slab level until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. Those details shall include:
- i) a timetable for its implementation, and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

The sustainable drainage system shall be implemented and thereafter, managed and maintained in perpetuity in accordance with the approved details.

Reason: To secure appropriate drainage facilities and to manage risk of flooding and pollution

- 19) Foul and surface water shall be drained on separate systems.

Reason: To ensure satisfactory drainage facilities are provided to serve the site.

- 20) Prior to commencement of development the recommendations for further investigation and assessment within the approved Ground Investigation Report shall be undertaken by competent persons and a written report of the findings shall be produced. The report shall include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. The report is subject to the written approval of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 21) Prior to commencement of development a detailed remediation strategy to bring the site to a condition suitable for the intended use by removing unacceptable risks and the relevant pollutant linkages identified in the approved investigation and risk assessment, must be prepared and is subject to the approval in writing of the Local Planning Authority.

a) The strategy must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and roles and responsibilities including gas protection measures. The strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 on completion of the development and commencement of its use.

b) In the event that the proposed remediation scheme involves the provision of a ground cover system a plan indicating the existing and proposed external ground levels on the application site shall be submitted for approval to the Local Planning Authority.

c) The development shall proceed in accordance with the external ground levels approved under (b) unless the Local Planning Authority gives its prior written approval to any variation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 22) No development shall commence until a Written Scheme of Investigation (WSI) for archaeological works has been submitted to and approved in writing by the Local Planning Authority. The WSI shall include an Augur Survey to obtain samples for palaeoenvironmental analysis and to characterise the palaeoenvironmental significance of the site. Any works shall be carried out in accordance with the approved scheme.

Reason: To record and report on the archaeological significance of the site.

- 23) No development shall commence until a method statement for swallows has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include as a minimum:

- Avoidance measures to avoid harm to swallow

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- Extent and location of proposed swallow nesting provision; and
- Timing for implementation of replacement swallow nesting provision

The nesting provision detailed in the approved statement must be in place before the existing breeding habitats are obstructed, damaged or destroyed or if destruction of existing nests takes place over winter, replacement provision must be in place by the 1st of March to ensure no loss of habitat during the swallow nesting season.

Reason: To avoid harm to protected species and habitat.

- 24) Prior to the commencement of the development of each phase, details of all external facing materials to be used in the construction of that phase of development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.

Reason: To ensure an acceptable visual appearance of the development

- 25) No development above ground level shall commence until a scheme, including full construction details, phasing and timetable of works for the following on and off-site improvement works has been submitted to and approved in writing by the Local Planning Authority:
- The introduction of an emergency access onto Paradise Lane as detailed on Dwg. 0087-04 Rev B. This access will require a vehicle visibility splay of 2.4m x 25m to be introduced and maintained to ensure intervisibility between vehicles travelling along Paradise Lane and vehicles emerging from the emergency access. This access road will also require the introduction of dropped kerbs and tactile paving on both sides of the access at its junction with Paradise Lane.
 - The introduction of a series of pedestrian crossing upgrades along Deansgate Lane North at its junctions with Brackenway, Hawksworth Drive and Longton Drive and at the junction of Deansgate Lane North at its junction with Southport Road as detailed in Dwg. 0087-07. These upgrades will include the introduction of dropped kerbs and tactile paving.
 - The replacement of all signage along the Formby Byway no.40 and the Formby Bridleway no. 39 bordering the site along its southern boundary and the reconstruction/resurfacing of the Formby Bridleway no. 39 to a width of 2m.

The works shall be carried out in accordance with the approved details and the agreed phasing and timetable.

Reason: In the interests of highway safety and the satisfactory development of the site.

- 26) The detailed landscaping plans submitted with each reserved matters application for a phase of the development shall include:
- (i) details of any planting to areas to the open space, nature reserve extension and flood storage area to the east of the developable area if they are relevant to that phase;
 - (ii) details of boundary treatments and hard surfaces within that phase of the development;

- (iii) the location, size and species of all trees to be planted to street frontages and within the developable area of that phase of the development;
- (iv) the location, size, species and density of all shrub and ground cover planting within that phase of the development (which shall confirm small seeded species including but not limited to Scots pine (*Pinus sylvestris*), willow (*Salix* spp.), rowan (*Sorbus aucuparia*), birch (*Betula pendula* or *B. pubescens*), hawthorn (*Crataegus monogyna*), blackthorn (*Prunus spinosa*), alder (*Alnus glutinosa*) and holly (*Ilex aquifolium*), and;
- (v) a schedule of implementation for that phase of the development.

Tree species within the nature reserve extension shall not be higher than the existing species located to the north of the nature reserve extension, so as to not interfere with the High Resolution Direction Finder (HRDF) at RAF Woodvale.

Reason: To ensure appropriate transition between housing development and the Green Belt and to ensure the completed development has an acceptable visual appearance.

- 27) Reserved matters applications for each phase of the development shall be supported by a strategy for the incorporation of features to enhance the biodiversity value with respect to breeding birds and bats for that phase of development. The submitted strategy shall include proposals for the provision of features for nesting birds and roosting bats (i.e. number, type and location of any bird or bat boxes). These proposals shall thereafter be delivered in accordance with the agreed strategy.

Reason: To enhance the biodiversity opportunities within the site.

- 28) Reserved matters applications for a phase of the development shall be supported by the submission of an Acoustic Design Statement which shall detail internal noise levels to the dwelling to which it relates and proposed measures of mitigation to ensure that noise levels reflect the assessment and recommendations made in Chapter 13 of the Environmental Statement and accord with guidelines as set out in BS8233:2014 (Guidance on Sound Insulation and Noise Reduction for Buildings).

No dwelling shall be occupied until measures within the approved Acoustic Design Statement have been implemented.

Reason: in the interests of protecting future occupants from noise disturbance.

- 29) Reserved matters applications for each phase of the development shall be supported by an updated tree survey, impact study and method statement. The development shall be carried out in accordance with the approved details.

Reason: To ensure the retention of high quality tree on the site both in the short and long-term.

- 30) Prior to the construction of any dwelling, details of electric vehicle charging points (minimum one per dwelling) shall be submitted to and approved in writing by the Local Planning Authority.

No dwelling shall be occupied until the electric vehicle charging point for that dwelling has been installed and is operational in accordance with the approved details.

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The approved infrastructure shall be permanently retained thereafter.

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

- 31) Reserved matters applications for each phase of the development shall provide details for infrastructure for full fibre broadband connections for each of the dwellings within that phase of the development. The infrastructure for each dwelling shall be installed and made available for immediate use prior to occupation of that dwelling.

Reason: To ensure appropriate broadband infrastructure for the new dwellings.

- 32) Reserved matters applications shall detail the provision of car and cycle parking spaces to service each dwelling. Provision shall accord with the standards as detailed within the Sustainable Travel and Development SPD (2018) and any other development plan policies.

The parking shall be laid out and made available on occupation of the relevant dwelling.

Reason: in the interests of highway safety and movement

- 33) The details of layout, scale and appearance as submitted at reserved matters stage shall accord with the principles of the Parameters Plan 447F-01B and make provision for the following:

- A density of between 25-30 dwellings per hectare within net developable areas,
- No dwellinghouse to provide less than 60 sq. metres private outdoor useable space. Should any flats/apartments form part of the development, they shall provide no less than 20 sq. metres private outdoor space per flat/apartment,
- A minimum of 33% of all non-affordable dwellings to comprise 1 or 2 bedroom properties,
- A maximum of 15% of all non-affordable dwellings to comprise 4 or more bedroom properties,
- A minimum of 20% of all non-affordable dwellings to meet Building Regulation Requirement M4(2) 'accessible and adaptable dwellings', and
- Public open space to be provided at a minimum of 40 square metres per dwelling.

Reason: To ensure a satisfactory development.

During Building Works

- 34) a) The approved remediation strategy must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation.
- b) Following completion of the remedial works identified in the approved remediation strategy, a verification report that demonstrates compliance with the agreed remediation objectives and criteria must be produced, and is subject to the approval in writing of the Local Planning Authority, prior to commencement of use of the development. This shall include confirmation of any gas protection measures proposed to the buildings.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

35) In the event that previously unidentified contamination is found at any time when carrying out the approved development immediate contact must be made with the Local Planning Authority and works must cease in that area. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

b) Following completion of the remedial works identified in the approved remediation strategy, verification of the works must be included in the verification report required by Condition ?.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

36) No tree felling, scrub clearance, hedgerow removal, vegetation management, ground clearance and/or works to existing structures 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, scrub, hedgerows 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.

Reason: To protect birds during their breeding season.

Before the Development is Occupied

37) A scheme to prevent vehicular access/egress from the Paradise Lane access point shall be submitted to and approved in writing by the Local Planning Authority and shall include details demonstrating how emergency service vehicles would gain access from Paradise Lane.

The approved scheme shall be implemented prior to the development becoming occupied or in accordance with the phasing plan required by condition 4.

Reason: In the interests of highway safety and movement along Paradise Lane.

38) Prior to the first occupation of each phase of the development, a full Travel Plan for that phase of development shall be submitted to and approved in writing by the Local Planning Authority. The plan should build on measures identified in the Framework Travel Plan presented in Appendix 11.1 of Chapter 11 (Transport and Access) of the Environmental Statement. All measures contained within the approved Travel Plan shall be implemented in accordance with the timetable contained therein and shall continue to be implemented, in accordance with the approved scheme of monitoring and review, as long as any part of the development is occupied.

Reason: To encourage the use of sustainable modes of transport, reduce single occupancy car journeys and increase the use of walking and cycling

39) No dwelling shall become occupied until a detailed scheme of street lighting to the phase in which it relates has been submitted for the approval of the Local Planning Authority. The scheme shall comply with the requirements of BS5489 (Road Lighting) and have due regard to Bat Conservation Lighting

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Guidelines. The approved scheme shall be implemented in full prior to the occupation of dwellings in the phase to which the street lighting relates.

Reason: In the interests of highway safety.

- 40) No part of the development shall be occupied until full scheme details, including a schedule of implementation, for the provision of a Locally Equipped Area of Play (LEAP) have been submitted to and approved in writing by the Local Planning Authority.

The LEAP shall be implemented prior to the occupation of the 50th dwelling as a minimum.

Reason: For recreational purposes.

- 41) No dwelling shall be occupied until a scheme detailing the provision of a sales information pack informing residents of the presence and importance of European designated sites has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include as a minimum a responsible user code and information on how residents can help to protect European designated sites.

The approved sales information pack shall be provided to residents at the time each sale of a dwelling is agreed.

Reason: To mitigate the impact of recreational pressure and maintain the integrity of European designated sites

Appendix A

Original Case Officer Report

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Report to: **PLANNING COMMITTEE** Date of Meeting: **6th March 2019**

Subject: **DC/2018/00093**
Land North Of Brackenway, Formby

Proposal: Outline application for the demolition of existing structures and construction of up to 286 dwellings including flood alleviation measures, extension of nature reserve, public open space, ground re-profiling and associated works. All matters are reserved except for access from the A565 and a new emergency vehicular/pedestrian/cycling access from Paradise Lane (layout, scale, appearance and landscaping are reserved for future consideration).

Applicant: Taylor Wimpey UK Limited **Agent:** Mr Jon Suckley
How Planning

Ward: Harrington Ward

Summary

The outline application proposes up to 286 dwellings on land allocated for residential development within the Sefton Local Plan, with access considered at this stage. The proposed access would be direct from the Formby by-pass (A565) while an emergency access, which can also be used by pedestrians and cyclists, would be provided from Paradise Lane.

The report concludes that access can be achieved in a suitable manner and the development would meet the requirements set out in the Sefton Local Plan. Details relating to layout, scale, appearance and landscaping will be the subject of a separate application.

A number of key aspects of the overall scheme can be covered by a legal agreement, such as the approach to reducing flood risk, managing and maintaining open space and the nature reserve extension within the site and providing affordable housing. Subject to this legal agreement and conditions setting out how the development will take place, it is recommended that planning permission is granted.

Recommendation: Approve with conditions subject to the completion of a Section 106 Legal Agreement.

Case Officer Mr David Atherton

Email planning.department@sefton.gov.uk

Telephone 0345 140 0845 (option 4)

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/simpleSearchResults.do?action> Page 50

Site Location Plan



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The Site

The total site area is 21.7ha. The developable area forms 6.4ha with the remainder forming both accessible and non-accessible open space.

The site is currently accessed via Paradise Lane and is primarily undeveloped. A portion of the site towards the western boundary does form brownfield land, providing structures associated with horse stables. The vast majority of the remaining land comprises grazed grasslands bound by timber fencing.

The site is relatively flat and bound to the south by Eight Acre Brook (EAB), while Wham Dyke runs in an east/west direction through the centre of the site. Both are “designated Main Rivers”. A number of drainage ditches run north/south across the site. Freshfield Dune Heath reserve lies directly to the north of the site, while RAF Woodvale is further beyond that. The Formby Bypass (A565) is located to the east of the site and to the south lie residential properties to Brackenway and Hawksworth Drive.

History

No previous planning applications relevant to the proposed development.

Consultations

Highways Manager – no objections subject to conditions and provision of off-site highway improvement works

Flooding and Drainage Manager – no objection subject to conditions

Merseyside Environmental Advisory Service – no objections subject to conditions and securing developer contribution

Natural England – no objection subject to securing mitigation

Environment Agency – no objection subject to conditions

Contaminated Land Officer – no objection subject to conditions

Environmental Health Manager - no objections subject to conditions

Highways England – no objections

Ministry of Defence – no objection subject to flood attenuation being built out as proposed and proposed tree heights not interfering with the effective operation of the High Resolution Direction Finder.

Local Plans Manager – no objections subject to securing affordable housing via S106.

Merseyside Fire and Rescue – no objections

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Merseytravel – comments submitted relating to accessibility to public transport being limited

United Utilities – no objection subject to conditions

Lancashire Wildlife Trust – Objection based on loss of designated Local Wildlife Site and comment that biodiversity enhancements are possible only if funding for management in perpetuity is put in place.

Canal & River Trust – no objection

Cadent Gas – no objection

Health & Safety Executive – no objection

Formby Parish Council – objections relating to flooding, ecology, pollution, objectively assessed need for housing delivery, accessibility and sustainable transport.

Ward Councillors

Cllr Killen and Cllr Paige have made comments relating to the following

- Flood risk for existing properties must not be increased and in fact should be decreased during any development of this site.
- The site sits within flood zone 2 and 3 and we welcome the fact that no homes will be built in flood zone 3 which will continue to act as a water storage area.
- Seek assurances that the work that is planned for Eight Acre Brook, which we understand will include the lowering of the north side of the brook so that water will drain northward, will in fact bring about the desired outcome in reducing the risk of flooding to homes on Hawksworth Drive and Brackenway.
- If this cannot be shown we cannot give our support to this application.
- The access to the site from the Formby bypass must be the first part of the site that is developed so that vehicles working on the site are not accessing the site from Paradise Lane. Paradise Lane is a residential street with a primary school on it which already suffers from heavy traffic and gridlocking particularly at the start and end of the school day.
- If any access by works vehicles is needed via Paradise Lane, in order to develop the bypass access, these should be kept to an absolute minimum and if they are necessary they should be restricted to times that are outside of the school run, for example 9.30am to 2.30pm only.
- We seek assurances that this emergency access from Paradise Lane, which will block traffic with the use of metal bollards, will never be opened up as a full access to the estate. The local plan states that access to this site by vehicles must be from the Formby bypass only, with access from Paradise Lane being only for emergencies, for example for a fire engine or ambulance.
- Residents are concerned that the width of the opening will mean that vehicles may be able to access the site, or that the bollards might in future be removed. This must not be allowed to happen.

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Neighbour Representations

204 letters of objection, 1 letter of support and 1 neutral comment. (as of 20th February 2019)

Objections comment as follows:

Highways

- Concern as to the means of and who controls emergency access bollards and reliability of such meaning access likely left open causing traffic wanting to go south to do so via Paradise Lane, not the by-pass, causing highway safety issue in residential area with school. Concern electronic bollards could become faulty.
- Traffic wishing to travel south will cause highway safety issues by attempting dangerous U-turns at the junction with Coastal Road traffic lights.
- Traffic leaving the estate would be forced to turn left on by-pass, even if they want to go south. No ability to do U-turn on by-pass by coastal road traffic lights leaving the possibility of people going to work in the morning trying an illegal and dangerous manoeuvre at this dangerous junction.
- Road network inadequate to deal with additional vehicles.
- Access on to the by-pass will cause massive delays on an excessively busy road. The location would be incredibly dangerous.
- 286 units would make Paradise Lane impossible to travel down and be dangerous for children.
- Emergency access would be compromised at certain times of the day due to double parking on Paradise Lane at school times, evenings etc.
- Location of access on by-pass outrageous due to number of accidents and road flooding during heavy rainfall.
- Paradise Lane would effectively become a main road and I'm concerned for the safety of children walking to school.
- Alternative access routes required off the by-pass so that a child does not become seriously injured on Paradise Lane.
- Traffic will back up to the roundabout and increase road traffic accidents.
- The junctions on the by-pass are already an accident hot spot. This is one of the fastest stretches of road – adding an additional junction is lunacy. I could understand a junction for a new town, but for a small estate it isn't worth the complications it will cause in the long run.
- Increase in traffic in and out of Formby Village likelihood of more accidents, access to the site is unsuitable for cars and delivery vehicles
- The increased traffic from this development will further add to the traffic flows on the A565 extending the length, frequency and duration of queuing traffic back down into the village.
- Drivers already drive down at Paradise Lane doing 50-60mph
- Development would worsen parking situation in the village and at train station
- Increased risk of accidents on Paradise Lane, Deansgate Lane, Altcar Lane and Liverpool Road

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- The creation of a new junction on the A565 Formby Bypass so close to the existing roundabout will cause significant traffic delays and poses a significant traffic road safety risk.
- Developer has stated that they will not put the new junction in on Formby bypass before works begin, forcing vehicles down Paradise Lane
- Traffic lights would impede the flow of traffic which is contrary to the purpose of a bypass

Flooding

- Area already suffers from flooding; development should eliminate flooding as low risk now and in the future.
- Ground raising doesn't stop flooding
- Development will increase the risk of flooding.
- Below ground water storage will not work because of ground saturation and water table. This will make the problem of raw sewage flooding roads worse.
- Flooding in the area will become worse, particularly on Hawksworth Drive. Exporting surface water through Wham Dyke and the culvert under the Formby by-pass will only create flooding problems in the (already congested, and regularly swollen) drain running down the west side of Southport Old Road.
- This land acts as a sponge to take water away.
- The fields are regularly flooded with the ditch at 8 acre brook full to the top. This regularly affects neighbouring properties.
- The development exports a flooding problem from one place to another
- The drainage system is not fit for purpose for a further 286 houses.
- Developer is placing responsibility for flood mitigation strategy requirements on United utilities & Sefton Council
- Planning committee should not accept any application that doesn't include a scheme which explicitly meets the requirement to significantly reduce the existing surface water risk to properties on Hawksworth Drive and is supported by evidence & the opinion of independent drainage experts.
- Drainage strategy would involve drainage pumps which are costly to install and maintain, a cost no developer is likely to want to incur.

Infrastructure

- Pressure on local services (doctors/schools/police etc)
- No evidence of plans/adequacy to deal with the increase in need for schools/doctors/dentists. What are the projected numbers and do they match with provision?
- Primary schools are over-subscribed currently. Would require families to put children in schools further afield in Formby causing traffic congestion.
- Schools cannot cope with additional residents and standards will suffer.
- Village surgeries are over-subscribed – where would new residents go?
- Health and social services, doctors and dentist surgeries do not have the capacity to cope with more people. This will adversely affect the current services which are already oversubscribed, negatively affecting the local area again.

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Residential Amenity/Living Conditions

- Piling would cause serious problems from a vibration and noise perspective. Issues were previously experienced for 5 houses built on Old Lane/Little Brewery Lane. The council must police this issue rigidly to ensure minimum disruption.
- Impact of construction process and length of time it will take would have a detrimental impact on those living in close proximity to the site.
- Residents would be subject to an increase in road noise (Paradise Lane) which would be detrimental to health.
- Raising land will cause overshadowing/loss of outlook.
- Development will be an eyesore and is not in-keeping with the local area and landscape.
- Gardens need to be large enough to support the planting of trees
- Light pollution
- Loss of privacy
- Noise pollution

Ecology

- The development will put added pressure on rare habitat.
- Protected wildlife and grassland would be destroyed.
- Impact on nature conservation and biodiversity – will destroy protected acid grass land.
- Development will adversely impact on the ecology of the site which offers a green belt buffer zone.
- Threat to wildlife that use the land, including migrating birds.
- Development is next to existing stables that have been around for more than 60 years, the proposed development will cause trauma for the horses stabled next door
- Rare and endangered species at risk
- Increase in air pollution due to diesel emissions from large number of HGV movements, both on and off site, to transport and move spoil to raise and re-profile build platform likely to breach EU Air Pollution Standards
- Contamination. The report by Tier environmental limited concludes that there is arsenic contamination within the ground water. They state: ' It is considered at this stage that the topsoil and Made Ground at the site may present a potentially unacceptable risk with respect to arsenic' it goes on to say that further investigation and assessment is required, and that discussion with the Environment Agency, notably regarding the elevated arsenic concentration recorded in the ground water within the site
- The ecology survey has found strong evidence of Water Voles in Wham Dyke. Water voles are fully protected under Schedule 5 of the wildlife and countryside act 1981 and is a priority conservation species
- Site has peat deposits below ground level, the over development of the site will result in their degradation and their role as unique habitat and carbon store.

Character of Area

- The development will spoil the area and disturb the existing street.

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- Layout and density of buildings not in-keeping with area.
- The mix and density of the buildings will not meet local housing need.
- Formby is a self-contained town with defined borders. Building to the north and the south will cause Formby to lose its identity to form part of Ainsdale and Hightown.
- Development would not integrate with existing community.
- Difficult to understand why the Local Authority is still encouraging over-development of this parcel of land.

Travel

- No proposal to ensure the estate is served by commercial or subsidised bus services. The distance to bus stops on Southport Road is not acceptable.

Neutral & Points of support

- Paradise Lane is a very busy road, please strictly regulate the usage of emergency vehicles by the incorporation of bollards which have the capacity to be raised and lowered.
- Support for the southern access to be restricted for emergency vehicles and pedestrian/cyclist use. Any through road on to Paradise Lane would be a rat run.

Procedural

- If application is deemed acceptable, full scheme details required for assessment as part of reserved matters application.

Other

- Loss of green belt land
- Development for financial gain.
- Land not in development plan as approved by Sefton Council.
- Houses won't be affordable
- Value of residents property will be depleted (not a material consideration)
- Site not ideal re. flooding issues, appreciate it can be overcome at a cost which will no doubt increase each unit cost

Examples of non-material comments

- Loss in house value
- Will not be able to insure houses
- Proprietors would not be able to insure their homes
- Pile driving may damage properties (damage to properties by a third parties is a civil matter)

The applicant carried out their own community consultation programme (including with Ward Councillors) beyond that required by local and national policy guidance. An overview of the opinions expressed during this exercise is detailed within the Statement of Community Involvement supporting this application. Varying matters of concern were raised including (but not limited to) Green Belt, flooding, ecology and highway issues. The applicant has expressed that these views have been incorporated to dPage 57 scheme and as far as possible have

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endeavoured to mitigate potential impacts to a level that maintains the deliverability and viability of the site.

Policy Context

The application site is allocated for housing in the Sefton Local Plan with an indicative capacity of 286 dwellings. Detailed requirements for how the site should be developed are set out in policy MN6.

Assessment of the Proposal

The main issues to consider are the principle of development, highways, drainage, ecology, impact on services, living conditions, ground conditions, trees and landscaping, design and character, and affordable housing provision.

Approval of access only is sought at this stage. This means layout, scale, appearance and landscaping are “reserved matters”. However, the applicant has provided a conceptual masterplan of how the site may be laid out, including the extent of the developable area.

Principle of Development

The Sefton Local Plan was adopted by the Council in April 2017. Policy MN2 ‘Housing, Employment and Mixed Use Allocations’ refers to this site as MN2.12 ‘Land north of Brackenway, Formby’ and suggests an indicative capacity of 286 dwellings.

Policy MN6 ‘Land at Brackenway, Formby’ sets out site-specific policy guidance for how the site should be developed, as noted below:

Development of this site must:

a. Include a flood risk mitigation scheme that:

- i) ensures that new dwellings are not at risk from either fluvial flooding in a 1 in 1000 year event, or flooding from any other source; and*
- ii) ensures that there is no increase in flood risk elsewhere caused by the development; and*
- iii) significantly reduces the existing surface water flood risk to properties on Hawksworth Drive by directing flood flows away from Eight Acre Brook to new flood storage areas adjacent to the Formby Bypass; and*
- iv) is accompanied by a maintenance plan / arrangement that ensures the flood risk mitigation scheme and existing watercourses within the site are maintained in perpetuity*

b. Retain and manage 7.9 ha of grassland and wetland habitats outside of the residential allocation as a buffer zone to the adjacent nature reserve, including additional species enhancement measures. In addition, main water courses within the site (including Wham Dyke) must be maintained and enhanced with watercourse buffer habitats.

c. Include a signal controlled junction onto the Formby Bypass and a through route to a secondary means of access via Paradise Lane.

The above requirements will be discussed under the appropriate headings as part of the assessment of the proposal.

A number of neighbour representations requested that the proposal is refused on Green Belt grounds. However, the site is allocated for housing in the Local Plan and is no longer Green Belt.

Following the public examination into the Sefton Local Plan, the independent Inspector supported the allocation of this site for housing, concluding:

Overall there are no significant constraints to the development of this site. The moderate harm to the Green Belt is no worse than that at many other sites, the landscape impact would be limited and the loss of a large area with LWS designation would be adequately mitigated by substantial ecological enhancement to the part that remains. A solution has been found to the serious flood risk which, because of the need for new housing in Formby and the lack of alternative sites with a lower risk, satisfies the Sequential and Exception tests of national policy. The allocation would result in sustainable development which is consistent with the Plan's objectives, and is sound.'
(paragraph 231 – web reference given below)

<http://modgov.sefton.gov.uk/documents/s72627/Enc.%201%20for%20Adoption%20of%20the%20Sefton%20Local%20Plan.pdf>.

Part of the site north of Wham Dyke remains in the Green Belt and would provide for an informal area of open space and an extension to the existing nature reserve to the north of the site. Given the site forms part of the nature reserve extension, it would preserve the openness of the Green Belt and conform with paragraph 145 of the National Planning Policy Framework.

The proposed use of the site for residential development is therefore acceptable in principle subject to compliance with other development plan policies.

The development would make an important contribution to Sefton's supply of housing land. The government target for Local Authorities is to have a 5 year supply of housing land. Sefton currently has a 4.6 years supply.

Environmental Impact Assessment (EIA)

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 require that certain development types must undertake an Environmental Impact Assessment (EIA). Schedule 1 of the Regulations lists the type of development that always requires EIA while Schedule 2 lists development that may require EIA if it is considered that they may give rise to significant environmental effects.

The developer submitted a request for a "screening opinion" from the Local Planning Authority (LPA) and during this process carried out further survey work. Given the acknowledged sensitivity of the site, particularly with regards to flood risk/drainage and matters of ecology, the developer voluntarily progressed towards an EIA to assess the "likely significant environmental effects" of the development and prepared an Environmental Statement (ES) to support the planning application covering component matters such as drainage and flood risk, transport and access, ecology and nature conservation, landscape and visual, ground conditions, air quality, dust, noise and vibration impacts.

The various environmental components are discussed and assessed in further detail in this report.

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Access and Highway Safety

Site specific policy MN6 of the Local Plan requires that the site must:

'Include a signal controlled junction on to the Formby Bypass and through route to a secondary means of access via Paradise Lane'

Traffic Generation and Impact on the Local Highway Network

The proposed access arrangements are supported by a Transport Assessment (TA) and accessibility note.

The Transport Assessment and technical note have considered the impact on the local highway network of the additional traffic that is likely to be generated as a result of the development. The Transport Assessment also took account of the impact of all the sites allocated for development in the Local Plan and sites in the local area for which permission has been given. Vehicular access to the proposed development will be via a signalised junction off the A565 Formby Bypass.

The Transport Assessment considered the impact of the development on the following junctions:

- Proposed Site Access/ A565 Formby Bypass (Signalised Junction)
- A565 Formby Bypass/Southport Road (Roundabout)
- A565 Formby Bypass/Moss Side (Priority Junction)
- A565 Formby Bypass/Altcar Road (Signalised Junction)
- A565 Formby Bypass/Liverpool Road (Roundabout)
- A565 Formby Bypass/Coastal Road (Signalised Junction)

A series of traffic surveys were carried out at various locations along the Formby Bypass to establish up to date base line traffic figures. For the purposes of the Transport Assessment, a future year of 2026 was used, which assumed that the development would be completed by then. The surveyed traffic flows identified from the above traffic surveys were factored up to forecast traffic flows to the 2026 forecast year.

The industry standard TRICS database was used to forecast the additional traffic generation as a result of the proposed development for the forecast year 2026, and forecasts 118 two-way trips in the morning peak hour (0745-0845) and 123 two-way trips in the afternoon peak hour (1700-1800) on weekdays, and 118 two-way trips in the Saturday peak hour (1215-1315).

The assessment takes account of the cumulative effect of this proposed development plus other Local Plan committed developments in the area for the 2026 forecast year including a residential development on land off Liverpool Road in Formby (319 units), an industrial estate of 48,650 square metres on land to the north of Formby Industrial Estate and a residential development on land south of Moor Lane in Ainsdale (69 units).

The impacts of the development on traffic flows and junction performance at six junctions along the A565 Liverpool Road and Formby Bypass were assessed. The assessment showed that three of the junctions remained within their operational capacity by 2026 with the additional development traffic. The impacts on the other three junctions were forecast as follows:

- The A565 Formby Bypass/Coastal Road signalised junction is close to its operational capacity now and is forecast to be beyond capacity during the weekday AM and

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PM peak periods even without the proposed development. Traffic from the proposed development will make this slightly worse. The percentage changes, however, are small and equate to an extra 2-3 vehicles queuing. The greatest impact is for southbound traffic in the PM peak on Liverpool Road, when there could be a maximum of 6 additional vehicles queuing.

- By 2026, the A565 Formby Bypass/Altcar Road signalised junction will also be close to its operational capacity even without the proposed development. Traffic from the proposed development will make this slightly worse. The percentage changes, however, are small and equate to an extra 1-2 vehicles queuing. The greatest impact is for southbound traffic in the AM peak on Formby Bypass, when there could be a maximum of 5 additional vehicles queuing.
- The Formby Bypass southbound arm of the roundabout junction of the A565 Formby Bypass and Liverpool Road will be close to its operational capacity in 2026 even without the proposed development. Traffic from the proposed development will make this marginally worse. The percentage changes, however, are very small and equate to an extra 1 vehicle queuing.
- As with all developments, increased traffic flows will result in some reduction in capacity, however, the proposed development will not have a significant adverse effect on the A565 Formby Bypass in the year 2026.

Whilst the assessment identifies that the proposed development will result in some reductions in capacity at three junctions on the Formby Bypass with some increased traffic flows on the local highway network, it is considered that the level of traffic generated as a result of the proposed development would not have an unacceptable impact on highway safety or result in a severely detrimental impact on the local highway network. Subsequently, it accords with paragraphs 108-111 of the National Planning Policy Framework. The provision of the main site access on the Bypass ensures that any increase in traffic to the northern part of Formby would be limited.

Vehicle and Pedestrian Access

Access to the site for vehicular traffic and pedestrians would be via a new signalised junction from the site on the A565 Formby Bypass. Representations have been received asserting that the Local Plan states that access to this site must be from the Bypass only. This is not the case and a secondary access is provided to the south east where the site meets Paradise Lane. This access would be for cyclists, pedestrians and emergency use only and there will be no access to the site from Deansgate Lane North. The proposed junction onto the Formby Bypass would have pedestrian facilities to enable pedestrians and cyclists to both safely access the site and to cross the A565 Formby Bypass.

The applicant has assessed the potential for incorporating a safe crossing for horses but concluded that the recommended visibility splays were not achievable.

The development and servicing of the site will be carried out via the bypass and this can be controlled by a condition attached to any permission. A further condition would also require the submission of a construction management scheme providing details of how the site access would be implemented. This will incorporate a range of measures to minimise construction related impacts, including how the site will be managed and environmental matters relating to dust, mud and noise control.

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The applicant is proposing hinged lockable bollards to restrict vehicular access at the Paradise Lane access. Residents have expressed concern regarding the resilience of the proposed bollards. A more robust scheme can be secured by condition. In terms of routeing through the site, the detailed design and layout would be secured at reserved matters stage. The proposal in principle is compliant with the requirement to manage traffic speeds within the residential area.

Accessibility & Sustainable Travel

The application is supported by a Minimum Accessibility Standard Assessment (MASA) which demonstrates that with respect to both pedestrian access and access to public transport, the site accessibility is low.

The design and layout of the proposed development will be significant in making the most of opportunities to connect to existing networks and the wider area in general. These elements will form part of a later application but it is important to consider and establish the principles for accessibility at this stage.

Following on from discussions with the applicant, various measures have been agreed to ensure that infrastructure facilities (both existing and proposed) would be improved to make the site more accessible. This is consistent with the stance the Inspector took in his report on the Local Plan with particular weight afforded to the provision of the secondary access on Paradise Lane. Since the original submission of the MASA, the developable area to the eastern portion of the site has been reduced, therefore reducing the potential for properties to be further away from appropriate facilities.

The nearest train station (Freshfield) is 1.3km to the southwest while the nearest bus stops to the site are located on Southport Road approximately 650 metres from the centre of the site (460 metres from the edge). The bus stops provide modern sheltered facilities with high kerbs and timetabled information. Services stopping there cover areas such as Southport, Crosby and Liverpool City Centre. A safe crossing point to bus stops on both sides of Southport Road is also in place in the form of a pedestrian refuge with dropped kerbs and tactile paving, in the vicinity of the junction with Deansgate Lane.

The quality of route to services is also considered when assessing accessibility. The main route to the bus stops on Southport Road would be via Deansgate Lane North. The applicant has agreed to implement a series of pedestrian crossing upgrades along Deansgate Lane North at its junctions with Brackenway, Hawksworth Drive and Longton Drive. These will make the route to the south of the site more accessible for everyone. Formby Byway No. 40 and Formby Bridleway No. 39 which borders the site southern boundary would also receive improved signage and be resurfaced to a width of 2 metres.

Merseytravel initially commented that the site was 'limited' in its accessibility by public transport. They have welcomed the initiatives of the Travel Plan (as detailed within appendix 11.1 of Chapter 11 of the ES) which is intended to support healthy and sustainable travel choices.

Various shops and recreational facilities lie within 650 metres to the southwest of the site in the vicinity of Ryeground Lane/Piercefield Road/Green Lane/Church Road junction. The Formby District Centre is 1.2 miles from the site.

The restriction of traffic through the site and on to Paradise Lane may not maximise opportunities for connecting to the existing urban area in terms of vehicular movements and in potentially providing a secondary means of vehicular access. Page 62

he Council has had regards to

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representations from local residents regarding the potential impact on highway safety and movement (particularly in the vicinity of Trinity St Peters Primary School). The site would however maintain good pedestrian links via existing and proposed pedestrian/cycle/bridleway facilities giving users the opportunity to use safe and direct routes to the south. In addition, the applicant has agreed to provide a package of off-site highway improvement works to improve links and make it easier to get around. This can be secured by condition.

Other Highway Considerations

A Framework Travel Plan that will encourage healthy and sustainable travel choices has been submitted with the application and the Highways Manager is satisfied with it in principle. A full Travel Plan will be developed as the applicant progresses towards the detailed design of the proposed development and this can be secured by condition.

The applicant will be required to provide electric charging points to accord with Sefton's Guidance on Sustainable Travel and Development. Appropriate levels of off street parking spaces will be agreed when a detailed layout is submitted at reserved matters stage .

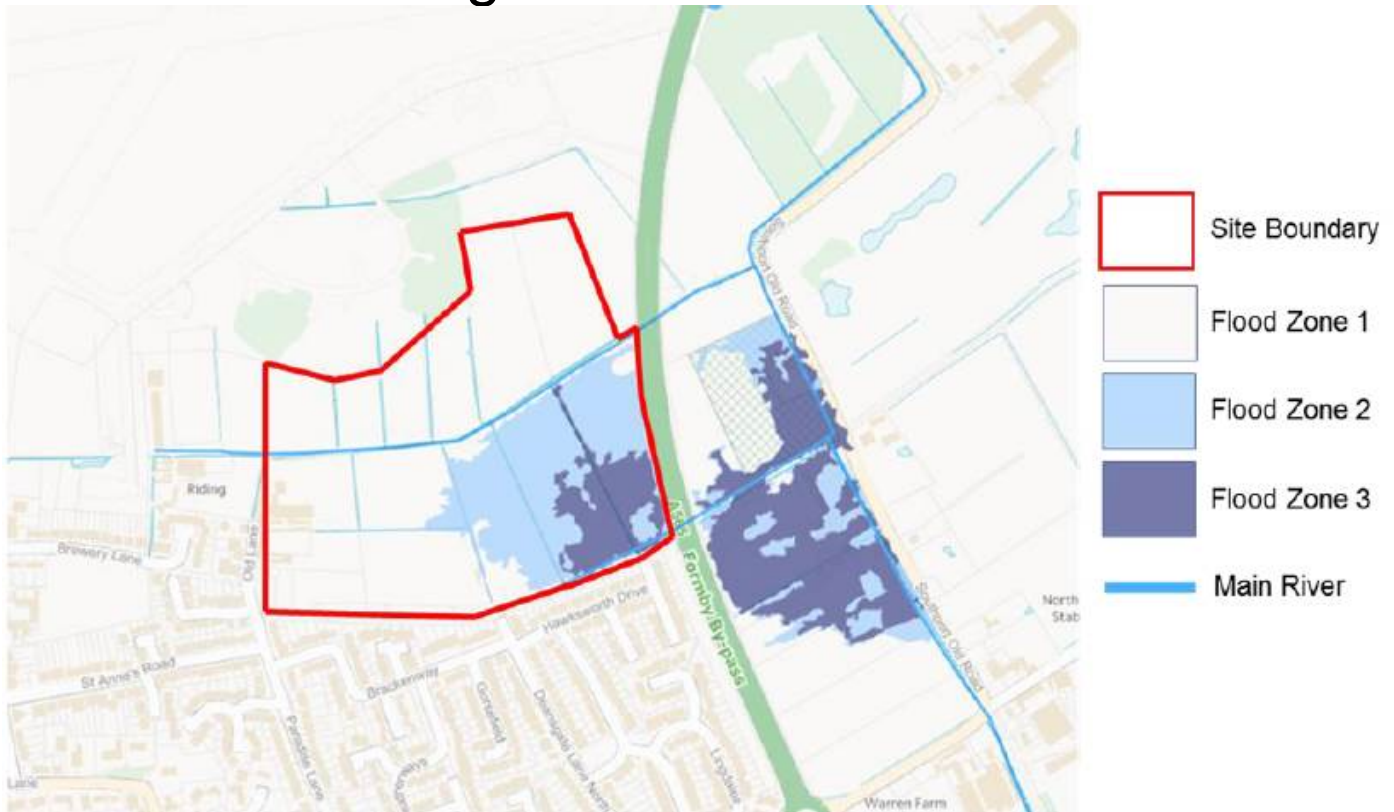
Given that the site is allocated for housing, appropriate opportunities can be taken to promote sustainable modes of transport and ensure safe and suitable access to the site by all. The site is accessible to a range of local services and facilities and complies with the policies of the National Planning Policy Framework and policies MN6 and EQ3 (Accessibility) of the Local Plan.

Flood Risk and Drainage

The application is supported by a Flood Risk Assessment (FRA). A sequential test and exceptions test was applied when the site was assessed as part of the Local Plan process. Paragraph 162 of the NPPF is clear that where planning applications come forward on allocated sites having gone through this process, applicants need not apply the tests again.

The Environment Agency Flood Map for Planning shows that the western sections of the site are located in Flood Zone 1 (FZ1). The central/eastern and southern areas are shown as Flood Zone 2 (FZ2) while the south eastern area of the site is predominantly Flood Zone 3 (FZ3). An illustration of this is shown below.

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The developer has carried out hydraulic modelling based on the Environment Agency’s model and data. This has been further refined by using site specific topographical data to establish baseline, pre-development and post-development model scenarios. The purpose of this is to assess the impact of the raising of the developable area land levels above the flood zone and other ground modifications across the site. The Drainage Strategy concludes that the site would discharge surface water run-off at a rate of 22 litres/second into a single retained ditch prior to its outfall into Wham Dyke.

The sources of flood risk - fluvial, sea, pluvial, sewer flooding, groundwater flooding and reservoirs - are considered in the FRA and vary from high to low across the site. The FRA sets out a composite flood risk and outline drainage strategy to ensure that the overall flood risk from the site would be low. The consideration of flood risk to properties to the south on Hawksworth Drive is also required as stated in policy MN6 1a.(iii) and 1a.(iv), below;

Policy MN6 Land at Brackenway, Formby

Land at Brackenway, Formby, is allocated for housing (as shown on the Policies Map).

Development of this site must:

a. Include a flood risk mitigation scheme that:

i) ensures that new dwellings are not at risk from either fluvial flooding in a 1 in 1000 year event, or flooding from any other source; and

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

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

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iv) is accompanied by a maintenance plan / arrangement that ensures the flood risk mitigation scheme and existing watercourses within the site are maintained in perpetuity

There have been a number of objections from members of the public with regards to potential sources of flooding, flooding of the application site and the potential flood risk resulting from the development of the site, and flooding within Hawksworth Drive and additional pressure on the existing drainage infrastructure/capacity.

The outline drainage strategy sets out the developer's proposals for the control and management of flood risk and surface water run-off associated with the development. The principles of this are listed below:

- ground modifications (raising levels of the developable area to a maximum 7.50 AOD and lowering of levels to the east of the site to a maximum depth of 5.60 AOD to provide flood storage and attenuation on site)
- Lowering of sections along Eight Acre Brook (EAB) to allow inundation of the flood storage area to the north
- Directing flood flows away from EAB by the removal of north/south ditches
- Limiting surface water discharge rates to an agreed rate (22 l/s)
- Discharge of surface water to retained ditch directed to Wham Dyke, away from EAB
- Utilisation of a pumped surface water drainage system
- Provision of on-site surface water storage in underground oversized pipes and a central swale; and
- Utilisation of flood storage compensation areas for attenuation (land to the east of the site)

It is accepted that some flood water from the site has previously contributed to flooding on Hawksworth Drive. Investigations have also shown that both Wham Dyke and EAB have a significant amount of sediment and both would benefit from maintenance/dredging to improve capacity.

According to the requirements of policy MN6 1a(iii) and 1a(iv), the applicant must demonstrate that the proposed development would significantly reduce surface water flood risk from the site. The policy is also clear as to how this is to be achieved - by directing flood flows away from Eight Acre Brook to new flood storage areas adjacent to the Formby Bypass and that a flood mitigation scheme is maintained in perpetuity.

Further hydraulic modelling during the application process has shown that the flood risk in the location of Hawksworth Drive is a result of existing surface water infrastructure that serves these properties. This validates the conclusions of the Council's Flood Investigation Report into the flooding there in 2012. A further contributory factor during that event was the overtopping of EAB at a low point in the embankment. The existing sewer outfall is 'tide locked' at its outfall (within the vicinity of the Hawksworth Drive turning head) to EAB which becomes surcharged during periods of prolonged rainfall. Flooding attributed to the surcharge outfall occurs on the southern end of Hawksworth Drive on the upstream m:Page 65

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The development proposals have considered this existing flood risk issue and although this risk is associated with existing surface water infrastructure outside of the applicant's control, it has been demonstrated that the proposed flood risk and surface water strategy alleviates this existing risk by means of the following:

- Managing surface water and providing a compensatory area for flooding entirely within the site and discharge of all surface water from the development site which is directed to Wham Dyke in the north - this will reduce flood levels in EAB;
- The peak flood levels in EAB will be reduced by approximately 110mm during a 100-year event and approximately 120mm during a 1000-year event; the proposed ground modifications on site will ensure that any flood flows will be directed towards the flood compensation areas and not towards existing dwellings south of the site;
- Infilling of existing north-south ditches to reduce flows towards EAB; and
- Lowering of land to the east of the development area (adjacent to the Bypass) to provide approximately 4.4ha of flood storage during extreme events.

Further hard engineering options are proposed on the right bank (Hawksworth Drive) and side of EAB:

- Increasing the length and height of the embankment/bund on the south side of EAB in the vicinity of the Bypass to remove impact to properties on Hawksworth Drive from 100 and 1000 year flood levels; and
- High level outfalls from Hawksworth Drive and Deansgate Lane North allowing flood water from the highway to drain into EAB.

Further soft engineering options are also proposed, including:

- De-silting of Hawksworth Drive surface water drainage network
- De-silting of EAB and Wham Dyke culverts, including underneath the Bypass; and
- Implementation of a maintenance regime for EAB to be secured by condition.

One ditch located centrally within the site would be retained to convey surface water runoff to the north, into Wham Dyke. The southern section of this ditch would be infilled as part of the overall commitment to sever the connection of the site to EAB as a means of changing existing flow regimes and reducing flood flows towards EAB.

During the application process the Council requested that the developer carried out further work to establish the benefit of the proposed drainage approach for properties on Hawksworth Drive. This was in the form of additional hydraulic modelling, including that of the United Utilities' surface water network.

The results of the modelling show the flood volume in the network in the baseline (existing conditions) and a comparative reduction in the model following development when factoring in the implementation of flood compensation works (referred **Page 66**n site).

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The Environment Agency (EA) has been consulted on the proposals and has worked closely with the developer on the validation of the hydraulic modelling. The modelled scenarios include pre & post development situations showing 100 and 1000-year return period flood extent outlines and 30% and 70% increase in flow to simulate climate change. The modelling also included analysis of blockage scenarios of culverts beneath the Bypass and the impact on the development.

The EA are satisfied that the detail in the Environmental Statement (and subsequent addendum) and modelling exercises undertaken demonstrate that flood risk to the site has been successfully minimised to the appropriate standard of protection and that as a consequence of the proposal, flood risk elsewhere will not be increased. This is in accordance with policy EQ8 (Flood Risk and Surface Water) of the Local Plan. The EA has recognised that the content of the Flood Mitigation Strategy is predominantly related to surface water management and existing properties to the south. It also acknowledges the link between flood risk and the discharge of surface water flows into EAB, however the main outcomes of the Strategy are related to efforts to reduce the risk of known surface water flooding. In this respect, the EA has determined that the Lead Local Flood Authority (LLFA) should provide a review of the Strategy and raise no objection to the proposed development.

The LLFA have reviewed and are satisfied with the outline drainage strategy and flood mitigation strategy for the site, particularly that the development proposal will result in changes in natural flows within the site. By directing flows in the minor watercourses towards Wham Dyke, it is acknowledged this will significantly reduce surface water run-off into Eight Acre Brook. The submitted model indicates Wham Dyke can accommodate the flows without increasing flood risk elsewhere.

The LLFA in its review recognises that the system serving the site is independent to that serving Hawksworth Drive and notes that there will be a residual flood risk to Hawksworth Drive from the existing infrastructure in this road even with all the improvements which are proposed.

Subject to the application of appropriate conditions, the LLFA has no objection to the proposed development as it would comply with policies MN6 and EQ8 of the Local Plan.

United Utilities (UU) have also been consulted on this application. They have stated that as the site will be drained on a separate system as those used by occupiers of properties on Hawksworth Drive, flows from the proposed development would have no negative impact on the sewer flood risk at this location. UU have further commented that a major contributing factor to flooding on Hawksworth Drive is the blocked 'trash screen' where EAB culverts under the Bypass and that work undertaken by the developer (as proposed) at this location would help reduce the flood risk at this location. Subject to conditions requiring the submission and approval of a detailed drainage scheme, UU raise no objections to the proposed development.

The proposed impermeable area resulting from the development (e.g. roofs, paving, drives and roads) will result in an increase in surface water run-off which will require appropriate management in order to limit the discharge of surface water to a local watercourse. The outline drainage strategy includes the following proposals:

- Limit surface water discharge rates to 22.1 litres/second
- Discharge of surface water to a section of retained ditch, directed solely towards Wham Dyke;

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- The surface water drainage system will comprise a pumped system (agreed in principle with UU) to minimise finished floor levels across the site
- Storage will be provided in 4 oversized underground pipes providing a capacity of 1300m³ with a section of the central area to be utilised for attenuation during a 100 year plus climate change rainfall event accommodating 520m³ of storage
- Creation of attenuation areas to the eastern section of the site.

The dimensions, volumes and location of the Sustainable Drainage Systems (SuDS) features/swales will be confirmed during the detailed design stage and secured by condition. The ground modifications proposed would ensure that the developable area (and houses contained therein) would be re-designated as flood zone 1 and above the 1 in 1000 year flood level to ensure properties on site would be safe from flooding.

Due to the requirements of the strategy and use of a pumped system, calculations have been undertaken to assess the potential impact of a pump failure at the site. In the event of a failure, an emergency alarm would notify UU of the failure and requirement for repair. A failure has been simulated during all 30 year events and it is acknowledged that this would not cause flooding during these events. Full details of the proposed pumping station, including a timetable for it coming into operation, will be secured by condition.

All these various approaches will ensure that the flood risk from the development site would be negligible while also incorporating some beneficial effects to the immediate local area currently perceived to be at risk from flooding. As a result of the proposed measures, the risk from groundwater (known to be less than 1m below ground level in Formby) would alter from a medium to high rating pre-development, to a low rating post-development.

All the material submitted with the application in relation to flood risk has been subject to objective scrutiny from the Lead Local Flood Authority, the Environment Agency and United Utilities. All these bodies agree the technical evidence supporting the application points to a significant reduction in flood risk to properties on Hawksworth Drive, it would ensure new dwellings would not be at risk of flooding and there would be no increase in flooding elsewhere caused by the development. Subject to appropriate conditions and approval of a detailed drainage scheme and securing measures of mitigation and management in perpetuity, the proposed development would accord with policies MN6 and EQ8 of the Local Plan and paragraph 163 of the National Planning Policy Framework.

Ecology

Chapter 8 of the Environmental Statement assesses the effects of the proposed development on ecology and nature conservation. It includes details of methods used to assess impacts, baseline (existing) conditions at the site and potential impact on habitat and action proposed to prevent, reduce or offset the impacts of the development. It also describes the significance of impacts during construction and on development completion, to “ecologically sensitive receptors” both within the site and in the surrounding areas.

The application is supported by an Ecological Impact Assessment (EcIA). The EcIA is informed by ecological surveys and assessments detailed in the appendices of the Environmental Statement. The Council’s ecological advisors, the Merseyside Environmental Advisory Service (MEAS) have been consulted on the application, alongside Natural England and the Environment Agency.

The Local Wildlife Site & Site Watercourses

The site falls within the Wham Dyke Meadows Local Wildlife Site (LWS) and therefore policy NH2 (Nature) of the Local Plan applies. Over 50% of the LWS area, which comprises predominantly horse grazed pasture, would be lost as a result of the development of this allocated site. To address this, policy MN6(b) of the Local Plan states that development of this site must:

Retain and manage 7.9 ha of grassland and wetland habitats outside of the residential allocation as a buffer zone to the adjacent nature reserve, including additional species enhancement measures. In addition, main water courses within the site (including Wham Dyke) must be maintained and enhanced with watercourse buffer habitats.

The designation of the LWS owes largely to the botanic diversity particularly associated with Wham Dyke (WD) and the presence of unimproved grassland fields. While there is a small area of unimproved neutral grassland along the northern side of Wham Dyke, the vast majority of the grassland has been subject to intensive horse grazing over a prolonged period and the biodiversity of the grassland has decreased and is considered to represent species-poor semi-improved grassland.

The result of such intensive grazing has been a significant loss in the floristic diversity within the grassland fields to a degree whereby they no longer have particular ecological importance. This view was supported by the Examiner of the Local Plan who commented in his report that:

“The site is part of a LWS, though intensive grazing by horses has led to the grasslands currently having little ecological (or landscape) value and many ditches are drying out or contaminated.”

The re-establishment of the grassland habitat would be the main focus of both the nature reserve extension and the accessible informal open space. By reducing the extent of grazing, grassland will have the opportunity to re-establish and diversify.

Wham Dyke is considered to be the most important ecological feature on the site owing to the diversity of aquatic flora present. The draft Construction Environmental Management Plan (CEMP) proposes measures to ensure that water levels and water quality are maintained and protected during the construction phase and these are accepted by the Council’s ecological advisors, MEAS. A detailed CEMP including steps to protect important ecological features in full would be secured by condition.

Five priority habitats are identified as being within 2km of the proposed development and details of these are listed in table 8.6 of the ES (Chapter 8). All (apart from the coastal floodplain and grazing marsh) are some distance from the site and for the most part are considered alongside the assessment of their related designated sites.

The proposed development would not have any significant effect on the Local Wildlife Sites in the vicinity, as open space within the site would encourage new residents to use this as opposed to travelling to other areas in the locality.

The Environment Agency have advised that networks of undeveloped buffer zones help wildlife adapt to climate change and help restore watercourses to a more natural state. Subject to appropriate management, the proposal would potentially achieve this. A condition would therefore be attached to any permission securing scheme details to protect an 8 metre wide buffer zone around Wham Dyke and Eight Acre Brook wa

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The submitted Parameters Plan and Illustrative Masterplan indicate how the retained 7.9ha would be laid out. The Lancashire Wildlife Trust has objected to the allocation of the site and consequent loss of a significant part of the LWS, however the principle of residential development at the site is established through the Local Plan.

Habitats Regulations Assessment

The application is supported by a Habitats Regulations Assessment (HRA) which describes the site context from an ecological perspective. It also notes the various constraints of the site including the following designated European sites:

- The Sefton Coast SAC (Special Area of Conservation) & SSSI (Site of Special Scientific Interest)
- Sefton Coast SAC
- Ribble and Alt Estuaries SPA (Special Protection Area) and Ramsar sites

The HRA details the qualifying features (e.g. dune types, species type/population and habitats) of each designation. The HRA considers 'in combination' recreational pressure effects upon European sites with the three other site allocations within the Local Plan. The HRA discounts likely significant effects on qualifying features of the European sites due to the nature of the application site and measures (provision of open space, footpaths, bridleway etc) which form part of the proposal. Both MEAS and Natural England however advised that further measures would be required to make a conclusion of 'no likely significant effects'. As such, Appropriate Assessment is required in accordance with Regulation 63 of the Habitats Regulations to ascertain the implications of the proposed development on the integrity of European sites alone and in combination due to recreational pressure. The Council must also have regard to the representations made by appropriate conservation bodies. The Appropriate Assessment and Natural England comments are included within Appendix 1 of this report.

The Council sought additional mitigation measures which were consistent with those set out in paragraph 3.29 of the Council's Guidance on Nature Conservation to improve and/or manage access to and/or within the internationally important sites.

The following additional measures were agreed with the applicant during the planning application process and would be secured by legal agreement and/or planning condition.

- The provision of a commuted sum towards managing impacts of recreational pressure on the Sefton Coast; and
- The provision of information in sales packs, informing residents of the presence and importance of the European sites and how residents can help protect them, including an outline 'responsible users code'.

The commuted sum would total £90,690.60 (calculated at £317.10 per dwelling) and provide funding towards European Site Strategic Access Management and Monitoring Measures (SAMM) on the Sefton Coast SAC over a 15 year period (the period of the Local Plan). It should be noted that if a Reserved Matters application comes forward with less housing proposed, the overall commuted sum would be adjusted accordingly. The commuted sum figure was calculated using guidance detailed within Sefton Council's Information Note, supplemented by available evidence and professional experience and advice provided by the appropriate conservation bodies. A link to the Information Note is provided below:

<https://www.sefton.gov.uk/media/1425775/FINAL-ADOPTED-Info-Note-HRA-Rec-Pressure-2018-19s106rates.pdf>

The provision of the above additional measures, alongside the measures included within the development proposal are considered to be appropriate to conclude under the Habitats Regulations that there will be no likely significant effects on designated European sites. The proposal therefore complies with policy NH2 (Nature) of the Local Plan.

Water Vole and Otter

The survey results informing the EclA confirm the presence of a 'good' water vole population along Wham Dyke. Wham Dyke is however considered to be a sensitive ecological receptor and construction works, particularly piling works, could impact on the structure of water vole burrows and lead to displacement. MEAS have assessed the submitted documents in this regard and confirmed that while the principles of water vole mitigation (including provision of a new 50 metre ditch) outlined in Chapter 8 of the Environmental Statement (and subsequent Addendum) are acceptable, further survey work would be required to inform a detailed mitigation strategy. The Environment Agency has advised that to ensure any water vole loss of habitat can be mitigated with no significant residual effects, indirect impacts from potential changes in flood routeing as part of the surface water drainage scheme should be taken into account. Therefore the scope of ecological survey work should be extended to the non-main ditch network to be lost, as it could potentially be suitable habitat for water vole. This can be secured by a suitably worded condition.

Water vole habitat could be affected by works required to the three crossings at Wham Dyke. The existing crossings at Wham Dyke would be utilised. Any reduction in habitat is considered to be small and does not change the overall predicted significance of effect as detailed in the ES ('significant'). The provision of 50m of additional water vole habitat supplemented by measures forming part of a full CEMP is however considered sufficient to mitigate the small losses associated with the three crossings of Wham Dyke and residual impacts arising from construction works. A pre-commencement survey of the watercourse to confirm the status of water vole will be secured by condition.

No evidence of otter was recorded during the surveys of Wham Dyke and Eight Acre Brook which are considered to have low potential for otter due to a lack of suitable sites for resting places. Otter may however use the watercourses for commuting and a further survey, secured by condition, must also be carried out.

Bats

The survey undertaken to inform the EclA comprised an internal and external inspection of the farm and stable buildings earmarked for removal. While the survey could be considered to be limited as it did not consider the bat roost potential of affected trees, the submitted Arboricultural Assessment provides sufficient information to determine that affected trees are unlikely to provide suitable opportunities for bats; MEAS have advised that additional detail in this regard is not required.

Further details of how light spillage during both the construction and operational phase would be avoided on areas of potential bat foraging and commuting habitat can be secured by condition. Ecological enhancements to comply with policy NH2 (Nature) of the Local Plan in the form of bat boxes to be provided on site would also be secured by condition.

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Breeding Birds & Wintering Birds

Records for numerous species of bird have been returned within the 2km buffer of the proposed development site. These are predominantly associated with the European and nationally designated sites within the wider area.

The site is of low value to breeding birds and wintering birds. The exception to this is Swallows. The proposal would result in the loss of breeding habitat and appropriate mitigation in the form of compensatory habitat would be required to comply with policy NH2 of the Local Plan. This can be secured by condition.

Ecology and Landscape Management

Policy MN6 1b of the Local Plan requires that the 7.9ha of land outside of the residential allocation is retained and managed to ensure that, despite the reduction in scale of the LWS, major ecological enhancement of the site is provided in perpetuity.

The developer has had initial discussions with the Lancashire Wildlife Trust (LWT) regarding the management of the retained LWS, however at the time of writing this report no agreements have been made about appointing a suitable agency to implement such management. In their submitted comments the LWT have stated that the objective of ecological enhancement could not be achieved without putting in place funding for the management of the site.

The prescriptions as detailed in the Draft Ecological and Landscape Management Plan are accepted in principle but will require further development as plans for the detailed design of the site are progressed. A full Ecological Management Plan covering the management and maintenance of the site in perpetuity will be secured by condition and/or legal agreement. This will ensure that the biodiversity at the site would become significantly enhanced in the medium to long term.

Waste and Ground Conditions

To facilitate the raising of land levels within the developable area, materials will need to be imported to the site. The material will require detailed investigation, however it is possible that a sizeable portion could be sourced from the excavation of the flood storage area to the east of the site. The importation of material must be managed in the form of a materials management plan (MMP). The MMP would not cover all materials on site however and therefore a Site Waste Management Plan will also be required. Both can be incorporated within a Construction Environment Management Plan (to be secured by condition) and would accord with policy IN3 (Waste) of the Local Plan.

Archaeology

The ground investigation report supporting the application recorded a band of peat across the site at varying depths. Potential therefore exists for the peat deposits to contain palaeoenvironmental evidence of a possible prehistoric date. Where peat horizons are known to survive, some archaeological works may be justified to clarify the archaeological status of the site. An auger survey could test the buried peat layers to determine the nature and scope of further detailed analysis of any pollen and/or carbonized plant material that might be considered necessary and as a means of mitigating the impacts of the proposed development to accord with policy NH14 (Scheduled Monuments and Non-Designated Archaeology) of the Local Plan. This can be secured by a suitably worded condition.

Summary of Ecological Impacts

It has been established that the existing Local Wildlife Site (LWS) designated area has a low ecological value. The retention of 7.9ha of the LWS outside of the housing allocation, when properly managed and with an opportunity to thrive, is considered to be appropriate mitigation and consistent with the requirements of policy MN6 1b of the Local Plan.

Regard is had to the concerns raised by local residents and interested parties during the statutory consultation and amendments have been sought through the planning application process to address issues relating to ecological features at the site and, indirectly, to the wider area. Subject to the imposition of appropriate conditions, the Merseyside Environmental Advisory Service, the Environment Agency and Natural England raise no objection and are satisfied that there is unlikely to be any significant impacts relating to relevant ecology features, as discussed in this report and detailed within information submitted to support this application.

The applicant has demonstrated that residual effects on ecological features arising from construction and when the site becomes operational (for residential purposes) can be mitigated to a minimum level. Subject to appropriate management, the proposed development would deliver significant ecological benefits in the medium to long term, resulting in an overall net increase in biodiversity at the site. The HRA and additional measures of mitigation demonstrate that the development proposal would have no likely significant impacts on designated sites.

Subject to various conditions there will be no conflict with the relevant provisions of Local Plan policies NH1 (Natural Assets) and NH2, EQ4 (Pollution and Hazards), NH14, IN3 and paragraphs 170 and 174-177 of the NPPF.

Impact on Services

Residents have raised concern regarding increased pressure on local services, including local schools and health services.

The potential increased demand for services arising from all the housing developments proposed in the Local Plan was discussed in detail during the Local Plan examination. As part of this discussion, letters of assurances were submitted from the Clinical Commissioning Groups and the Local Education Authority. These demonstrated that current facilities (health and education respectively) could cope with the increased demand from the proposed development, or that facilities could, if required, be expanded to meet an increased demand. The Inspector, in his report on the Local Plan, stated:

“Many local people are concerned about the ability of local schools and health facilities to deal with the significant additional demands from [various sites], but there is no compelling evidence that they will not be able to cope. The Council demonstrated that there is spare capacity at some (albeit not all) local schools, and the Clinical Commissioning Groups (CCGs) have given a borough-wide assurance that they are planning to accommodate the growing demand for health services and facilities.”

Policy IN1 ‘Infrastructure’ of the Local Plan provides a framework to secure facilities or contributions towards facilities to support new housing. As an example, contributions have been secured towards additional school places where it has been forecast that there may be a shortfall. In relation to Formby, information from the Council’s Schools and Families Team shows that young children reaching primary schoolPage 73increase in the short term, and that the

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demand for primary schools places from the Formby (and Hightown) area will decrease. This is primarily due to the births in Formby decreasing since 2014/15. More generally in Sefton, whilst the population is expected to increase as a whole by 4% to 2041, the population of school aged children (i.e. those aged 5 to 16) is expected to increase by only 2%. Sufficient places will be available in local schools to meet any increased demand from new homes being built in Formby during the Local Plan Period. Similarly, health and social services are monitored so that future issues with capacity can be addressed in consultation with those responsible for providing services.

In light of the above, there is no new compelling evidence that suggests that services would not be able to cope with either the development of this site on its own or cumulatively with other housing allocations in Formby. The proposed development is in accordance with policy IN1 of the Local Plan.

Living Conditions of Future and Existing Residents

Layout/Scale

Details of layout and scale have been reserved for subsequent approval. However, in order to obtain an understanding of the potential impact on neighbouring residents an illustrative masterplan has been submitted in support of the application alongside a parameters plan (identifying land use and building heights) and illustrative cross sectional drawings.

Based on the indicative drawings, it is considered that residential development can be accommodated on the site without causing significant harm to existing residential properties consistent with policy EQ2 (Design) of the Local Plan. Within the development, the Council's guidance for distances between dwellings and private amenity space can be met.

Open space would be provided within the site to add further to the standard of living conditions, this would be accessible for both existing and future residents.

Air Quality

The application is supported by an air quality report within the submitted Environmental Statement which sets out baseline conditions and the potential impacts of the development of the site. This has been reviewed by the Council's Environmental Health Manager. The site is within an area where levels of air quality are considered to be good and well within the National Air Quality Standards. The results of the modelling carried out by the applicant confirm that the proposed development would not have any adverse impact on air quality. While dust will affect air quality during construction, measures to control restrict this can be required by condition and its significance is likely to be negligible to all 'sensitive receptors' i.e. nearby homes.

Noise and Vibration

The site is located to the west of the Formby Bypass and south of RAF Woodvale. The application has been amended to increase the area for flood storage south of Wham Dyke which has resulted in a reduction in the size of the developable area. The consequence of this change is the increase of distance between potential dwellings and the primary source of noise, which is road traffic on the bypass.

The predicted external noise levels are within the World Health Organisation (WHO) and British Standards (BS8233:2014) guideline values for amenity in terms of internal noise levels,

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standard double glazing to dwellings will be appropriate across the majority of the site. While the application is outline only with layout reserved for future approval, the submitted details show that internal noise levels for proposed dwellings closest to the bypass are likely to result in internal noise levels exceeding the recommended guidance when windows are partially open for ventilation/air flow. Mitigation would be required to ensure that in these circumstances internal noise levels are consistent with recommended guidance. The requirement for a detailed acoustic design statement can be secured by condition.

Given a lack of detailed layout, the predicted noise levels emanating from RAF Woodvale are based on a worst case scenario, with assessment taken from the nearest potential location to RAF Woodvale that dwellings could be situated. Events here are relatively sporadic and largely indistinguishable against more prominent background noise. The assessment shows that the impact of aircraft noise would be negligible to minor. The Ministry of Defence noted that the Long Term Ambient Study was carried out during a time (during holidays) when flying was less intense. However, it would have taken half of the airfield operations to have ceased for there to be a perceptible decrease in noise levels and the Ministry of Defence offered no further comment in this regard when consulted further. This will be addressed in the acoustic design statement when the detail of the application is submitted.

Existing noise levels were measured at appropriate positions relative to the predominant sources of noise. 'Sensitive receptors' (in this case neighbouring properties) were also established to consider the potential impact of noise and vibration while the development is under construction. Due to ground conditions at the site, the proposed dwellings would require piled foundations. In terms of sensitive receptors, properties bordering the site are categorised as 'high' and any works within 20 metres of these are likely to be short term. The significance of impacts diminishes the further away operations are and for the medium/longer term of construction activity, works would be carried out well away from adjoining dwellings.

Given the scale of the development it is inevitable that occupiers of properties within the vicinity of the site will experience some measure of disturbance, however measures can be taken to minimise these. Objections have been raised with regard to the potential for piling to damage neighbouring properties. Damage to properties by a third party is not a material consideration and would be a matter between the relevant parties. However as part of a construction management plan condition, the applicant would be required to confirm their approach to piling and any proposed mitigation.

The applicant has demonstrated the potential adverse effects resulting from the development. These can be mitigated and minimised through appropriate conditions.

Open Space

The site area equates to 21.7ha with the developable area amounting to 6.4ha. The development would see the creation of new open space, including an equipped play area located centrally within the site. The proposal also includes accessible open space within the proposed nature reserve extension to the north of Wham Dyke. This, along with the land to the east contributing to the site's overall flood risk management, will enhance Sefton's 'green infrastructure' and provide benefits in terms of recreation, nature, health, and well-being. The flood compensation area to the east could contribute to additional public open space as it is not designed to permanently hold water. That would be subject to further assessment as a 'reserved matter' as part of an overall landscaping strategy/scheme. The long term management and maintenance of, and public access to the new open space would be secured by legal agreement.

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The provision of open space accords with policy EQ9 (Provision of Public Open Space, Strategic Paths and Trees) and the illustrative masterplan shows that the space would include links to existing paths and footways to improve access to the existing areas to the south of the site. The extent of open space and landscaping across the site would make the site distinctive and contribute to the area's overall character. The requirement for the continuing management of green infrastructure at the site will enhance the landscape character of the site and accord with policy NH7 (Rural Landscape Character) of the Local Plan.

Overall, the proposal is considered to be acceptable in terms of living conditions for both existing and future occupiers, with various matters controlled by the use of conditions. The proposal would comply with Policies EQ2, EQ4 (Pollution and Hazards), EQ5 (Air Quality) and EQ9 of the Local Plan and the associated guidance on Open Space.

Ground Conditions

Chapter 9 of the Environmental Statement provides details on ground conditions and evaluates the potential for contamination at the site while also assessing potential effects on ground conditions during both the construction and operational phases. The chapter is supported by a preliminary ground investigation report and describes baseline conditions at the site, potential impacts of the development and required mitigation measures.

As part of the proposed flood mitigation measures, ground levels for part of the site would be increased by an average of 1.50 metres. Some material will likely be sourced from excavations on site and the remainder imported. This material and the potential impact of importing it will be subject to detailed site investigation and will be secured by conditions relating to the remediation of contaminated land. It is proposed that the importation of materials would be managed by a Material Management Plan. The proposed development would also include excavation, demolition and construction activities which may create adverse effects on controlled waters and generate significant volumes of waste. The submission of appropriate plans in this regard would be incorporated into a Construction Environment Management Plan (CEMP), secured by condition.

Assessment of the submitted details has shown areas requiring further assessment and concentrations of contaminants recorded within the soils. The Council's Contaminated Land Officer has advised that they are unlikely to pose a significant risk to controlled waters. Further continuous ground gas and groundwater level monitoring will be required to enable a detailed risk assessment to be undertaken. Objections have been received in relation to peat deposits and the potential degradation of these. The likely source of ground gas is from underlying peat. Any risks associated with the identified contamination can be mitigated through the provision of appropriate clean cover level and the incorporation of gas protection measures for residential use. This approach is consistent with other developments throughout the borough. Measures to address ground gas would form part of a remediation strategy and implementation plan to be secured by condition. The site is largely devoid of any characteristic peatland vegetation and as referred to in the ecology section of this report, comprises almost entirely species-poor intensively grazed grassland with low ecological value. The Council's ecologist has therefore raised no concerns in this regard.

A Risk Assessment in relation to unexploded ordnance concluded that there is a low-medium risk that Allied ordnance could be buried within the site boundary. The Assessment stated it was unlikely that military activity would have taken place at the site as it lies outside the perimeter of the airfield at RAF Woodvale. Notwithstanding this, contractors should be briefed with regards to any possible explosive ordnance contamination and this would form part of the developer's Health and Safety Plan for the site.

The details submitted, subject to appropriate conditions requiring further investigations and remedial works, demonstrate that future residents of the site, neighbouring resident sites, controlled waters and ecological systems would not be exposed to harmful levels of contamination. The submissions supporting the application establish the methodology for assessing the nature, degree and extent of contamination and ground conditions at the site as well as recommending further site investigations. Consequently there is no conflict with policies EQ4 (Pollution and Hazards) and EQ6 (Contaminated Land) of the Local Plan 2017 and the relevant paragraphs within the National Planning Policy Framework.

Trees and Landscaping

Full details of the proposed landscaping scheme will be required at reserved matters stage. The Environmental Statement confirms that tree and shrub planting will be undertaken with species suitable for planting within the Red Squirrel Refuge and Buffer Zone in order to comply with policies NH2 (Nature) and NH3 (Development in the Nature Improvement Area). Full details of the proposed landscaping scheme, including planting schedules can be secured by condition.

The size of tree species close to the northern boundary (area north of Wham Dyke) would be strictly controlled to ensure no interference with the High Resolution Direction Finder (HRDF) at RAF Woodvale Aerodrome. Given the context of the site, its proximity from the bypass and extent of developable area, it is considered that any landscaping scheme would be extensive and include structural planting to soften the urban edge along the Green Belt to comply with policies EQ2 (Design) and EQ9 (Provision of Public Open Space, Strategic Paths and Trees) respectively.

Design and Character

The land held a long-standing Green Belt designation and this is reflected in its presently open nature. It is inevitable that the development of the site will significantly change the appearance of the area. The key lies with how this is contained and how the transition takes place between the built-up area and open areas to the east and north of a completed development. The Inspector noted in his Local Plan report that the development of the site would diminish the gap between Formby and Ainsdale at its narrowest point, but a sizeable gap would remain. The use of the land to the north of the site suggests that further northward sprawl is unlikely.

Policy EQ2 (Design) requires major and urban edge sites to contain, amongst other things, varied features to ensure a distinctive development. The boundary adjacent to the by-pass would include screen planting to soften the urban edge to the east while access from the by-pass and arrival to an expanse of grassland could, subject to appropriate landscaping design, provide for a distinctive form of development which would contribute to the wider character of the area. Such detailed design would be secured at the reserved matters stage.

While the site is allocated for up to 286 dwellings, amendments made to Parameters Plan have reduced the developable area and it is possible that the final design/layout would further reduce the number. The Design & Access Statement confirms that there would be a mix of house types comprising primarily two storey housing. Providing the final design/ layout conforms to the submitted Parameters Plan, the proposed development would be expected to comply with Local Plan Policies EQ2 and EQ9 (Design & Provision of public open space, strategic paths and trees).

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Affordable Housing, Housing Mix and Density

The Local Plan identifies Formby as having amongst the highest need for affordable housing in Sefton having had no affordable properties built between 2002 and 2015.

Affordable Housing

As the proposal is for more than 14 dwellings the applicant, in line with Policy HC1 (Affordable and Special Needs Housing) of the Local Plan, has committed to providing 30% of the total scheme (measured by bedspaces) as affordable housing. 80% of these are social rented/affordable with the remaining 20% intermediate housing. This would be secured by legal agreement.

Housing Type, Mix and Choice

Local Plan Policy HC2 (Housing Type, Mix and Choice) requires developments of 25 or more dwellings to provide a mix of new properties: a minimum 25% of market dwellings must be 1 or 2 bedroom properties, and a minimum 40% of market dwellings must be 3 bedroom properties.

The policy also states that in developments of 50 or more dwellings at least 20% of the new market properties must meet Building Regulations Requirement M4(2) for 'accessible and adaptable dwellings'.

Despite this development being in outline form with details of layout, scale and appearance reserved for subsequent approval, the applicant has advised that any subsequent reserved matters will ensure it meets the identified requirements set out within Policy HC2. To ensure this, these requirements would be secured by planning condition.

Housing Density

The application is for up to 286 dwellings and a condition is required to ensure that any reserved matters submission achieves 30 dwellings per hectare of the net developable area to ensure that land is being used efficiently and so minimise pressure for other sites to be released for development. This would take account of the character of the immediate surrounding area and ensure compliance with Local Plan policy HC3 (Primarily Residential Areas).

Subject to final detail, it is considered that matters relating to affordable housing, housing mix and density would be addressed and the allocation would be able to be developed efficiently.

Housing Land Supply

Representations have been received in relation to reviewing the Local Plan and the calculated Objectively Assessed Need to deliver 694 dwellings per annum (2017-2030). The Local Plan is up to date and there are no immediate plans to review it. The Council cannot currently demonstrate a five year supply of housing and has persistently under achieved its target for housing completions over the last three years. The development of this site is necessary as a Local Plan housing allocation to help improve the supply and delivery of new homes in the borough.

Other Matters

A Neighbourhood Plan for Formby and Little Altcar is currently being prepared. The submission draft has been formally submitted and is awaiting consultation. Consequently limited weight can be attached to the Plan at this time.

The site's agricultural land quality was considered as part of the Sefton Agricultural Land Study (ADAS, 2012) and was classified as grade 4 agricultural land and therefore not considered to be 'best and most versatile'. While objections citing the loss of agricultural land are a material consideration, the allocation of the land for housing development was accepted by the Inspector during the examination of the Local Plan. Given the allocation, any concerns relating to the loss of agricultural land are afforded very limited weight.

Conclusion

The principle of development is established given that this site was allocated for housing development in the recently adopted Local Plan. The proposal would provide up to 286 dwellings including affordable homes in line with Local Plan policy, in an area which has a shortage of affordable homes and would make a major contribution to reducing the deficit in the Council's housing land supply.

It is considered that the access arrangements are acceptable. The conceptual arrangement for the development of the site as described within the Parameters Plan addresses appropriately the potential future constraints to comprehensive development.

The technical evidence supporting the application concludes there would be a significant reduction in flood risk to properties on Hawksworth Drive. It demonstrates that new dwellings would not be at risk of flooding and there would be no increase in flooding elsewhere caused by the development.

The proposal complies with adopted local and national planning policy and subject to conditions below and the completion of a Section 106 legal agreement to secure affordable housing, the long term management of open space, flood risk mitigation measures, management of watercourses within the site, ecological management and measures of mitigation to address recreational pressure on sensitive nature conservation sites on the Coast, the proposal is recommended for approval.

Environmental Impact Assessment – Reasoned Conclusion

The Environmental Impact Assessment Regulations 2017 set out the general requirements for the content of Environmental Statements in Schedule 4. This includes information on the nature of the development, consideration of alternative options, relevant aspects of the environment, likely impacts arising and their significance, proposed mitigation measures and any difficulties/limitations in compiling the information needed. A non-technical summary is also required.

The Environmental Statement supporting the application is sufficiently detailed in presenting the varying environmental components forming the development proposal. Its scope is acceptable to assess the site's functionality relative to the different environmental elements it contains, the potential and significance of impacts resulting from the proposed development during construction and post development, and identify appropriate mitigation. The statement is

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considered to be up to date and, where limitations exist, these have been acknowledged with reasoned justification and, where necessary, conditions have been attached to secure further details.

The Local Planning Authority has taken into account comments made during the application process by the public and relevant consultees to secure further information and amend the proposed development. Where the impact of the development would lead to significant effects on the environment, appropriate mitigation measures which are proportionate to the development proposal would be secured by condition and/or legal agreement and accord with relevant policies within the Local Plan. The Local Planning Authority has examined the details submitted to support this application and assessed the direct and indirect effects of the development proposal and concluded that appropriate conditions and monitoring would be secured to allow the LPA to reach a reasoned conclusion that the proposed development be approved.

Recommendation - Approve with Conditions subject to the completion of a Section 106 Agreement securing the following:

- Provision of freely accessible public open space within the development,
- A financial contribution of £90,690.60 (at £317.10 per dwelling) to mitigate recreational pressure on the Sefton Coast.
- Flooding and drainage maintenance and management
- Management and maintenance of Open Space provision and the proposed nature reserve extension in perpetuity
- Affordable housing

Appendix 1

Appropriate Assessment, Land North of Brackenway, Formby

The applicant has submitted a Habitats Regulations Assessment Screening Report (*TEP, undated, 6483.007, version 3.0*) which discounts likely significant effects on qualifying features of the European sites due to the nature of the application site and measures which have been embedded within the proposed development.

The embedded measures proposed are not sufficient to enable a conclusion of no likely significant effects to be reached. Appropriate Assessment is therefore required in accordance with Sweetman (2018) and Regulation 63 (Habitats Regulations 2017).

The following Appropriate Assessment assesses whether the proposed development will have an adverse effect on the integrity of European sites alone and in-combination due to increased recreational pressure. In undertaking the Appropriate Assessment a clear distinction has been made between embedded mitigation measures (such as the on-site public open space, footpaths and bridleway) which as essential features and characteristics of the proposed development as set out in the HRA Screening Report and those which are characterised as additional mitigation measures which are proposed to avoid significant effects on European sites. The Appropriate Assessment has the completed on the basis that the following mitigation measures:

- Provision of a commuted sum towards managing impacts of recreational pressure on the Sefton Coast; and
- Provision of information in sales packs of each residential property, informing new residents of the presence and importance of European sites, and how residents can help protect them, including an outline ‘responsible user code’.

It is also completed on the basis that the mitigation measures are certain to be delivered as they will be required by the Competent Authority through suitably worded planning conditions and/or other binding legal agreements.

Receptor	Likely significant effect	Proposed Mitigation Measures	Adverse effect on site integrity with mitigation?
Qualifying species and habitats of the Sefton Coast SAC and the Ribble and Alt Estuaries SPA and Ramsar sites	Loss and degradation of habitats and displacement of qualifying species due to increased visitor numbers and residents from the proposed development	In addition to the embedded mitigation (i.e. public open space), the applicant has provided a package of additional mitigation measures comprising a commuted sum, to be used towards managing recreational pressure on the Sefton Coast, and an information note	Provided that the provision of the commuted sum is <u>secured through a s106 agreement</u> , and that the production of the information note for the sales packs is <u>secured by a suitably worded planning condition</u> , adequate mitigation will be provided and there will be no adverse effect on the integrity of European sites . The commuted sum figure should mitigate 15% of the

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		<p>on European sites to be included within the sales packs of the new dwellings.</p>	<p>recreational disturbance arising as a result of the proposed development. The commuted sum figure must be used towards European Site Strategic Access Management and Monitoring Measures (SAMM) on the Sefton Coast SAC. The most effective SAMM on this case is to deploy additional coastal ranger capacity that will be funded via a commuted sum payment of £317.10 per dwelling (total for 286 dwellings £90,690.60). This commuted sum figure will provide approximately 4815 additional ranger hours as a SAMM measure over a 15 year period.</p>
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PINS Note 05/2018 Consideration of avoidance and reduction measures in Habitats Regulations Assessment: *People over Wind, Peter Sweetman v Coillte Teoranta*

Natural England Comments

Thank you for your email dated 29 November 2018 and the additional comments from MEAS in view of our previous response.

No objection – subject to securing mitigation

In the absence of any strategic measures being in place we would like to acknowledge the methodology provided by MEAS. Taking this and Sefton Council’s adopted Recreation Pressure on the Sefton Coast Information Note into account we support the approach being used when assessing the impacts and mitigation measures for recreational pressures on Sefton Coast at the current time on a case by case basis.

We understand that the adoption of a Visitor Management Strategy (VMS) to mitigate for recreational pressures will help local authorities address issues arising from additional housing, and in so doing help deliver Habitats Regulations compliance. We would, however, highlight that in the event that the VMS is not adopted, Natural England would encourage consideration of recreational disturbance at a strategic level across the Local Authority area, and wherever possible on a much wider scale by linking with other Local Authorities in the region.

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We consider that the identified impacts on the designated sites from this development can be appropriately mitigated with the measures as outlined below, and these should be secured via planning conditions and/or obligations.

- Provision of a commuted sum towards managing impacts of recreational pressure on the Sefton Coast. To be used to deploy additional coastal ranger capacity over a period of 15 years. We advise that you should ensure that the funds are directed to additional rangers capacity and not be used to support the existing provision of rangers.
- Provision of information sales packs for all new dwellings
- Inclusion of 70% of the development area as on-site greenspace provision

We advise that any residual risks after the 15 year local plan period will need to be addressed by Sefton Council, as part of the council's role for mitigating recreational pressure which is recognised as an issue within the borough of Sefton. We would therefore encourage Sefton Council to consider longer term strategic solutions and recommend that consideration is given to the examples highlighted in my previous response (dated 12 November 2018) and any further examples from other areas around the country.

Conditions

- 1) An application for the approval of reserved matters must be made no later than the expiration of three years beginning with the date of this permission. The development must be commenced not later than the expiration of three years from the final approval of reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 92 (as amended) of the Town and Country Planning Act 1990.

- 2) No phase of the development shall commence until details of the reserved matters (namely, appearance, landscaping, layout and scale) for that phase have been submitted to and approved in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 (as amended) of the Town and Country Planning Act 1990.

- 3) The development hereby approved shall be carried out in accordance with the following approved plans:
 - Site Location Plan (447C 02B)
 - Parameters Plan (447D 01B)
 - Proposed Vehicular Access Plan (0087-03 RevB)
 - Proposed Emergency Access Plan (0087-04 Rev B)
 - Demolition Plan 447C 23A
 - Environmental Statement January 2018 (as amended by Environmental Statement Addendum, September 2018)

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Reason: To ensure the satisfactory development of the site

- 4) Prior to the construction of any dwelling, a phasing plan including, but not limited to, a site layout plan identifying the proposed number of dwellings and the provision of internal roads, parking areas, footpaths, lighting and cycleways and open space for each phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the phasing details approved under this condition.

Reason: To ensure the satisfactory development of the site.

- 5) No dwelling within a phase shall be constructed until:
- full details of the existing and proposed ground levels (referred to as Ordnance Datum) within that phase and on land and buildings around that phase by means of spot heights and cross sections, proposed finished floor levels (FFL) of all buildings and structures, have been submitted to and approved in writing by the Local Planning Authority. Dwellings must have a ground level no higher than 7.50m AOD. The development shall then be implemented in accordance with the approved level details.
 - Prior to the construction of external elevations above (FFL) to any plots opposite to existing dwellings, the FFL shall be subject to a topographical survey to be submitted to be submitted to and approved in writing by the Local Planning Authority. In the event that the survey fails to confirm that the FFL and site levels correspond to the levels as approved, or are not within 100mm of those levels, a new planning application shall be submitted for those plots to which the variation relates.

Reason: To ensure a satisfactory development.

- 6) No part of the development pursuant to the construction of any dwellings shall be carried out until the signalised access junction from the A565 Formby By-pass, as detailed in dwg. 0087-03 Rev B has been implemented and is fully operational.

Reason: To facilitate appropriate access to the site for construction related vehicles/materials during the implementation of the approved development.

- 7) No development shall commence until a Construction and Traffic Management Plan for the implementation of the site access from the Formby Bypass as, required under condition 6, has been submitted to and approved in writing by the Local Planning Authority. The plan should include as a minimum:
- A programme of implementation;
 - Details of proposed haul routes;
 - Approximate number of deliveries to the site required per day;
 - Details of the site compound and provision of contractor parking; and
 - Location details for the storage of materials.

Approval by the Local Planning Authority for the utilisation of any haul routes other than the Formby Bypass would be limited in terms of duration and to control periods of delivery to the site so as to limit any impact on highway safety and movement on roads to the south of the site.

Reason: In the interests of highway safety and movement and to ensure the amenity of neighbouring occupiers is not significantly harmed

- 8) Prior to the commencement of any phase of development, a Construction Management Plan for that phase of development must be submitted to and approved in writing by the Local Planning Authority. The plan shall build upon the content of the Draft CEMP as contained at Appendix 5.1 of the Environmental Statement Addendum (GVA How Planning September 2018) and include (but not limited to):
- Site access details, including the creation of any temporary road surfaces;
 - Material Management Plan and confirmation of quantity and placement phasing of material to be imported;
 - Site Waste Management Plan;
 - Incidence response plan and confirmation measures;
 - Piling method statement to confirm approach to piling and any associated mitigation measures;
 - Methods for the mitigation of noise and vibration from demolition and construction works, and also from the operation of any temporary power generation or pumping plant which will operate overnight;
 - Methods for dust control and suppression;
 - The areas for the storage of plant and materials;
 - Location of site compound, including any loading/unloading areas, turning areas for delivery vehicles, any perimeter fencing and construction staff parking arrangements;
 - Control of transfer of mud out of the site and specifically the details of wheel washing facilities including location and type;
 - Construction hours; and
 - Measures to address any abnormal wear and tear to the highway

All site works shall then proceed only in accordance with the approved management plan unless a variation to the management plan is approved by the Local Planning Authority.

Reason: In the interests of highway safety and movement and to ensure the amenity of neighbouring occupiers is not significantly harmed.

- 9) Prior to the commencement of each phase of the development a full Construction Environment Management Plan (CEMP) for that phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall build upon the framework as detailed within the Draft CEMP as contained at Appendix 5.1 of the Environmental Statement Addendum (GVA HOW Planning September 2018). The approved CEMP shall be adhered to throughout the construction period for that phase. The CEMP shall secure the following measures:
- An Ecological Liaison Officer, who will form part of the proposed project delivery team, will oversee the undertaking of ecological mitigation works and act as a point of reference for the developer on ecology and biodiversity matters. The CEMP includes the following measures;
 - Scheme details for the provision and management of an 10m no-development buffer zone along banks of Wham Dyke and Eight Acre Brook;
 - All fuelling activities and storage of fuel will be confined to clearly identified areas away from existing watercourses on hardstanding within a bunded area;
 - Noise reduction measures, including the use of silencers / mufflers on equipment and installation of hoarding;
 - Dust suppressant measures;

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- Measures to prevent pollution of surface waters (including Wham Dyke), including storage of soils on impermeable areas away from watercourses and any other measures required to protect retained watercourse;
- Protection of unimproved neutral grassland habitat through use of HERAS fencing and temporary protective terram matting in areas need to be crossed during works;
- Protection measures for breeding birds, including confirmation of the timing of vegetation clearance;
- Reasonable Avoidance Measures (RAMS) for amphibians and reptiles
- Soil screening protocol for invasive species;
- Details of construction lighting and a strategy to avoid light spillage to potential areas of bat foraging and commuting habitat; and
- Procedures for maintaining good public relations during the construction period, including complaint management, public consultation and liaison.

Reason: To avoid harm to protected species and habitats and safeguard the living conditions of neighbouring occupiers during the construction period.

- 10) No development shall take place until a full Ecological and Landscape Management Plan (ELMP) has been submitted to and approved in writing by the Local Planning Authority. The ELMP shall build upon the management prescriptions for each of the habitat types as detailed within the Draft Ecological Management Plan in Appendix 8.4 of the Environmental Statement Addendum (GVA HOW Planning, September 2018) submitted to support the planning application.

The full ELMP shall also include (but not be limited to) the following:

- Details of management of the site in perpetuity, including management bodies responsible for implementation;
- Description and evaluation of the features to be managed;
- Ecological trends and constraints on site which may influence management;
- Aims and objectives of management;
- Appropriate management options for achieving aims and objectives;
- Prescriptions for management actions; and
- Preparation of a work schedule (including an annual work plan and the means by which the plan will be rolled forward annually); and
- Personnel responsible for the implementation for the plan.

Reason: To appropriately manage landscaping and ecological enhancements on site.

- 11) No development shall commence until an updated water vole and otter survey of Wham Dyke, Eight Acre Brook and lateral ditches that cross the site, is carried out. The results of the survey shall inform a Water Vole and Otter Mitigation Strategy to be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of the development. The Water Vole and Otter Mitigation Strategy will contain a programme for the implementation of any requisite mitigation measures which shall be fully implemented in accordance with the approved Water Vole and Otter Mitigation Strategy, such as the creation and early implementation of compensatory habitat.

In addition, no development shall commence until a copy of a Water Vole Development Licence from Natural England or confirmation that works can proceed under a Low Impact Class Licence has been submitted to the Local Planning Authority.

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Reason: To avoid harm to protected species and habitat.

- 12) The approved scheme shall be carried out in accordance with the approved Flood Risk Assessment contained in the Flood Risk Assessment Addendum (September 2018) at Appendix 10.1 of the ES Addendum (September 2018, GVA HOW Planning) and supplementary Flood Risk Mitigation Strategy (RSK December 2018). Prior to the commencement of development, the following measures detailed with the Flood Risk Assessment shall be submitted to and be approved in writing by the Local Planning Authority:
- Details of the proposed ground modifications, including the area for flood storage. Details are to include spot heights and cross sections and to confirm Finished Floor Level of the proposed residential buildings and that they will be located above the 1 in 100, 1 in 100 plus climate change and the 1 in 1000 year flood event; and
 - Details consistent with that included in the Flood Mitigation Strategy (RSK December 2018) to be provided with regards to mitigation works to Eight Acre Brook and to implement the flood storage area.

The mitigation measures shall be fully implemented prior to occupation of the development and in accordance with a timetable to be agreed with the Local Planning Authority.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

- 13) No development shall commence until a detailed Drainage Strategy for the site, including details of the sustainable surface water drainage scheme for each phase (including timetable for implementation), has been submitted to and approved in writing by the Local Planning Authority.

No surface water shall discharge into the public sewerage system either directly or indirectly. Any surface sustainable drainage features interacting with sewers offered for adoption should be designed in accordance with CIRIA C753 'The SuDS Manual'. The scheme shall be implemented in accordance with the approved detailed Drainage Strategy and timetable and retained thereafter in perpetuity.

Reason: These details are needed prior to the commencement of development in order to promote sustainable development, in order to secure proper drainage and to manage risk of flooding and pollution.

- 14) Prior to the commencement of the proposed pumping station, full details including details of elevations, boundary treatments, screening, capacity, noise and a timetable for implementation of the proposed pumping station shall be submitted to and approved by the Local Planning Authority. The pumping station shall be implemented in accordance with the approved details.

Reason: The full details of the proposed pumping station have not been provided and the Council wishes to ensure they are satisfactory in the interest of residential and visual amenity.

- 15) Prior to the commencement of each phase of development, the details of foul water drainage scheme for that phase shall be submitted to and approved by the Local Planning Authority. The following foul water drainage details shall be agreed with the Local Planning Authority in liaison with the public sewerage undertaker:

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- The location of the point of connection for foul water to the existing public sewer;
- The timing arrangements for the pumped foul discharge;
- The storage requirements for the pumped foul discharge; and
- The rate of discharge for the pumped foul discharge.

There shall be no connection of foul water to the public sewer other than in accordance with the agreement reached with the Local Planning Authority in liaison with United Utilities.

Prior to occupation of the first dwelling for each phase, the development shall be implemented in accordance with the approved details for that phase.

Reason: To secure appropriate drainage facilities

- 16) No development shall commence above slab level until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. Those details shall include:
- i) a timetable for its implementation, and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

The sustainable drainage system shall be implemented and thereafter, managed and maintained in perpetuity in accordance with the approved details.

Reason: To secure appropriate drainage facilities and to manage risk of flooding and pollution

- 17) Prior to commencement of development the recommendations for further investigation and assessment within the approved Ground Investigation Report shall be undertaken by competent persons and a written report of the findings shall be produced. The report shall include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. The report is subject to the written approval of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 18) Prior to commencement of development a detailed remediation strategy to bring the site to a condition suitable for the intended use by removing unacceptable risks and the relevant pollutant linkages identified in the approved investigation and risk assessment, must be prepared and is subject to the approval in writing of the Local Planning Authority.

a) The strategy must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and roles and responsibilities. The strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 on completion of the development and commencement of its use.

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b) In the event that the proposed remediation scheme involves the provision of a ground cover system a plan indicating the existing and proposed external ground levels on the application site shall be submitted for approval to the Local Planning Authority.

c) The development shall proceed in accordance with the external ground levels approved under (b) unless the Local Planning Authority gives its prior written approval to any variation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

19) a) The approved remediation strategy must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation.

b) Following completion of the remedial works identified in the approved remediation strategy, a verification report that demonstrates compliance with the agreed remediation objectives and criteria must be produced, and is subject to the approval in writing of the Local Planning Authority, prior to commencement of use of the development. This shall include confirmation of any gas protection measures proposed to the buildings.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

20) In the event that previously unidentified contamination is found at any time when carrying out the approved development immediate contact must be made with the Local Planning Authority and works must cease in that area. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

b) Following completion of the remedial works identified in the approved remediation strategy, verification of the works must be included in the verification report required by Condition 19.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

21) No development shall commence until a Written Scheme of Investigation (WSI) for archaeological works has been submitted to and approved in writing by the Local Planning Authority. The WSI shall include an Augur Survey to obtain samples for palaeoenvironmental analysis and to characterise the palaeoenvironmental significance of the site. Any works shall be carried out in accordance with the approved scheme.

Reason: To record and report on the archaeological significance of the site.

22) No development shall commence until a method statement for swallows has been submitted to and approved in writing by the Local Planning Authority. The method statement shall

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include as a minimum:

- Avoidance measures to avoid harm to swallow
- Extent and location of proposed swallow nesting provision; and
- Timing for implementation of replacement swallow nesting provision

The nesting provision detailed in the approved statement must be in place before the existing breeding habitats are obstructed, damaged or destroyed.

Reason: To avoid harm to protected species and habitat.

- 23) Prior to the commencement of the development of each phase, details of all external materials to be used in the construction of that phase of development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.

Reason: To ensure an acceptable visual appearance of the development

- 24) No development above ground level shall commence until a scheme, including full construction details, phasing and timetable of works for the following on and off-site improvement works has been submitted to and approved in writing by the Local Planning Authority:

- The introduction of an emergency access onto Paradise Lane as detailed on Dwg. 0087-04 Rev B. This access will require a vehicle visibility splay of 2.4m x 25m to be introduced and maintained to ensure intervisibility between vehicles travelling along Paradise Lane and vehicles emerging from the emergency access. This access road will also require the introduction of dropped kerbs and tactile paving on both sides of the access at its junction with Paradise Lane.
- The introduction of a series of pedestrian crossing upgrades along Deansgate Lane North at its junctions with Brackenway, Hawksworth Drive and Longton Drive and at the junction of Deansgate Lane North at its junction with Southport Road as detailed in Dwg. 0087-07. These upgrades will include the introduction of dropped kerbs and tactile paving.
- The replacement of all signage along the Formby Byway no.40 and the Formby Bridleway no. 39 bordering the site along its southern boundary and the reconstruction/resurfacing of the Formby Bridleway no. 39 to a width of 2m.

The works shall be carried out in accordance with the approved details and the agreed phasing and timetable.

Reason: In the interests of highway safety and the satisfactory development of the site.

- 25) The detailed landscaping plans submitted with each reserved matters application for a phase of the development shall include:

- (i) details of any planting to areas to the open space, nature reserve extension and flood storage area to the east of the developable area if they are relevant to that phase;
- (ii) details of boundary treatments and hard surfaces within that phase of the development;

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- (iii) the location, size and species of all trees to be planted to street frontages and within the developable area of that phase of the development;
- (iv) the location, size, species and density of all shrub and ground cover planting within that phase of the development (which shall confirm small seeded species including but not limited to Scots pine (*Pinus sylvestris*), willow (*Salix* spp.), rowan (*Sorbus aucuparia*), birch (*Betula pendula* or *B. pubescens*), hawthorn (*Crataegus monogyna*), blackthorn (*Prunus spinosa*), alder (*Alnus glutinosa*) and holly (*Ilex aquifolium*), and;
- (v) a schedule of implementation for that phase of the development.

Tree species within the nature reserve extension shall not be higher than the existing species located to the north of the nature reserve extension, so as to not interfere with the High Resolution Direction Finder (HRDF) at RAF Woodvale.

Reason: To ensure appropriate transition between housing development and the Green Belt and to ensure the completed development has an acceptable visual appearance.

- 26) Reserved matters applications for each phase of the development shall be supported by a strategy for the incorporation of features to enhance the biodiversity value with respect to breeding birds and bats for that phase of development. The submitted strategy shall include proposals for the provision of features for nesting birds and roosting bats (i.e. number, type and location of any bird or bat boxes). These proposals shall thereafter be delivered in accordance with the agreed strategy.

Reason: To enhance the biodiversity opportunities within the site.

- 27) Reserved matters applications for a phase of the development shall be supported by the submission of an Acoustic Design Statement which shall detail internal noise levels to the dwelling to which it relates and proposed measures of mitigation to ensure that noise levels reflect the assessment and recommendations made in Chapter 13 of the Environmental Statement and accord with guidelines as set out in BS8233:2014 (Guidance on Sound Insulation and Noise Reduction for Buildings).

No dwelling shall be occupied until measures within the approved Acoustic Design Statement have been implemented.

Reason: in the interests of protecting future occupants from noise disturbance.

- 28) Prior to the first occupation of each phase of the development, a full Travel Plan for that phase of development shall be submitted to and approved in writing by the Local Planning Authority. The plan should build on measures identified in the Framework Travel Plan presented in Appendix 11.1 of Chapter 11 (Transport and Access) of the Environmental Statement. All measures contained within the approved Travel Plan shall be implemented in accordance with the timetable contained therein and shall continue to be implemented, in accordance with the approved scheme of monitoring and review, as long as any part of the development is occupied.

Reason: To encourage the use of sustainable modes of transport, reduce single occupancy car journeys and increase the use of walking and cycling

- 29) No dwelling shall become occupied until Page 91 scheme of street lighting to the phase in

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which it relates has been submitted for the approval of the Local Planning Authority. The scheme shall comply with the requirements of BS5489 (Road Lighting) and have due regard to Bat Conservation Lighting Guidelines. The approved scheme shall be implemented in full prior to the occupation of dwellings in the phase to which the street lighting relates.

Reason: In the interests of highway safety.

- 30) No part of the development shall be occupied until full scheme details, including a schedule of implementation, for the provision of a Locally Equipped Area of Play (LEAP) have been submitted to and approved in writing by the Local Planning Authority.

The LEAP shall be implemented prior to the occupation of the 50th dwelling as a minimum.

- 31) Prior to the construction of any dwelling, details of electric vehicle charging points (minimum one per dwelling) shall be submitted to and approved in writing by the Local Planning Authority.

No dwelling shall be occupied until the electric vehicle charging point for that dwelling has been installed and is operational in accordance with the approved details.

The approved infrastructure shall be permanently retained thereafter.

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

- 32) Reserved matters applications for each phase of the development shall provide details for infrastructure for full fibre broadband connections for each of the dwellings within that phase of the development. The infrastructure for each dwelling shall be installed and made available for immediate use prior to occupation of that dwelling.

Reason: To ensure appropriate broadband infrastructure for the new dwellings.

- 33) No dwelling shall be occupied until a scheme detailing the provision of a sales information pack informing residents of the presence and importance of European designated sites has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include as a minimum a responsible user code and information on how residents can help to protect European designated sites.

The approved sales information pack shall be provided to residents at the time each sale of a dwelling is agreed.

Reason: To mitigate the impact of recreational pressure and maintain the integrity of European designated sites

- 34) Reserved matters applications shall detail the provision of car and cycle parking spaces to service each dwelling. Provision shall accord with the standards as detailed within the Sustainable Travel and Development SPD (2018) and any other development plan policies.

The parking shall be laid out and made available on occupation of the relevant dwelling.

Reason: in the interests of highway safety and movement

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- 35) The details of layout, scale and appearance as submitted at reserved matters stage shall accord to the principles of the Parameters Plan 447D-01B and make provision for the following:
- A density of no less than 30 dwellings per hectare within net developable areas,
 - No dwellinghouse to provide less than 60 sq. metres private outdoor useable space. Should any flats/apartments form part of the development, they must should provide no less than 20 sq. metres private outdoor space per flat/apartment,
 - A minimum of 25% of all non-affordable dwellings to comprise 1 or 2 bedroom properties,
 - A minimum of 40% of all non-affordable dwellings to comprise 3 bedroom properties,
 - A minimum of 20% of all non-affordable dwellings to meet Building Regulation Requirement M4(2) 'accessible and adaptable dwellings', and
 - Public open space to be provided at a minimum of 40 square metres per dwelling.

Reason: To ensure a satisfactory development.

- 36) No tree felling, scrub clearance, hedgerow removal, vegetation management, ground clearance and/or works to existing structures 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, scrub, hedgerows 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.

Reason: To protect birds during their breeding season.

Informatives

Construction Techniques

- 1) If the proposed development is to incorporate piling in the foundation detail, the developer is advised to consult Sefton Council Pollution Control. This will reduce the chance of enforcement action which could occur if an unsuitable method of piling is chosen without appropriate consultation and which subsequently causes nuisance by way of noise and/or vibration.

Addresses

- 2) The developer is advised that the proposal will require the formal allocation of addresses. Contact the Highways Development and Design Team on Tel: 0151 934 4175 to apply for a new street name and property numbers.

Works to Highway

- 3) The developer is advised that agreements under section 38 and 278 of the Highways Act 1980 will be required to ensure the implementation of off-site highway improvements. All works to the adopted highway must be carried out by a Council approved contractor at the applicant's expense. Please contact the Highways Development and Design Team on Tel: 0151 934 4175 for further information.

Traffic Regulation Order

- 4) A Traffic regulation Order will be required to restrict vehicle speeds within the site to 20mph on all roads within the site and on the proposed emergency access road.

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Waste Audit

- 5) A waste audit or a waste audit or similar mechanism (e.g. a site waste management plan) provides a mechanism for managing and monitoring construction, demolition and excavation waste. This is a requirement of WLP policy WM8 and the National Planning Policy for Waste (paragraph 8, bullet point 3), and may also deliver cost savings and efficiencies for the applicant. The following information could be included within the waste audit (or similar mechanism) as stated in the Planning Practice Guidance for Waste:
- the anticipated nature and volumes of waste that the development will generate;
 - where appropriate, the steps to be taken to ensure the maximum amount of waste arising from development on previously developed land is incorporated within the new development;
 - the steps to be taken to ensure effective segregation of wastes at source including, as appropriate, the provision of waste sorting, storage, recovery and recycling facilities; and
 - any other steps to be taken to manage the waste that cannot be incorporated within the new development or that arises once development is complete.

Guidance and templates are available at:

<http://www.meas.org.uk/1090>, <https://www.gov.uk/guidance/waste>

and

<http://www.wrap.org.uk/>

http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8983.

This information could be integrated with any Construction Environment Management Plan (CEMP) produced for the development.

EA Permit

- 6) This development may require a permit under the Environmental Permitting (England and Wales) Regulations 2016 from the Environment Agency for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the Eight Acre Drain, designated a 'main river'. This was formerly called a Flood Defence Consent. Some activities are also now **excluded** or **exempt**. A permit is separate to and in addition to any planning permission granted. Further details and guidance are available on the GOV.UK website: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

Lighting Scheme

- 7) The applicant is advised to refer to the document *Bats and Lighting in the UK, Bats and the Built Environment Series, Bat Conservation Trust and Institute for Lighting Engineers* in respect to designing a lighting scheme which would not harm the habitats of foraging and commuting bats.

Sustainable Drainage

- 8) Details of a scheme for a sustainable drainage system should include:
- a) Information about the lifetime of the development and design of the sustainable drainage system design, including storm periods and intensity (1 in 30 & 1 in 100 year +30% allowance for climate change), discharge rates and volumes (both pre and post development), methods employed to delay and control surface water discharged from the site, and appropriate measures taken

Agenda Item 4a

- receiving groundwater and/or surface waters, including watercourses;
- b) Demonstrate that the surface water run-off would not exceed the pre-development greenfield runoff rate for an existing greenfield site as set in the FRA at 22.1l/s;
 - c) Include details of a site investigation and test results to confirm infiltrations rates;
 - d) Include details of how any flood water, including depths, will be safely managed in exceedance routes;
 - e) Secure arrangements for adoption by an appropriate public body or statutory undertaker or, management and maintenance by a Residents' Management Company through an appropriate legal agreement;
 - f) Secure arrangements, through an appropriate legal agreement for funding on-going maintenance of all elements of the sustainable drainage system including:
 - i. mechanical components;
 - ii. Riparian watercourses through the development
 - ii. on-going inspections relating to performance and asset condition assessments and;
 - iii. operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.
 - g) Secure means of access for maintenance and easements, where applicable.
 - h) Include a timetable for implementing the scheme.
- 9) Foul and surface water shall be drained on separate systems

Additional Plans

- 10) In respect to the requirement for a number of plans the developer is advised to contact the following departments for further guidance:-
- Travel Plan – Sefton Travel Team (Tel: 0151 934 2147)
 - Construction Traffic Management Plan – Highways Development and Design Team (Tel: 0151 934 4175)
 - Construction Environment Management Plan – Merseyside Environmental Advisory Service (Tel: 0151 934 4951)
 - Habitat Management Plan – Merseyside Environmental Advisory Service (Tel: 0151 934 4951)

Date:
Our Ref:
Your Ref:

Contact: Olaf Hansen
Contact Number: 0151 934 2067
Fax No: 0151 934 2034
e-mail: olaf.hansen@sefton.gov.uk

Dear Councillor

PLANNING COMMITTEE - WEDNESDAY 6TH MARCH, 2019

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 Reps (Pages 3 - 48)

Yours faithfully,

Democratic Services

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Late Representations/Information

Appendix 4

Item 4a

DC/2018/00093: Land North of Brackenway, Formby

11 petitions have been received with respect to the following issues:

- Drainage (27 signatories, endorsed by Cllr Bob McCann)
- Traffic Access (25 signatories, endorsed by Cllr Bob McCann)
- Traffic problems during construction (26 signatories, endorsed by Cllr Bob McCann)
- Ecology (25 signatories, endorsed by Cllr Bob McCann)
- Flooding (25 signatories, endorsed by Cllr Bob McCann)
- Emergency access (25 signatories, endorsed by Cllr Bob McCann)
- Noise pollution & effect on residents (25 signatories, endorsed by Cllr Bob McCann)
- Impact of transport and piling (25 signatories, endorsed by Cllr Bob McCann)
- Paradise Lane access (25 signatories, endorsed by Cllr Bob McCann)
- To speak out against the application (25 signatories, endorsed by Cllr Bob McCann)
- For the chairperson of the Parish Council to speak out against the application (25 signatories, endorsed by Cllr Bob McCann)

Further representations have been received since the drafting and publication of the officer report. These include comments from Bill Esterson MP and objections from Cllr Bob McCann, Formby Parish Council and a letter which was sent to Bill Esterson MP. Copies of these comments/objections are repeated verbatim at the end of this document (late representations/information, item 4a).

The applicant has provided further comments in response to the submissions following the publication of the officer report. These are also included at the end of this document (late representations/information, item 4a).

LPA Response

The Exceptions Test – the comments received state that the Council has not applied the Exception Test as required. The Sequential Test and Exceptions Test required by the NPPF were carried out during the Local Plan preparations and were deemed to be satisfied. The Exceptions Test could be reapplied if the relevant aspects of the proposal had not been considered when the test was applied or if more recent information about potential flood risk should be taken into account.

The application is supported by a Flood Risk Assessment that has taken account of climate change in accordance with Environment Agency guidelines. The site has not been reclassified (in terms of the designated flood zones) and the flood modelling is accepted by the relevant bodies (Environment Agency, Lead Local Flood Authority and United Utilities). In light of the position of said bodies, the Council proceeded with consideration of the proposal and policies derived when the Sequential Test and Exceptions Test were applied at the Local plan stage. Policy MN6 is clear in what is required to deliver the wider benefits that outweigh any flood risk and the requirement to ensure the development does not increase flood risk elsewhere. There **Page 3** **Page 98**ly the Exceptions Test.

Drainage – the LLFA have reviewed the objections and matters contained therein. The FRA has appropriately considered climate change in accordance with Environment Agency guidelines and measures to accommodate an increase in rainfall intensity are included in the outline drainage strategy. The FRA also addresses the groundwater level at the site and concludes that infiltration is not a viable means to discharge surface water. The outline drainage strategy accounts for this and detailed design of an appropriate drainage system will be secured by condition. In terms of groundwater flood risk at the site, the ground modification works (increase in land levels) would reduce this risk.

The proposed hard and soft engineering options as detailed within the flood mitigation strategy are accepted by the Lead Local Flood Authority, the Environment Agency and United Utilities. The implementation of the measures referenced in the strategy would accord with policy MN6 (with regards to reducing flood risk to properties on Hawksworth Drive).

The existing drainage network to properties on Hawksworth Drive was modelled based on UU records and assessed against the 2012 flood event in the area which was characterised as being a 1:30 flood event. This was done for illustrative purposes to understand the limitations of the existing drainage infrastructure and is discussed in the officer report. The development site has been modelled as required by the NPPF for 100 and 1000 year events.

Ecology – some of the comments from the Parish council in relation to flood risk and impact on habitats north of Wham Dyke and to the Formby Dune Heath Reserve appear to be out of date as the development proposal has since been amended to remove flood storage within the retained grasslands and amend the proposed ditch. Consequently, the banks of Wham Dyke will no longer be lowered which will help maintain existing conditions for water vole using Wham Dyke. In the event of a 100 year flood event, the area of flood storage to the east would temporarily hold water however this would dissipate over a few days. The area would be managed as damp grassland with scattered groups of scrub planting in order to deter flocks of waterbirds which may increase the risk of bird strike to aircraft at Woodvale airfield. The Ministry of Defence has raised no objection to this.

Pressure on the Sefton Coast would be mitigated through informal open space to the north of Wham Dyke and further supported by a commuted sum towards managing the impacts on the Coast. The provision of mitigation and preventative measures enabled the Council to conclude (through Appropriate Assessment) that there will be no adverse impact on the integrity of European sites. This view is supported by the Merseyside Environmental Advisory Service (MEAS) who advise the Council on matters of ecology. MEAS are also satisfied that appropriate protections can be implemented via conditions as detailed in the officer report to protect grassland habitat and protected species. Appropriate gas protection measures would also be secured by condition.

The Lancashire Wildlife Trust (LWT) commented further that the officer report does not fully reflect their objection; for clarity, their response is also included at the end of this document (late representation/information, item 4a). They have retained their original position that the proposal would still amount to an unacceptable loss of habitat. The Inspector considered and addressed this during the Local Plan and the wording of policy MN6 is the result of this. The officer report addressed matters as raised in the LWT response and subject to appropriate conditions the proposal accords with relevant policies within the Local Plan.

Two further letter of objection has been received from residents raising issues relating to Green Belt, highway safety/access, flood risk, bats, schools provision, impact on living conditions and requirement for housing in Formby. These matters are addressed in the officer report.

Referral to Secretary of State (SoS) – The direction for referral (The Town and Country Planning (Consultation) (England) Direction 2009) applies to various matters, including that in relation to flood risk areas. A referral would be required where the EA has made an objection and has not been able to withdraw that objection following discussions with the LPA. The EA has no objection to the proposed development and there is no requirement for the LPA to refer the application.

Planning Casework Unit (PCU) – The PCU has received a request to call in the application in order for it to be considered by the SoS. It is not policy for the PCU to pursue such action until a decision has been made by the LPA. The PCU will be updated post committee of any resolution and they will issue their response following on from that.

Additional Condition

The first paragraph of page 23 of your agenda pack confirms that a scheme for robust bollards to the pedestrian/cycling access to Paradise Lane would be secured by condition. This was not included in the list of planning conditions however. A condition stating the following shall therefore be attached:

A scheme to prevent vehicular access/egress from the Paradise Lane access point shall be submitted to and approved in writing by the Local Planning Authority and shall include details demonstrating how emergency service vehicles would gain access from Paradise Lane.

The approved scheme shall be implemented prior to the development becoming occupied or in accordance with the phasing plan required by condition 4.

Reason: In the interests of highway safety and movement along Paradise Lane.

Amendment to conditions

The applicant has requested the wording of the following conditions be amended:

Condition 5 – typo error, ‘to be submitted’ is repeated. Condition to now read:

No dwelling within a phase shall be constructed until:

- *full details of the existing and proposed ground levels (referred to as Ordnance Datum) within that phase and on land and buildings around that phase by means of spot heights and cross sections, proposed finished floor levels (FFL) of all buildings and structures, have been submitted to and approved in writing by the Local Planning Authority. Dwellings must have a ground level no higher than 7.50m AOD. The development shall then be implemented in accordance with the approved level details.*
- *Prior to the construction of external elevations above (FFL) to any plots opposite to existing dwellings, the FFL shall be subject to a topographical survey to be submitted to and approved in writing by the Local Planning Authority. In the event that the survey fails to confirm that the FFL and site levels correspond to the levels as approved, or are not within 100mm of those levels, a new planning application shall be submitted for those plots to which the variation relates.*

Reason: To ensure a satisfactory development.

Condition 10 – the line ‘submitted to support the planning application’ removed and replaced by ‘hereby approved’. Condition to now read: **Page 5Page 100**

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No development shall take place until a full Ecological and Landscape Management Plan (ELMP) has been submitted to and approved in writing by the Local Planning Authority. The ELMP shall build upon the management prescriptions for each of the habitat types as detailed within the Draft Ecological Management Plan in Appendix 8.4 of the Environmental Statement Addendum (GVA HOW Planning, September 2018) hereby approved.

The full ELMP shall also include (but not be limited to) the following:

- Details of management of the site in perpetuity, including management bodies responsible for implementation;
- Description and evaluation of the features to be managed;
- Ecological trends and constraints on site which may influence management;
- Aims and objectives of management;
- Appropriate management options for achieving aims and objectives;
- Prescriptions for management actions; and
- Preparation of a work schedule (including an annual work plan and the means by which the plan will be rolled forward annually); and
- Personnel responsible for the implementation for the plan.

Reason: To appropriately manage landscaping and ecological enhancements on site.

Condition 11 – wording added to be more precise. Condition to now read:

No development shall commence until an updated water vole and otter survey of Wham Dyke, Eight Acre Brook and lateral ditches that cross the site, is carried out. The results of the survey shall inform a Water Vole and Otter Mitigation Strategy to be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of the development. The Water Vole and Otter Mitigation Strategy will contain a programme for the implementation of any requisite mitigation measures which shall be fully implemented in accordance with the approved Water Vole and Otter Mitigation Strategy, such as the creation and early implementation of compensatory habitat.

In addition, no development affecting water vole habitat shall commence until a copy of a Water Vole Development Licence from Natural England or confirmation that works can proceed under a Low Impact Class Licence has been submitted to the Local Planning Authority.

Reason: To avoid harm to protected species and habitat.

Condition 18 – additional wording. Condition to now read:

Prior to commencement of development a detailed remediation strategy to bring the site to a condition suitable for the intended use by removing unacceptable risks and the relevant pollutant linkages identified in the approved investigation and risk assessment, must be prepared and is subject to the approval in writing of the Local Planning Authority.

a) The strategy must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and roles and responsibilities including gas protection measures. The strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 on completion of the development and commencement of its use.

b) In the event that the proposed remediation scheme involves the provision of a ground cover system a plan indicating the existing and proposed ground levels on the application site shall

be submitted for approval to the Local Planning Authority.

c) The development shall proceed in accordance with the external ground levels approved under (b) unless the Local Planning Authority gives its prior written approval to any variation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Condition 22 – amended for precision. Condition to now read:

No development shall commence until a method statement for swallows has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include as a minimum:

- *Avoidance measures to avoid harm to swallow*
- *Extent and location of proposed swallow nesting provision; and*
- *Timing for implementation of replacement swallow nesting provision*

The nesting provision detailed in the approved statement must be in place before the existing breeding habitats are obstructed, damaged or destroyed or if destruction of existing nests takes place over winter, replacement provision must be in place by the 1st of March to ensure no loss of habitat during the swallow nesting season.

Reason: To avoid harm to protected species and habitat.

Condition 23 – amended for precision. Condition to now read:

Prior to the commencement of the development of each phase, details of all external facing materials to be used in the construction of that phase of development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.

Reason: To ensure an acceptable visual appearance of the development

Condition 35 – amended to account for typos. Condition to now read:

The details of layout, scale and appearance as submitted at reserved matters stage shall accord with the principles of the Parameters Plan 447D-01B and make provision for the following:

- *A density of no less than 30 dwellings per hectare within net developable areas,*
- *No dwellinghouse to provide less than 60 sq. metres private outdoor useable space. Should any flats/apartments form part of the development, they shall provide no less than 20 sq. metres private outdoor space per flat/apartment,*
- *A minimum of 25% of all non-affordable dwellings to comprise 1 or 2 bedroom properties,*
- *A minimum of 40% of all non-affordable dwellings to comprise 3 bedroom properties,*
- *A minimum of 20% of all non-affordable dwellings to meet Building Regulation Requirement M4(2) ‘accessible and adaptable dwellings’, and*
- *Public open space to be provided at a minimum of 40 square metres per dwelling.*

*Reason: To ensure a satisfactory developmen*Page 7Page 102

Amendment to wording on page 31 & 32 of the Agenda Pack

The applicant has advised that the wording of “no likely significant effects on designated European sites” is amended to “no adverse effects on the integrity of European sites”. The former is terminology typically used at HRA Screening stage, however the proposal has moved onto Appropriate Assessment stage and the latter is the phrase is accepted by the LPA.

Comments of Bill Esterson MP

The National Planning Policy Framework (NPPF) has made it far easier for developers to build on greenfield sites. This Conservative/Lib Dem policy has introduced an assumption in favour of development, making the NPPF a Developers' Charter.

The Conservatives and Lib Dems pushed through the NPPF when they were in coalition in government together. It should also be remembered that Sefton Labour Group tabled a motion opposing the introduction of the NPPF, when Sefton Council was under No Overall Control. This motion was defeated by a combination of the Conservative and Lib-Dem Councillors.

The consequences are that developers very much have the whip hand at Brackenway. Both Maghull Town Council and Lydiate Parish Council have neighbourhood plans in place, which grant the planning committee greater influence over planning decisions. Neighbourhood Plans give some protections and Formby Parish Council has failed to introduce one in a timely manner. The lack of a Neighbourhood Plan in Formby makes it harder to influence greenfield development on sites like Brackenway.

I recognise the limits facing the planning committee as a result of the policies implemented by both the Conservatives and Lib Dems in government. The failure to act by the parish council has also limited the ability of the committee to act. However, I would encourage the members of the planning committee to use any conditions, which they are able to impose to support the existing community. These should include flood protection, road access to the bypass and contributions to local services especially in our NHS.

Objecting outright to this planning application may not be possible without the risk of the applicant winning on appeal and those members of Sefton Council who are suggesting such an approach need to consider whether the use of conditions is a better way of standing up for the people of Formby than losing on appeal. The loss on appeal in a decision taken by a government appointed planning inspector could see no protections in place in the form of planning conditions.

On previous planning applications, Conservative, Lib-Dem and Independent councillors have sometimes voted against approval and had they won the vote the final planning permission at appeal would have been far less sympathetic to residents because of the potential lack of conditions on the final planning consent.

I hope that that all members will consider the best way to put the existing community first. Any planning consents should try to ensure that homes in any new development benefit local people and address local housing, rather than favouring those moving from outside. Such planning consents should also ensure road, drainage and health services are supported to benefit the existing community as a priority.

Bill Esterson, MP for Sefton Central

ENDS

Letter of objection to Bill Esterson MP (subsequently sent direct to LPA 4th March 2019)

Re: Proposed Development Brackenway & Formby's Surface Water Flooding

Dear Sir

I am extremely concerned about the way Sefton have been interpreting the planning regulations in general and particularly in respect of the development at Brackenway, Formby. The RSK flood report on Hawksworth Drive which accompanied the developers flood report (18/12/18) together with the latest climate change data have major implications for the planning department and the people of Formby.

Firstly, the Brackenway development should have to pass the **exception test**. This is because the proposed main entrance to the site is in flood zone three and some of the site is in flood zone 2. Essentially, the 2 parts to the Test require proposed development to show that it will provide wider sustainability benefits to the community that outweigh flood risk, **AND** that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.

The sustainability benefits argued for the site are that it will

- (1) produce housing to meet the needs of the Local Plan and provide us with affordable housing.
- (2) Alleviate the existing surface water flooding problem

The fact is 286 houses are not needed to meet the requirements of the Local Plan. The high number of windfalls mean that the 286 figure is not required. Furthermore. The SHELMA report vindicated the opinion of the local residents and said the number of houses required is 594 (table 74) as opposed to the Local plan figure of 640 d.p.a.

Labour councillors have supported building on the Greenbelt in order to provide us with much needed affordable housing. A laudable aim but for complex reasons that I would be happy to debate, this is never going to happen, in fact as I pointed out at the local plan enquiry you could build on all the greenbelt and never solve the affordability problem in Sefton. If you look at the two graphs below from the Land Registry. Clearly New build housing is going to be more expensive than existing properties



whilst disposable income is falling. Sefton’s policy of building on greenbelt will result in higher average house prices. The only way this will not be so is if the bulk of new housing is for rent¹.

If the Brackenway development is to show a community benefit it must demonstrate it will alleviate the existing surface water flooding problem over the lifetime of the development which in planning terms is generally regarded to be 100 years. Planning guidelines are quite clear on this and yet the developers only provide us with a model **and data** for a *1 in 30 return period*. This is statistically significant given the MET office Study entitled “**Frequency of extreme rainfall events for selected towns and cities**” prepared for (Ofwat July 2010 by Michael Sanderson).

The RSK FRA propose for Brackenway several measures to avoid flooding on this development and the adjacent Hawksworth Drive.

1. Ground modifications (raising levels proposed for residential development and lowering of levels to provide flood storage and attenuation on site). There are a number of problems with this approach.
 - (i) if the ground is not impermeable it is likely to fill with water because of the high-water table and water draining in from the coast. During wet winters there is a tendency for ditches to remain full of water hence if an extreme weather event occurs then it will not be available for flood storage.
 - (ii) Pools like this this tend to become magnets and attract water from surrounding low lying land as at Switch Island. Network Rail do not allow this practice near their infra-structure for the above reason. Two years ago, the Switch Island balancing ponds flooded during a weather event that was adjudged by the Met as less severe than a 1 in 30 event. This closed the Docks link to the motorway network.
 - (iii) English Nature are cutting trees down on the coast to the immediate west of the site with a view to raising the water table this will mean that more water would have to be drained from the sand dunes and dune heath. Evidence

¹ This would reduce the rent yield in Sefton thus affecting the viability calculation

- presented by English Nature suggests trees can alter the level of ground water by as much as 50cm.
2. Lowering of Eight Acre Drain along sections of its northern bank to allow inundation of the flood storage area to occur during peak flood events. The problem here is
 - a. that proposed flood storage area is at the entrance to the site.
 - b. The water would have to flow under the Road entrance. I see no evidence that that this has been properly modelled for a 1 in 100-year return event. If for any reason the flow rate is not adequate Eight-Acre Brook will back flood.
 3. Directing flood and surface water away from Eight Acre Drain by severing the connections between the site and Eight Acre Drain. This a good measure provided Wham Dyke can take the excess volume.
 4. Limit surface water discharge rates to an agreed discharge run off rate difficult to do given climate change and the high level of the water table.
 5. Discharge of surface water to retained ditch at greenfield runoff rates and directed to Wham Dyke away from Eight Acre Drain. The problem is that Wham Dyke and Eight Acre Brook are connected east of the bypass.
 6. Utilisation of a pumped system for surface water drainage to direct runoff away from Eight Acre Drain. A pump failure scenario was only tested for a 1 in 30 event not for a 1 in 100 event (or were the model results unacceptable?). Does this mean the expected lifetime of the development is only 30 years instead of the general yardstick of 100 years?
 7. Provision of on-site surface water storage in underground oversized pipes and a central swale. This is a bit like building an under-ground reservoir. In my experience water must eventually flow somewhere and storing large quantities of water next to housing is a risk in itself and makes peoples' homes a hostage to infra-structure failure and should be **properly risk assessed against the likely increased frequency of 1 in 100-year weather events.**
 - (i) Utilisation of the flood storage compensation areas for flood water attenuation. As I understand it the developers are no longer seeking to use land north of Wham Dyke yet they are still seeking to maintain the housing density of the site. As I pointed out earlier much of this flood storage land will be too wet to significantly act as flood mitigation because of the increasing frequency of 1 in 100 year rainfall events.

The reason why allowing for a 1 in 100 events is so important is that Sefton as the lead flood Authority identified that the **prolonged and heavy rainfall** event was a key factor in the surface water flooding event at Hawksworth Drive in 2012. The MET office Study entitled "**Frequency of extreme rainfall events for selected towns and cities**" prepared for (Ofwat July 2010 by Michael Sanderson) uses an EVA (Extreme Value Analysis) model to analyse possible trends in UK rainfall. This until recently is the most up to date and sophisticated analysis available. The latest 2018 study confirms the trends identified by Sanderson. The graphs below show the results for Liverpool which includes Formby using data from UK rain gauge network and the United Utilities model. This was then combined with data from the UK Climate Model UKCP09.

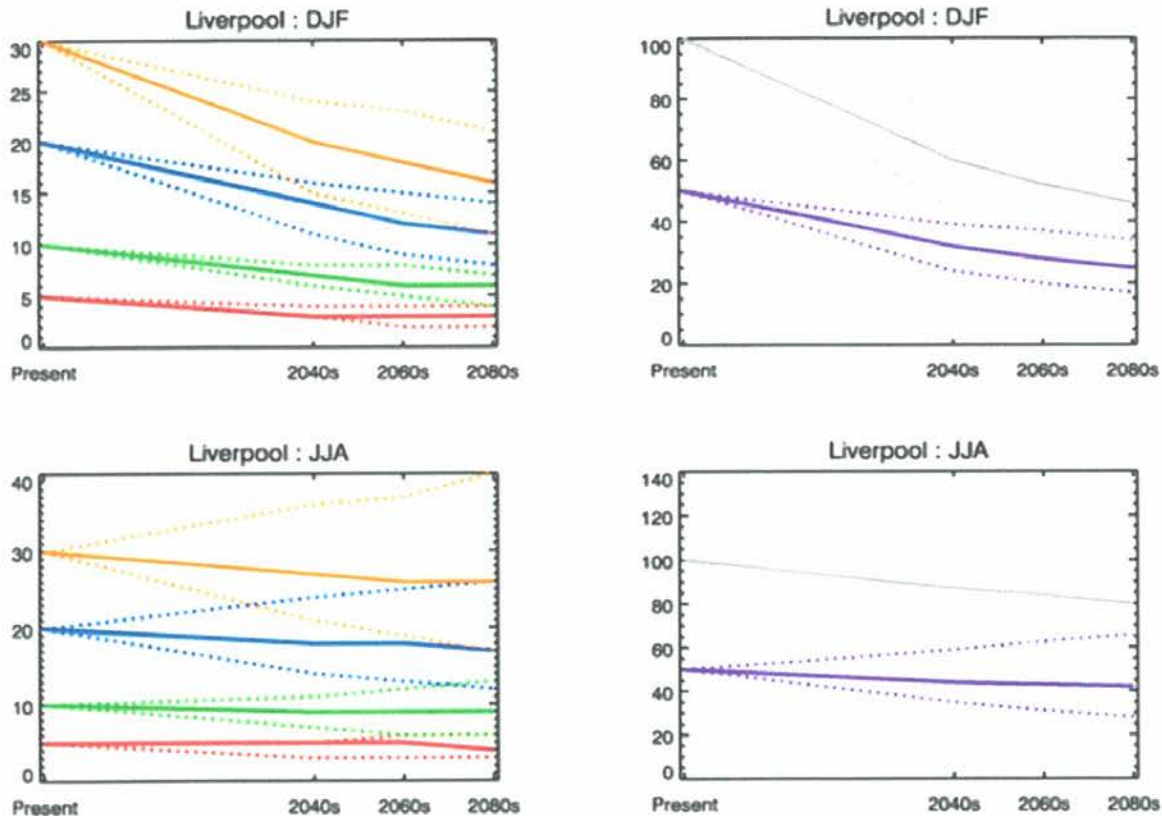
The graphs show changes in return period for rainfall events with present-day return periods of 1 in 5 (red), 1 in 10 (green), 1 in 20 (blue), 1 in 30 (orange) [left-hand panels] and 1 in 50 (purple) and 1 in 100 years (grey) [right-hand panels]

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The return periods are shown on the y-axis. The central estimate (50th percentile) is indicated by a solid line, and the 10th and 90th percentiles, calculated using the full range of probabilistic projections from UKCP09, illustrate the possible range of return periods and are shown by dotted lines. The present-day return periods are positioned at 1980 on the x-axis (marked as 'Present'). Changes for winter (DJF, top row) and summer (JJA, bottom row) have been calculated separately. Note that the scale of the y-axis is different for each panel.

Significantly the graphs show a projected increase in the return period of extreme rainfall events at 1 in 30 and 1 in 100.



Source: MET Office, "Frequency of extreme rainfall events for selected towns and cities" p. 8, July 2010, Michael Sanderson

Three important points follow from the climate change data.

1. In order to show a significant flood, benefit any mitigation arising from the development must show a betterment when faces with a 1 in 100-year event in order to allow for climate change given that the flooding in 2012 was only a 1 in 30-year event.
2. Remember a 1 in 100-year event could occur at any time during the lifetime of the development. Under the exception test planning guidance says a site's lifetime is normally taken as 100 years unless the site has only a limited lifetime.
3. Any development on this site which fails to consider a 1 in 100-year extreme weather event would be relying on luck rather than a carefully considered risk analysis.

If we now turn to Hawksworth Drive the FRA and modelling argue that the cause of the recurrent flooding in Hawksworth Drive is entirely the result of Surface Water Flooding. On page 2 of the document dated 18/12/18 RSK say: -

There are no objections from statutory consultees such as the Environment Agency and the LLFA to the proposed strategy. The strategy has been verified through hydraulic modelling which has been prior agreed with the Environmental Agency and the LLFA.

But the Environment Agency says in Meetings with Formby² PC that they have no statutory responsibility or interest in Surface Water Flooding. Therefore, in the context of flooding in Formby it is difficult to see what weight legal or otherwise can be placed on the Environment Agencies Opinion. The prevention of Surface Water Flooding is the responsibility of Sefton Council in conjunction with United Utilities.

On page 3

RSK say: - *The proposals have considered this existing flood risk issue and although this risk is associated with existing surface water infrastructure out of the Applicant's control.*

In other words, the flooding in Hawksworth drive in 2012 was entirely the responsibility of Sefton Council in conjunction with United Utilities. Moreover, if future flooding events occur resulting from the existing sewer outfall becoming 'tide locked' at its outfall to Eight Acre Drain which during periods of prolonged rainfall. It will by logical extension, be the responsibility of Sefton Council and United Utilities.

Under an exception test the developers have to show that there will be substantial benefits to the community and that these benefits outweigh the flood risk. (i) The site offers the chance to deliver affordable housing but whether the full complement of 286 houses is required to deliver the Local Plan is debatable given the scale of housing being delivered in Formby and the findings of SHELMA.

In order to assess the potential flood mitigation benefit RSK used a model. They argue it has been demonstrated that the proposed flood risk and surface water strategy alleviates this existing risk through the following measures, I quote;

1. *Management of surface water and flood compensation entirely within the site area and discharge of all surface water from the development site which is directed to Wham Dyke in the north, offering a reduction of flood levels in Eight Acre Drain;*
2. *The peak flood levels in Eight Acre Drain will be reduced by approximately 110mm during a 100-year event and approximately 120mm during a 1000-year event and the proposed ground modifications on site will ensure that any flood flows will be directed towards the flood compensation areas and not towards existing dwellings to the south;*
3. *Infilling of existing north-south ditches to reduce flows towards Eight Acre Drain; and*
4. *Lowering of land to the east of the development area (adjacent to the bypass) to provide areas of flood storage during extreme events (see above).*

² See SWMP pp 7 - 11

Hard engineering options are proposed on the right bank (Hawksworth Drive) side of Eight Acre Drain;

5. *Increasing the length and height of the embankment/ bund in the vicinity of the bypass (It is not clear how this will restrict flooding, as water will flow underneath it when the water table is high. This is a well-known local phenomenon); and,*
6. *High level outfalls from Hawksworth Drive and Deansgate Lane North allowing flood water from the highway to drain into Eight Acre Drain, subject to EA and Highways approval. If the flow rate is increased there is the likelihood that more silt will be dumped into the culvert at the Eight Acre Drain as the Water flow rate is restricted as it flows under the bypass.*
- 7.

Soft engineering options are also proposed;

1. *De-silting of Hawksworth Drive surface water drainage network;*
2. *De-silting of Eight Acre Drain and Wham Dyke culverts;*
3. *Improvement and maintenance regime for Eight Acre Drain.*

The silting up of the culverts would indicate that they are not of sufficient width to take the load and should be replaced

In the first place a model is only as good as the data that is put into it and there was some doubt expressed as to the accuracy of the United Utilities data. The report says that, I quote,

“The model was run using a surcharged outfall using the peak water level in Eight Acre Drain for the 30- year event of 5.935m AOD and a 30-year rainfall event falling on the network (this is the estimated return period for the flood event experienced in 2012, however the water level in Eight Acre Drain during this event is unknown). It should be noted that if a ‘Do nothing’ option is considered, then the impacts of climate change will increase the likelihood and severity of a flood event.”

- (i) Firstly, I note that the “water level” was unknown during this event, this rather raises the question of the validity of the UU data?
- (ii) The final sentence is tacitly admitting the importance of extreme weather events and the likelihood of the increased frequency of both 1 in 30 events and 1 in 100 events as outlined by Sanderson’s research. Recent research confirms and amplifies Sanderson’s warnings.
- (iii) The post development improvement of 13% was on a base - line of a 1 in 30 events. This neither adequate or substantial given climate change warnings.
- (iv) The model should look at 1 in 100 events as the climate research for this area is clearly showing that there will be a 1 in 100 rainfall events during the lifetime of this development. If this happens there will be the high probability major flood event in both the New development and Hawksworth Drive.

By not considering extreme weather events over the life-time of the development the developers are not correctly evaluating the risk against the given probability curve commensurate with the lifetime of the project³. By 2040 a 1 in 50 rainfall event could be as frequent as a 1 in 30 event according to climate research. It may be true that according to the

³ Unless you assume you are building temporary structures like greenhouses or prefabs

EA we experienced a 1 in 30 weather events in 2012 but we are assessing future risk, just look at the graphs on page 4 – 15% doesn't cut it!

A 1 in 100 rainfall events could occur at any time and even with the mitigation methods suggested we would be relying more on luck than sound judgement.

The proposed mitigation will not provide significant benefits to Hawksworth Drive over the lifetime of the development. This is because Formby's Surface Water is not "fit for purpose".

RSK considered the possibility of other connections of the surface Water Drainage system to Eight Acre Brook in order to alleviate tide locking. In other words, there is another possible connection but UU have failed to repair the network sufficiently to allow that connection! This needs to be raised with Sefton as the lead flood authority. I quote this from page 8.

“Additional connection into adjacent surface water system – it is understood from SMBC that a network is located to the rear of No. 18 Turnacre. It is also understood that there are issues with a damaged pipe. Additional flows from Hawksworth Drive have the potential of increasing the pressure on this network and creating a flood risk issue to additional properties which may not currently be at risk, for this reason this option was not considered any further”.

Interestingly the RSK model explored the situation where Eight Acre Brook is assumed to be empty of water (this is an entirely theoretical scenario designed to test the efficiency of the Surface Water Drainage System in Hawksworth Drive. We find this gem again on page 8 of the report.

“This demonstrates that the existing system is flawed as it has not been designed to the 30 year standard as required by the current version of Sewers for Adoption. What this exercise does consider if that the mitigation being offered, particularly the reduction in water levels in Eight Acre Drain offer the best solution to the existing flooding issues on the network.”

This tells us

- The surface water system is not fit for purpose
- The RSK model was only designed to model the development's flood risk over 30 Years.

Finally, we have from page 9

“The existing surface water drainage system is not fit for purpose and by offering this package of measures together with a responsive management system (part funded by S106 monies) this is a significant benefit as without these measures flood risk remains. Should the flood compensation works not be carried out the properties on Hawksworth Drive will experience MORE severe flooding than that of 2012 should a 100- year rainfall event occurs when coinciding with a 100-year event in Eight Acre Drain.”

But

- We already know more than Sefton that a 100-year event will cause more flooding.
- We don't know whether the proposed development will make matters worse during a 100-year weather event.
- We don't know whether the proposed mitigation will be effective during a 1 in 100 year weather event because the model only looked at a 1 in 30 year event.

In 2011 Sefton calculated (SWMP 2011) there was a 3.3% risk or 420 these homes; businesses and infrastructure items being impacted by flooding during a year (1 in a 30 event). This means that during a 1 in 30 events 4% of all of Formby's homes, businesses and infrastructure could be impacted (Sefton average is 2%). Clearly the facts I presented above show that this risk will almost certainly increase. As a matter of fact the SWMP report shows that Maghull is even more at risk.

Formby's Surface water is drained into the river Alt via Downholland Brook. This river is currently at full capacity. **All the other developers around Formby have been forced to recognise this constraint and have sought to drain the surface water directly into the Alt** thus avoiding Downholland Brook. Although part of the Liverpool Rd development will drain into the existing sewer which United Utilities admitted is already subject to flooding. It is well known that currently Formby's surface Water System is a flood risk⁴. If the infrastructure on this site fails, there will almost certainly be a flooding incident. Clearly it does not pass the Exception test and it will result in flooding elsewhere.

Unfortunately, because Sefton failed to adopt a Community Infra-structure Levy like most other areas of the country, the new development will be unable to finance any meaningful improvement to the situation and your constituents in Sefton Central lost out on considerable sums of money that could have gone on planning for new infra-structure.

If Sefton approve this development given the contents of the RSK report they will be tacitly accepting liability for any flooding that may arise from this development because they will be accepting the contents of the RSK report. Taylor Wimpey have a track record of developments causing major flooding notably Ruthin in 2012.

I think at the very least that this development should be referred to the Secretary of State and the development should be delayed until Sefton produce a sound plan to improve the Surface Water Management System because relying on section 106 money from this development isn't it.

Yours faithfully

ENDS

Objection – Cllr Bob McCann

Can I formally object to this development on the basis of failure to address the requirements set out in the inspectors report on the local plan in that he stated that any development on that site should significantly reduce the incidence of flood risk by surface water to properties on Hawksworth Drive. I do not believe that this is going to be achieved by the methods suggested in the RSK methodology statement.

Ends

Objection – Formby Parish Council

Second Consultation DC/2018/00093 Outline application for the demolition of existing structures and construction of up to 286 dwellings including flood alleviation measures

The revised NPPF (2018) reinforces the importance of planning for climate change and being proactive in this. The opening paragraph sets the tone for this section, supporting the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change.

There is a greater emphasis on directing development away from areas at highest risk, and where development is necessary in such areas, making development safe for its lifetime (p155).

The sequential and exception test follows the previous principles though it now requires that the sites reviewed consider the impacts of climate change whereas the previous approach focused more so toward Flood Zone 2 and 3 to be considered. In other words are we able to discount impacts of climate change on sites. The impact of this change is that those sites in Flood Zone 1 which are close in proximity to Flood Zone 2 or 3 could become more susceptible to flood risk with climate change. Worst case, they become Flood Zone 2 or even 3 as a result. These sites should therefore be discounted. Generally, the profile of the whole section has been raised, which reflects the wider Government targets of addressing climate change.

Government Guidance on allowances for peak river flood flow and mean sea level, states that *“The high++ allowances will only apply in assessments for developments that are very sensitive to flood risk and with lifetimes beyond the end of the century. For example, infrastructure projects or developments that significantly change existing settlement patterns. This includes urban extensions and new settlements”* (UK Government Guidance **Flood risk assessments: Climate Change Allowances**). It is beyond doubt that the Brackenway development falls firmly in this category.

UK Climate Change Risk Assessment 2017: Projections of future flood risk (Main Report)

Table 3-6 Fluvial flooding: Percentage change in peak flows (page 39) shows that flows in the northwest river basin will increase by as much as 20% for a 2°C temperature rise scenario, 43% for a 4°C scenario and by as much as

193% for high++ scenario by the year 2080. It should be remembered that this development will only be 60 years old by 2080 and the lifetime of the development in planning terms is no less than 100yrs.

Figure 1 are Government Met Office maps of the future projections over land from the UKCP18 project, **Winter Precipitation in the Northwe**Page 1Page 112099 minus 1981-2000. The high

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++ allowance RCP8.5 90th Percentile shows a 40%-50% increase in winter rainfall in Formby. This is notably higher than the allowances in the Developer's Flood Risk Assessment Addendum document (DC_2018_00093-ES_ADDENDUM_APPENDIX_10.1_881079-R2_02_-FRA_REDACTED-1879212.pdf). Indeed the Developers FRA far from considering the most extreme weather events that are currently forecast for our region taking full account of climate change, have adopted values that according to the UK Climate Change Risk Assessment 2017 high++ scenario could be overtaken by the 2050s. Less than 30 years into the lifetime of the development (Table 3-6 Fluvial flooding: Percentage change in peak flows, page 39)! I am sure the Applicant would be quick to point out that there will be differences within our region in rainfall and river peak flow. In answer to that we would point out that the Met Office Winter precipitation maps in figure 1 high++ (RCP8.5 90th Percentile) indicates that Formby will see one of the highest increases in rainfall in the region.

Given the above, it is reasonable to conclude that our town could be exposed to the highest levels of risk indicated in the higher climate change scenarios. Although climate change also indicates that Formby may see a reduction in summer rainfall, the Met Office maps of the future projections over land from the UKCP18 project, **Annual Precipitation in the Northwest river basin 2080-2099 minus 1981-2000**, RCP2.6 90th percentile, RCP4.5 90th percentile, RCP6.0 90th percentile and high++ allowance RCP8.5 90th percentile all show an increase of 10% in annual rainfall.

Ground water is a significant problem in Formby and becomes more problematic to the east as the vast majority of the town drains inland and not towards the coast. It is likely the water table will recharge rapidly following dry weather, not least because all of the properties in the area of development site and much of Formby discharge to soak-aways. Ground water emergence has been reported by residents to the Applicant and the Local Lead Flood Authority (Sefton Council). This is supported by Sefton Councils /Capita Simmons Ground Water Risk map (See appendix A). The Development site is in the highest category with greater than a 75% chance of ground water flooding.

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Winter precipitation anomaly in North West England for 2080-2099 minus 1981-2000

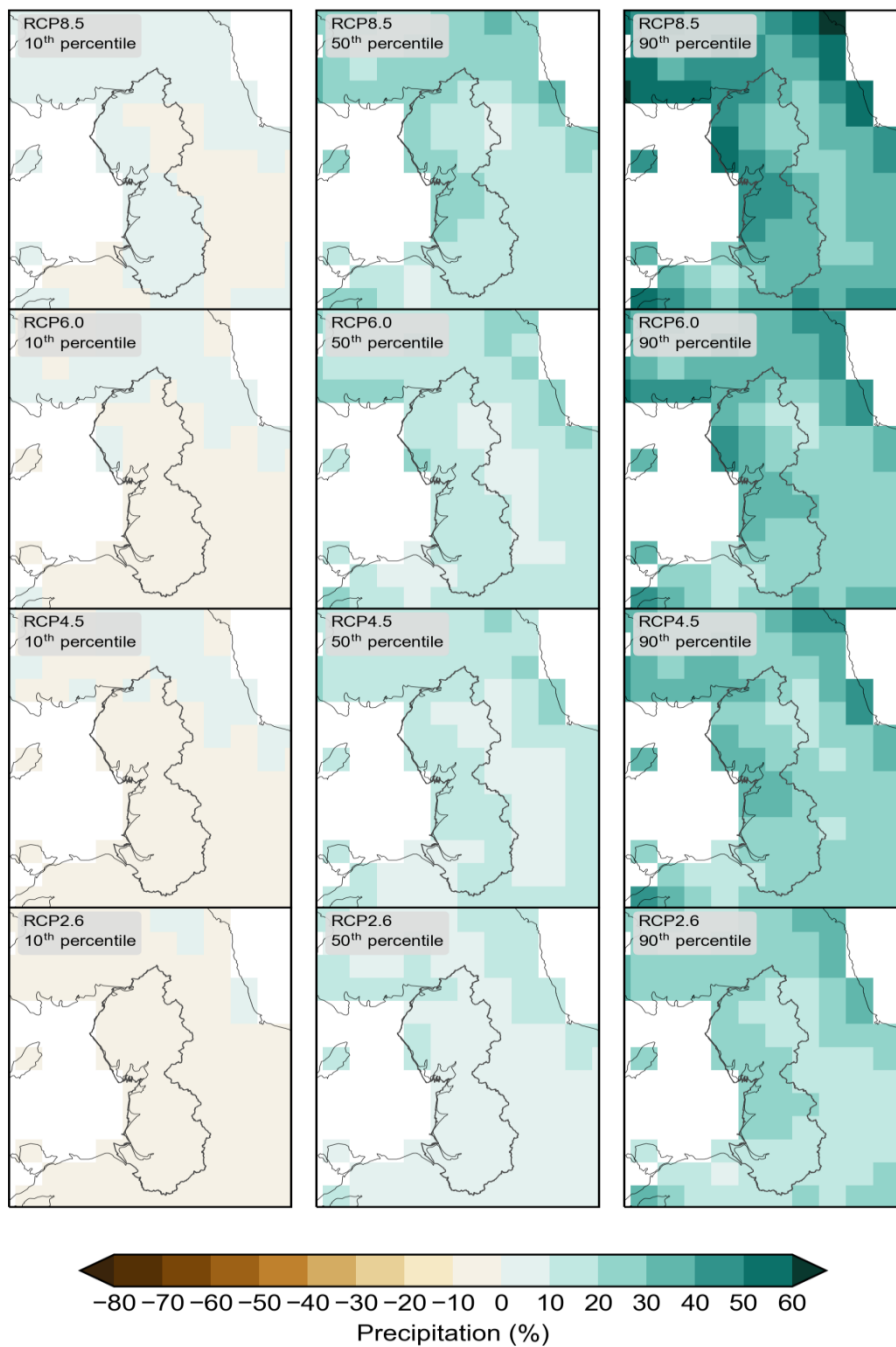


Figure 1

The applicants **Environmental Statement Chapter 9: Baseline Conditions** 9.33 acknowledges that “Groundwater has been recorded between 0.1m and 0.8m bgl within the Blown Sand, with a general decrease in groundwater levels from Winter into Spring”. Once again we draw your attention to the Formby Parish Council’s previous submission, and the advice from the British Geological Survey “The infiltration rate must be considered in conjunction with the water table elevation which for most schemes should be at least 1 m below the base of the SUDS scheme. This unsaturated thickness is

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necessary to ensure that there is space for a local rise in groundwater that may result from stormwater infiltration. A permanent unsaturated zone is also required in most systems as a final polishing step for the treatment of stormwater pollutants, the majority of which should be removed via above ground pre-treatment stages.

The use of infiltration to the ground in replacement of piped drainage systems is essentially aiming to return the groundwater recharge regime to something closer to pre-urbanisation conditions. A long-term effect of this may be a rise in groundwater levels over the catchment-scale. Whilst this provides benefits for river base flow, it may also have consequences for subsurface assets such as basements and utilities and, in more serious cases, for areas susceptible to groundwater flooding. The use of catchment-scale modelling can predict groundwater rise and therefore should be a consideration when planning multiple SuDS schemes in urban areas. (Surface Water Flooding: Sustainable drainage to the ground by Rachel Dearden and Simon Price of the British Geological Survey. <http://www.groundwateruk.org/Groundwater-issues-SUDS.aspx>)

Even before the site is lowered ground water has been observed between 0.1 and 0.8m below ground level, the FRA found ground water at approximately 5.55m AOD during testing in January 2017. According to the UK Met Office **“this was a rather dry and mild winter”**. Met office mapping shows that Formby experienced an unusually dry winter with rainfall being less than 70% of the expected average. <https://www.metoffice.gov.uk/climate/uk/summaries/2017/winter>

In addition to the vulnerability to below ground level storage identified by Rachel Dearden of the British Geological Survey, the location of the proposed compensatory land lowering next to the A565 Formby Bypass makes it more sensitive to changes in groundwater levels. Formby Bypass built in 1937 did not include a land drain to redirect groundwater flows around the foundations of the roadway. The main carriageways were constructed of 12 inch deep concrete sections on 9 inches of clinker ballast and some consolidation of the ground below. This obstruction clearly extends below observed winter water table levels. Mr John Williams former Sefton Council Assistant Senior Engineer responsible for the investigation of land drainage and supervising highway drainage projects, expressed concern that the clinker base has become significantly less permeable as the voids between the ballast have become blocked with fine silt in the 80 years since its construction, forming a significant obstacle to ground water flow. The result is that, as the ground water level increases the obstruction to the natural flow by the road also increases adding to the effects of climate change. When the ground water meets the obstruction it forms a hydraulic head to achieve the pressure necessary to push the ground water around the obstacle, the height of which will be significantly affected by the permeability of the soil.

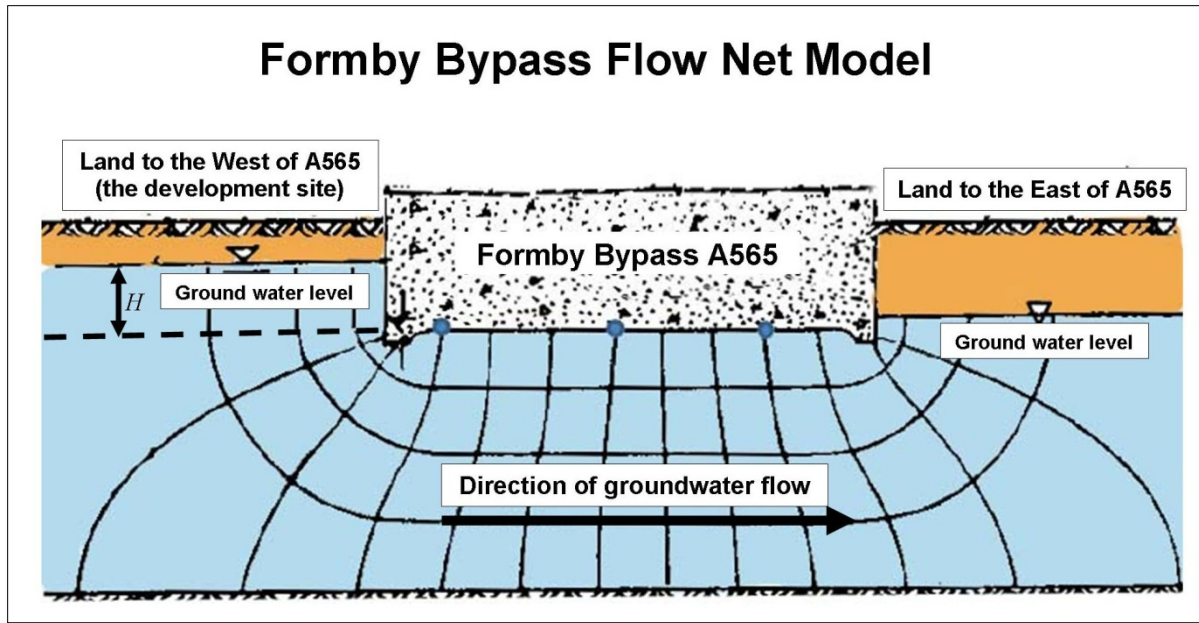


Figure 2

The consequences of not fully accounting for climate change and its effect on ground water is significant. In all the Applicants flooding models of peak river flow and surface water flooding the starting point for the winter water table is where it was in 2017 during a very dry winter (according to the UK Met Office). Increased ground water levels compromises ground infiltration and significantly increases surface water run-off rates. This in turn will have a significant effect on peak river flows within the catchment and of course could significantly reduce the effectiveness of below ground-level storage (compensatory land lowering).

Increasing the Risk of Flooding Elsewhere.

Because of where the proposed development is situated its effects will be significant on sensitive infrastructure if sufficient flood mitigation is not achieved. The site forms part of the critical drainage area that drains Formby Dune Heath an area of Special Scientific Interest (SSSI), a site of Local Biological Interest (SLBI), RAF Woodvale and Hawksworth Drive and Brackenway housing estates. The effects of flooding on water voles have already been highlighted in Formby Parish Councils previous objection, and we would reiterate those concerns. Compromising the drainage of the dune heath could lead to habitat change and affect reptiles like the sand lizard and also threaten ground nesting birds if heather is replaced by plants more tolerant to the water inundation.

The effects on Hawksworth Drive would to be to exacerbate existing surface water flooding problems as the increased capacity promised in the new drainage network will not be achieved and could be reduced. In addition concerns have been raised that new wetland areas will remain flooded for considerable lengths of time, this would increase the risk of flooding to the neighbouring housing estate. **Chapter 10 of the Environmental Statement: Flooding and Drainage, Sefton’s Comments Table** forbids large water bodies due to the proximity of RAF Woodvale. Section 10.55 of the same document **Flood Storage and Land Lowering**, says “*The influence of groundwater in the areas to be lowered was highlighted, but it was accepted that the creation of the proposed flood storage areas would accommodate for this*”. Formby Parish Council would suggest that the full extent of climate change on flood risk to this development applied, however even given the

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extent of climate change proposed in the developers FRA, no consideration has been given to the significant effects this will have on groundwater within the catchment area during the lifetime of the development.

Wildfowl and RAF Woodvale.

The type of habitat that may be created, if groundwater levels compromise the compensatory flood plain (lowered wetland), would be ideal for Wildfowl. In the supporting documents it is suggested that because any water bodies would be temporary this would discourage wildfowl. Not so, temporary water bodies are particularly favourable to water invertebrates and insect larvae as they are free from predators such as amphibians and fish. This larvae is the mainstay of wildfowl. The RSPB reserve in Marshside Southport is managed in just this way. Where I would agree that ground water emergence may not happen every year, and perhaps less so within the early years of the development, there have already been circumstances such as the wet summer in 2012 and the very wet autumn in 2015 that could have lead to just such a scenario. Until such time as the effects of ground water can be discounted in regard to climate change, Formby Parish Council will oppose below current ground level water storage. Further we would support the Ministry of Defences legitimate concerns that this may become a refuge for wildfowl close to the airfield and as such would pose a significant risk to aircraft.

Conclusion

NPPF 2018 Para 162, p46 says *“the exception test may need to be reapplied if relevant aspects of the proposal had not been considered when the test was applied at the planmaking stage, or if more recent information about existing or potential flood risk should be taken into account”*. It's clear that since this development site was considered in the Local Plan the language in the NPPF regarding climate change has been strengthened.

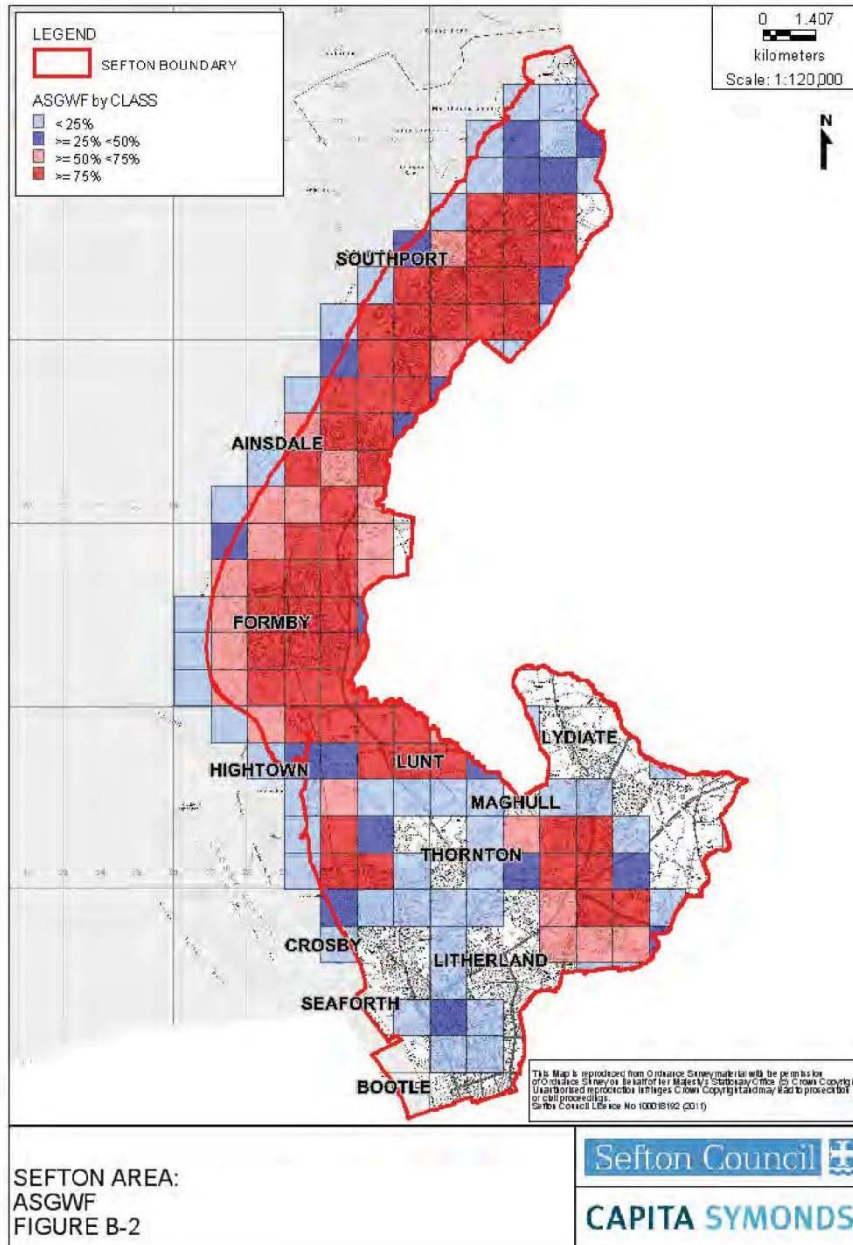
- It is also true to say that since the development was included in Sefton's Local Plan predictions over climate change have become more gloomy. However even given the much lower parameters of river peak-flow and rain fall considered in the Applicants FRA, no consideration has been given to the effect wetter winters will have on the winter groundwater levels and in turn how this will affect the proposed floodplain compensation /mitigation for the lifetime of the development. It presupposes that the winter groundwater levels in an unusually dry 2016/ 2017 winter will be similar to those in 2020.
- The position of the compensatory lowered wetland next to the A565 Formby Bypass increases the risk of groundwater emergence compromising below ground storage, as the flow of groundwater becomes increasingly obstructed by the footings of the Formby Bypass.
- The creation of what will be albeit a temporary winter reservoir next to Hawksworth Drive displacing the floodplain towards housing substantially increases the flood risk to neighbouring properties if sufficient storage cannot be achieved due to increased levels of groundwater.
- Insufficient capacity in the proposed new storage (wetland) basins will lead to the inundation of the local ditch network, risking flooding to Formby Dune Heath SSSI and Woodvale Airfield.
- Permanent winter water bodies have the potential to provide ideal habitats for wildfowl, this risk of this will only increase during the lifetime of the development. This could endanger Aircraft using Woodvale Airfield.

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- Given the above the proposed development would fail the exception test if it were to be reapplied now.

Formby Parish Council have attached the original objection **as appendix B** to this current objection, as the flooding and drainage strategy remains in our view unsatisfactory and the ditch network in the critical drainage area where the development is to be situated is hydraulically linked our previous objections remain.

Appendix A



Appendix B

DC/2018/00093 Outline application for the demolition of existing structures and construction of up to 286 dwellings including flood alleviation measures**Ground Conditions**

The Geotechnical surveys conducted as part of this planning application have highlighted serious difficulties, many of which lend weight to the Parish Council's objections to bringing this site forward for development.

From the earliest investigations the very high ground water has presented problems indeed the Developer's Ground Investigation Report describes the excavation of trial pit TP1 *"during the investigation the shallow sands were saturated and the trial pit sides unstable , leading to rapid collapse of the sides of the excavation. During the reinstatement of TP1, the backfill material was dilating and unstable, resulting in quick sands"*.

Section 7.3 **Ground Water Monitoring** of the same report goes on to say *"Groundwater levels appear similar to the surface water levels within the onsite drains. Groundwater flow may therefore be in the same easterly direction as the surface water"*. This is also the Parish Council's understanding.

During the summer of 2017 a dip well was dug with the help of Sefton Flooding and Coastal Erosion Officer Andy Martin behind 49 Hawksworth Drive Formby, under the supervision of Dr David Jordan, John Moore University. The purpose of this was to investigate reports of groundwater emergence in Hawksworth Drive.



Figure 3

Even in summer, 21st of July 2017 the ground became very wet at 40cm and beyond 80cm had to be sand pumped to sink the dip well. This would suggest a good degree of continuity between ground water levels north and south of Eight Acre Lane. This is significant, as the properties in Brackenway and Hawksworth Drive rely on soakways for their surface water drainage, any development that increased the level of ground water would compromise soakways sooner and a rise in the level of water in the drainage ditches would lead to tide locking of the road drains faster, increasing the risk of flooding to existing residents.

Section 7.1 **Strater Profile** of the same report identifies a 1.5m layer of amorphous peat. Chapter 10 of the **Environmental Statement** headed **Ground Stability** Section 9.77 says *“the raising of ground levels within the development area is likely to result in consolidation of the shallow soils, notably the Peat, that, unmitigated, may present a potential major (adverse) impact due to unacceptable total and/or differential settlements affecting the structural integrity of plots, services and infrastructure during the construction phase. 9.78 The reduction in ground levels within the flood storage areas may result in the rebound of the shallow soils, notably the Peat, that, unmitigated, may present a potential negligible (adverse) impact to future services (flood storage capacity)”*. This also has the potential to affect land on the periphery of the development as compressing these layers due to preloading may induce groundwater emergence and result in an increase in the water table in the surrounding area, compromising still further the flood storage capacity and compromising the Soakaways in neighbouring properties still further.

The Developer’s **Ground Investigation Report, Conclusions** Section 10.4 **Geotechnical Parameters, Groundworks, Excavations Stability and Groundwater Dewatering** paragraph suggests that reducing groundwater may be necessary to allow for deep excavations, however it goes on to point out that this may cause offsite ground instability saying, *“great care will need to be taken if reducing ground water levels to insure that the underlying strata, notably the Peat and Downholland Silt deposits, nearby buildings, structures and services are not affected”*. This type of settlement happened on the Meols Cop retail estate in Kew Southport, this was despite an array of planning conditions being placed on the applicant.

The same report also cautions about the **OFF SITE MIGRATION OF GAS** saying that *“If ground levels are raised significantly, the ground gas regime may change and could result in the possible off site migration of gas”*. Neighbouring properties have no protection from this gas, and mitigation in existing homes could be disruptive and costly. The contamination of the neighbouring watercourses will pose a threat to local wildlife particularly water voles.

Construction.

The Developer’s **Ground Investigation Report, Geotechnical Parameters, Piling Foundations** states that *“based on the ground conditions encountered, during the site investigation and anticipated allowable settlements , it is considered that driven precast concrete piles are likely to be the preferred solution for the proposes residential development”*. It goes on to caution that *“It may be prudent to commission structural surveys, derive acceptable vibration thresholds and undertake subsequent vibration monitoring of existing structures in the vicinity of the proposed development”*.

Chapter 13 of the **Environmental Statement** headed **Noise and Vibration** Table 13.18 illustrates that the driving of precast concrete piles is the most disruptive method of all the options. Potentially effecting receptors as far away as 215m (PPV of 0.3mm/s), properties and occupiers within 85m will be subject to a PPV of 1.0 mm/s and those within 15m could be subjected to a PPV of 10mm/s.

Human beings are known to be very sensitive to vibration, the threshold of perception being typically in the PPV range of 0.14 mm/s–1 to 0.3 mm/s–1. Vibrations above these values can disturb, startle, cause annoyance or interfere with work activities. At higher levels they can be described as unpleasant or even painful. In residential accommodation, vibrations can promote anxiety lest some structural mishap might occur. Guidance on the effects on physical health of vibration at sustained high levels is given in BS 6841, the table below.

Table B.1 Guidance on effects of vibration levels

Vibration level	Effect
0.14 mm·s ⁻¹	Vibration might be just perceptible in the most sensitive situations for most vibration frequencies associated with construction. At lower frequencies, people are less sensitive to vibration.
0.3 mm·s ⁻¹	Vibration might be just perceptible in residential environments.
1.0 mm·s ⁻¹	It is likely that vibration of this level in residential environments will cause complaint, but can be tolerated if prior warning and explanation has been given to residents.
10 mm·s ⁻¹	Vibration is likely to be intolerable for any more than a very brief exposure to this level.

Land Compensation Act 1973 (as amended), Highways Act 1980, allow a highway authority to provide insulation for dwellings and other buildings used for residential purposes by means of secondary glazing and special ventilation when highway works are expected to cause serious noise effects for a substantial period of time. The 1973 Acts also contain provisions that enable a highway authority to pay the reasonable expenses of residents who, with the agreement of the authority, have to find suitable alternative accommodation for the period during which construction work makes continued occupation of an adjacent dwelling impracticable. Formby Parish Council will endeavour to ensure that Sefton as the Highway Authority meet its obligations in this respect.

The Developer's **Ground Investigation Report, Geotechnical Parameters, Earthworks** cautions that *“some processing of material (notably the reduction in moisture content) is likely to be required for any excavated soils that are to be reused onsite. It may be difficult to stockpile excavated soils due to the high moisture content”*. The section also speculates that the excavated soil may not be suitable for engineered/ structured infill.

This suggests that the worst case estimate of imported materials to build up land levels is likely to be necessary. According to Chapter 11 of the **Environmental Impact Assessment** paragraph 11.92 This *“equates to 37 loads per day 74 two-way trips per day based on 260 working days (12 months). As such, over an 8 hour working day this equated to 5 trips per hour”*.

Although **Environmental Impact Assessment Chapter 11: Transport and Access** states that land North of Formby Industrial Estate and Land off Liverpool Rd Development sites have been taken into account when assessing the cumulative effect of development on the transport infrastructure it fails to address planning application DC/2018/00079, Scoping opinion request for the construction of a well pad, Land To The North West Of Suttons Lane Great Altcar. The Temporary Shale Gas Exploration, Preston New Road Transport Assessment page 14 Table 3 predicts peaks of 40-50 HGV movements per day during construction and similar for dismantling the well site, and the drilling phase requiring another 36 HGV movements and a similar number of what it refers to as “light vehicles” per day. Due to the conditions of the Shale Gas Exploration licence for the above application this activity will have to be completed within the next 2 years, so it is highly likely that the two projects will coincide with one another.

Transport Statement

Environmental Statement Chapter 11: Transport and Access also states that *“Freshfield Station is located approximately 1.5 km from the centre of the site and in a reasonable walking distance. It is not possible to provide a bus route to connect to Freshfield Station”*.

Planning for Walking, Chartered Institution of Highways & Transportation (CIHT 2015) Says “*More research into walking is needed*”. **Manual for Streets (2007)** Walkable Neighbourhoods requires “*a range of facilities within 10 minute (800m) walk*”. **The Institute of Highways and Transportation , Planning for Public Transport in Developments (IHT 1999)** states a “walk to bus stop should be less than 400m (reference to DoE Circular 82/73), and a Walk to Railway Station – 800m”.

This development is not well placed, 640m from the local circular busses F1, F2 and F6, a similar distance for the services to Southport and Liverpool and 1.5km away from Freshfield Station. The nearest secondary school Formby High School is approximately 1.8km away.

In Sustrans Report “Short Journeys, big Savings 2013”, points out that “*As car use has grown, travel by foot, bike and public transport has fallen. Only two out of five short journeys (under 5 miles) are currently made by foot, bike or public transport*”. Given this the 286 homes proposed for Land Off Bracken way will generate a significant amount of journeys many of which are likely to be to destinations within Formby, the absence of a bus service on the new site will only add to these pressures.

Chapter 11: Transport and Access paragraph 11.21 states that “*In order to assess the impact of the proposed development on the local highway network traffic surveys were undertaken on Tuesday 4th July 2017, from 0730 to 0930 hours and 1630 to 1830 hours, at the following junctions; A565 Formby Bypass/Coastal Road (signal controlled junction), A565 Formby Bypass/Southport Road (roundabout), A565 Formby Bypass/Altcar Road (signal controlled junction)*”. However it goes on to say, “*it should be noted that the traffic flows associated with the potential 69 dwelling residential development at Moor Lane, Ainsdale (Site MN2.11) have not been included within this analysis as it is considered the impact of the development will be minimal due to the number of dwellings proposed*”. The Ainsdale site is likely to be accessed primarily through A565 Road/Coastal Road signal controlled junction, and it is for the Transport Assessment to establish the cumulative effects of development, minimal or not of sites that are likely to come forward within the short term. Simply stating it will be “minimal” is not sufficient. This is in addition to the lack of consideration of the Shale Gas Exploration application already referred to above.

Flooding and Drainage

Section 7.7 of the Flood Risk Assessment, Flood Map Outputs produced an illustration of the effects of 1 in 100 year storm event (below). It goes on to say “*flood depths encountered are not significant and generally less than 100mm*” and that “the flood mapping data based on the provided topographic survey is considered the most accurate representation of the 100 year flood extent at the site and henceforth considered the baseline mapping results”



Figure 7.3 -Pre Development Flood Model (detailed topographical survey)

During the December 2015 storm Eva, the 1 in 30 intensity storms epicentre missed Formby, sparing us of its full effects; however despite this, the development site was inundated with flood water. See blow.



Flood Land North of 8 Acre Drain December 1 in 30 year storm event 2015



Flood Land North of 8 Acre Drain 1 in 30 year storm event December 2015

Indeed the real evidence of a less than 1 in 30 year storm in the photographs above are in fact more representative of the 1 in 1000 year pre development flood event produced by the applicants flood model.

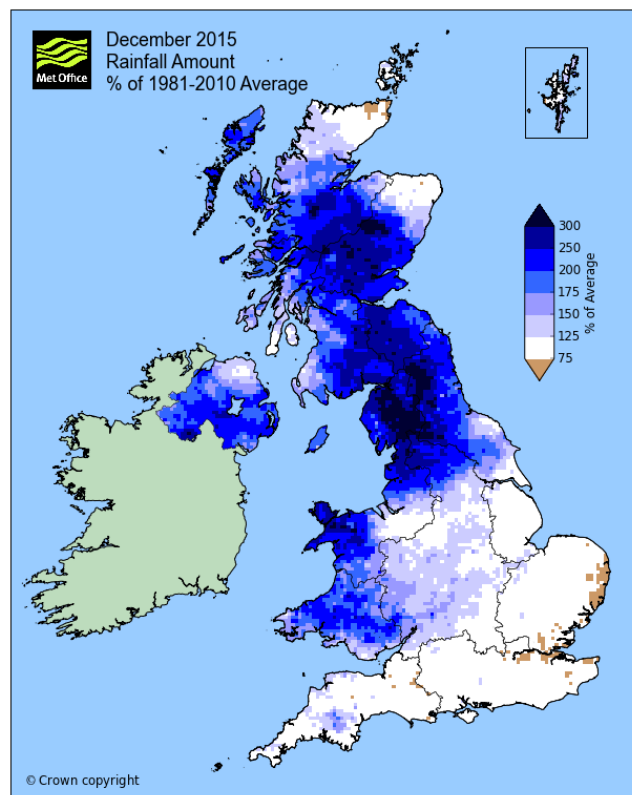
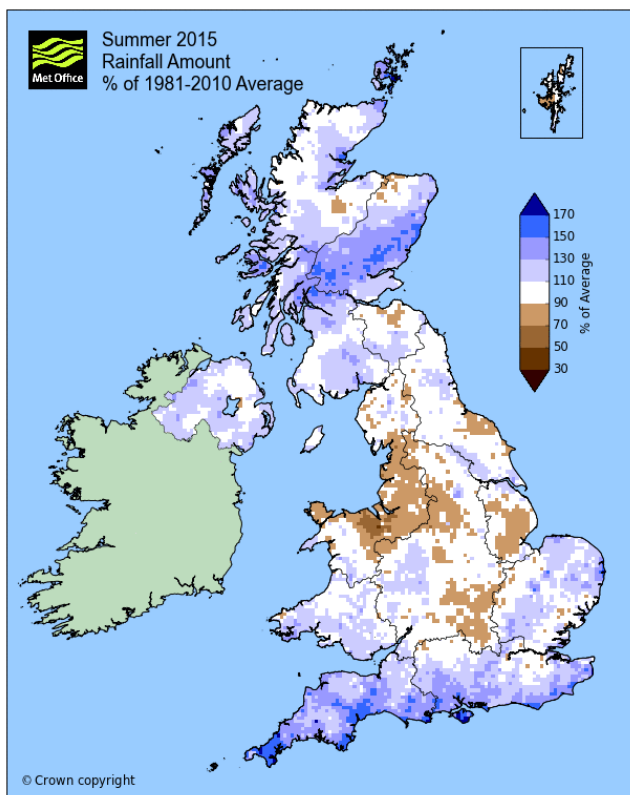
Although the photographic evidence undermines the applicants hydrological model it supports former senior land drainage engineer for Sefton Council, Mr John Williams' hypothesis that the groundwater flowing towards the bypass A565 is impeded by the deep foundations of the road and that the surface water and fluvial (water in the watercourses) levels are being potentiated by a surge in groundwater during wet winters and flooding events. It has already been stated and referenced above in the Ground Conditions Survey "*groundwater levels appear similar to the surface water levels within the onsite drains*". The hypothesis seems to be borne out also by residents' reports of ground water emergence in their gardens during prolonged rainfall. This is also given weight by the **Environmental Statement Chapter 9: Baseline Conditions 9.33** which acknowledges that "*Groundwater has been recorded between 0.1m and 0.8m bgl within the Blown Sand, with a general decrease in groundwater levels from Winter into Spring*". If Mr Williams' hypothesis is true, this will compromise compensatory storage by land lowering, the basins created for storm water will already be substantially full when the storm arrives.

Chapter 10: Drainage and Flood Risk para 10.44 says "*In the North West River Basin District, wetter winters and more rain falling in wet spells may increase river flooding for rivers and tributaries. More intense rainfall causes more surface runoff, increasing localised flooding and erosion*". This is just the kind of weather event that proceeds the flooding shown in the photographs above and as the statement suggests is likely to become more prevalent as a result of climate change. Para 10.111 goes on to say "*As noted in the Flood Risk Assessment undertaken for the site, areas to the south were reported to be flooded in September 2012. The causes of the flooding to the Hawksworth Drive area was caused by a combination of factors, including a prolonged rainfall event, high levels in Eight Acre Drain, poor maintenance of the Brook, 'tide locked' outfalls from the surface water drainage system on Hawksworth Drive and overtopping*"

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be noted that the **Environmental Statement None Technical Summary** p22 para 10.16-10.17 states quite clearly that *“The [FRA] assessment has confirmed that these properties and in particular Hawksworth Drive are not at risk of fluvial flooding in either the baseline scenario or the post development scenario. It has been determined that the flood risk in this location is a result of existing surface water infrastructure that serves these properties. In particular, the existing sewer outfall is tide locked at its outfall to Eight Arce Drain which becomes surcharged during periods of prolonged rainfall”*. Once again this discrepancy between the hydraulic model and what actually happened is of great concern. Overtopping of the banks of Eight Acre Drain does not occur during any of the pre or post development baseline modelled scenarios (1 in 100 storm return period) however the 2012 flooding occurred during a rainfall event with a 1 in 3 storm return period. Sefton Council’s Flood Investigation Report November 2012 gives the explanation as being due to a significantly above average rainfall between April and October that year, causing exceptionally high level of ground water. This is undoubtedly true. However as the 2015 flooding event demonstrates, even a below average rainfall during summer followed by above average rainfall in December can lead to the same results and cannot be explained by the applicants hydraulic modelling.



It is clear that ground saturation and ground water levels have a profound effect on flooding both within the development site and the existing housing estate. Despite explicitly giving high ground water as the reason for the extent of the flood in 2012 in Sefton’s own Flooding Report (November 2012), this is missing from the applicants assessment for the reasons Hawksworth Drive floods.

Hawksworth Drive and neighbouring estates rely entirely on soak-aways to deal with surface water drainage in residential properties. After prolonged wet weather the soak-aways fail, surface water builds up around properties and over flows into the foul water system. This then floods out from the

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manhole covers in the road and into the road gullies accompanied by fast runoff from none hard surfaces unable to hold any more water due to over saturation.

Any proposals that are likely to increase ground water on the development site, such as creating wetland basins where water will be encouraged to accumulate and drive the water table on site and in the neighbouring area of Hawksworth Drive or raising land and thereby consolidating the ground underneath taking away natural ground storage increasing the water table onsite and in neighbouring areas, will increase overall flood risk to the site and elsewhere.

Finally this following quote from British Geological Survey seems to sum up Mr Williams view on the use of SuDs in this part of Formby, "The infiltration rate must be considered in conjunction with the water table elevation which for most schemes should be at least 1 m below the base of the SuDS scheme. This unsaturated thickness is necessary to ensure that there is space for a local rise in groundwater that may result from stormwater infiltration. A permanent unsaturated zone is also required in most systems as a final polishing step for the treatment of stormwater pollutants, the majority of which should be removed via above ground pre-treatment stages.

The use of infiltration to the ground in replacement of piped drainage systems is essentially aiming to return the groundwater recharge regime to something closer to pre-urbanisation conditions. A long-term effect of this may be a rise in groundwater levels over the catchment-scale. Whilst this provides benefits for river base flow, it may also have consequences for subsurface assets such as basements and utilities and, in more serious cases, for areas susceptible to groundwater flooding. The use of catchment-scale modelling can predict groundwater rise and therefore should be a consideration when planning multiple SuDS schemes in urban areas." **(Surface Water Flooding: Sustainable drainage to the ground by Rachel Dearden and Simon Price of the British Geological Survey. <http://www.groundwateruk.org/Groundwater-issues-SUDS.aspx>)**

Ecology

The pressure on highly protected Sefton coastline and the offsite ecological impact is to be mitigated through the dual use of public open space and Sustainable Drainage System (Suds). This it is claimed will reduce the visitor pressure on the coast from a 15% increase to less than 1% increase. However as commented upon above, the hydrological model cannot be relied upon to determine the impact of development upon ditch network or storm water basins. The Wet meadow enclosures that form part of Lancashire Wildlife Trusts nature reserve sits adjacent to the dual use Suds/public open space. These enclosures are significantly higher than the proposed Suds storage and remain wet all year around. Conditions in these enclosures are challenging from early autumn to late spring. It is quite likely that similar if not worse conditions would arise on the public open space, given that this will be lower and thus wetter. This muddy marshy ground would be unappealing to dog walkers and unsuitable for other forms of recreation, would remain out of use for large parts of the year, and for the most part will offer little mitigation to the pressure on the Sefton Coast SAC.

Some of the land to be lowered is NERC Act 2006 section 41 habitat of principle importance, unimproved neutral grassland most of which is to be stripped away to allow for land lowering, then reinstated. As referenced above, during the digging of trial pits the land quickly became saturated and the side of the pits collapsed, when reinstated the ground turned into quick sand, and comments have been made in the Ground Conditions report of the difficulty in storing and processing the wet ground to be excavated. It's not clear how or if the topsoil and subsoil can be removed and

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stored, however even if achieved the grassland will be returned to a significantly lower wetter level. There is reason to believe that this land will not only become inundated more frequently but may stay submerged for prolong periods of time, destroying or replacing the current unimproved section 41 grassland habitat.



Permanently wet swale, Land South of Formby Industrial Estate.

The picture above is an example of a swale cut on land south of Formby Industrial estate to try and improve drainage on the adjacent football field. This is constantly full of water, and provides very little additional storage. Similar ground conditions to Land South of Brackenway.

Chapter 10 of the Environmental Statement : Flooding and Drainage, Sefton’s Comments Table forbids large water bodies due to the proximity of RAF Woodvale. Section 10.55 of the same document **Flood Storage and Land Lowering**, says *“The influence of groundwater in the areas to be lowered was highlighted, but it was accepted that the creation of the proposed flood storage areas would accommodate for this”*. However, given that the hydrological model cannot be relied upon, and in light of the comments from Rachel Dearden and Simon Price of the British Geological Survey, about SuDs driving ground water levels, there can be little confidence that this is accommodated for in the design.

The British Geological Survey article also points out the necessity of *“A permanent unsaturated zone (at least 1m) is also required in most systems as a final polishing step for the treatment of stormwater pollutants”*. There is no place on the site where this “buffer” can be achieved. Given the ecological sensitivity if the site this suggests that land lowering is not a suitable solution in this part of Formby.

The **DRAFT ECOLOGICAL & LANDSCAPE MANAGEMENT PLAN** Para 2.11 states that the grassland habitat will only be submerged *“during these peak events [1:100 and 1:1000 year flood events as identified in the Flood Risk Assessment] and are temporary, therefore the grassland habitat north of Wham Dyke will not be adversely impacted by these peak events”*. However Sefton’s own report on the 2012 Flooding of Hawksworth Drive shows, similar flood levels can occur during a 1 in 3 year flood event if there is above average rainfall in the summer and the 2015 flood shows that

a less than 1 in 30 year flood event following a wet December will generate similar flood levels. So reassurances about land north of Wham Dyke are cannot be relied upon, and given the likely effects of climate change, the real (not modelled) events described above are likely to become more common.

Raising land to the South of Wham Dyke, and consolidation of ground below, in particular the peat layer, could cause gas to migrate as referenced in the Ground Conditions comments above “*the ground gas regime may change and could result in the possible off site migration of gas*”. This is not only a hazard for humans but also Water Voles a NERC Act 2006 section 41 priority species.

The Environmental Statement Chapter 2 acknowledges that “*A survey of the Dyke has confirmed a good population of the European Protected Water Vole being present within the Dyke. The habitat survey also revealed a diverse mix of aquatic and marginal flora species associated with the Dyke that had the potential to support a range of invertebrate species as well as riparian mammals*”. Further to the risk of gas, there will also be temporary loss of this grassland to the north of Wham Dyke for creation of a lower lying area for flood risk management totalling approximately 4.2ha. The lowering of a 6-7m stretch of the northern banks (within the eastern section) of Wham Dyke and Eight Acre Drain has the potential to cause killing or injury to water vole and therefore a direct effect on the local population.

The **Environmental Statement None Technical Summary: Water Voles** paragraph 8.140 states that “*The probable direct killing/injury and indirect effects of habitat degradation and vibration disturbance will result in a significant negative effect at the County level to this feature*”. I would add to this that given the unreliability of the hydraulic modelling and the comments above by the British Geological Survey, there is no evidence that the habitat can be restored or improved as intended.

“*The water vole is the UK’s most rapidly declining mammal and has been lost from 94% of places where they were once prevalent.* Habitat loss, water pollution and massive building development have led to declines in the voles since the 1960s*” (**Hampshire Wild Life Trust 2018** <http://www.hiwwt.org.uk/news/2018/02/26/new-report-points-30-decline-water-vole-distribution>)

The **Environmental Statement** predicts that it will take 10 years for the new habitats to mature. Given the rapid decline of Water Voles and the likely disruption their habitat the proposed development could quite conceivably lead to the loss of this endangered mammal on this site.

Conclusion

For the reasons set out above Formby Parish Council ask that this application be refused on the following grounds :

MN6 LAND AT BRACKENWAY, FORMBY (part 1)

1. Land at Brackenway, Formby, is allocated for housing (as shown on the Policies Map). Development of this site must:

a. Include a flood risk mitigation scheme that:

i) ensures that new dwellings are not at risk from either fluvial flooding in a 1 in 100 year event, or flooding from any

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- ii) ensures that there is no increase in flood risk elsewhere caused by the development and
- iii) significantly reduces the existing surface water flood risk to properties on Hawksworth Drive by directing flood flows away from Eight Acre Brook to new flood storage areas adjacent to the Formby Bypass; and

Fails to conform with Policy MN6 section a. part i) ii) and iii) the flood model cannot explain the extent of flooding during 2012 1 in 3 storm return period or 2015 less and 1 in 30 storm return period storms, therefore it cannot be relied upon to determine whether new dwellings are at risk from a 1 in 100 year storm event and cannot be used to exclude the extent of flood risk elsewhere due to the new development.

Even if the flood models are accepted (and we should restate Formby parish Council reject them for the reasons set out above), the Environmental Statement None Technical Summary p22 para 10.16-10.17 states quite clearly that the model shows now risk of fluvial flooding to Hawksworth Drive during pre and post development flood modelling, so preventing Eight Acre Drain from over topping (reducing the peak flows in the watercourse by 100mm) cannot be claimed as betterment for the purposes of preventing flooding on Hawksorth Drive. The same document identifies the cause of the flooding on Hawksworth Drive as due to tide locking at the outfall of surface water drainage network where it joins Eight Acre Drain, but fails to explain how reducing the peak flow in the watercourse will cause a betterment given that the outfalls into Eight Acre Drain will still be tide locked. Finally the FRA fails to fully identify groundwater as a cause of flooding to the development site and Hawksworth Drive and consider how the new development will affect groundwater levels and its role in surface water flood risk to Hawksworth Drive.

MN6 LAND AT BRACKENWAY, FORMBY (part B)

b. Retain and manage 7.9 ha of grassland and wetland habitats outside of the residential allocation as a buffer zone to the adjacent nature reserve, including additional species enhancement measures. In addition, main water courses within the site (including Wham Dyke) must be maintained and enhanced with watercourse buffer habitats.

Fails to conform with Policy MN6 section b. Construction works and land lowering is likely to cause permanent or semi permanent inundation of the unimproved grassland, is likely to cause harm, construction work will lead to the loss of water vole habitat, due to degrading watercourses and is unlikely to be properly reinstated due to ground conditions, at the lower level. It states clearly that water voles will likely be killed during the construction process. Given the rapid decline in water voles over the past decade there is a real prospect of losing this species on the site if development were to go ahead.

EQ4 POLLUTION AND HAZARDS

1. Development proposals should demonstrate that environmental risks have been evaluated and appropriate measures have been taken to minimise the risks of adverse impacts which include amenity, damage to health and wellbeing, property and the natural environment (including internationally important nature sites) from: PPage 129

- a. Pollution of the land, water (including surface water and groundwater) and the air,
 - c. Noise/vibration, dust, odour or artificial light pollution.
- 2. Development will be permitted where it can be demonstrated that:
 - a. Appropriate measures are incorporated into proposals to avoid pollution to air, water and soil,
 - c. The impact of noise/vibration and lighting will not be significant or can be reduced to an acceptable level.
- 3. Development must lead to no deterioration of, and where practicable improve, water quality, and must protect and enhance Sefton's waterbodies and water environment.
- 4. The cumulative effects of pollution will be taken into account in terms of the impact of a number of developments in an area. The effects of a combination of various types of pollution will also be considered.

Fails to conform with Policy EQ4 section 1a and 2a failed to minimise the risks of adverse impacts Pollution of the land, water (including surface water and groundwater). The article by Rachel Dearden and Simon Price of the British Geological Survey stresses the need for an unsaturated zone of at least 1m to prevent ground water pollution. This is not attainable anywhere on the development site. Vibration pollution from piling will be significant, and due to ground conditions and the need for precast concrete piles, mitigation to acceptable levels will be impossible for those closest to the site contrary to EQ4 part 2c. The need to remove and store excavated saturated soils onsite during construction is acknowledged as problematic and may lead to muddy runoff and the pollution of ditches but there is no proposed remedy in any of the applications documents. This is contrary to EQ4 part 3.

EQ8 FLOOD RISK AND SURFACE WATER

Flood risk generally

- 1. Development must be located in areas at lowest risk of flooding from all sources, unless the Sequential Test and where appropriate the Exceptions test set out in national policy have been passed. Within the site, uses with the greater vulnerability to flooding must be located in areas with lower risk of flooding, unless it is demonstrated that there are overriding reasons why this should not take place.
- 2. Development proposals must not increase flood risk from any sources within the site or elsewhere, and where possible should reduce the causes and impacts of flooding.
- 8. Sustainable drainage systems must be designed to provide effective drainage for properties and their capacity must take account of the likely impacts of climate change and likely changes in impermeable area within the site over the lifetime of the development. Sustainable drainage systems and any water storage areas must control pollution and should enhance water quality and existing habitats and create new habitats where practicable.

Fails to comply with EQ8 Part 1. Sequential Test and the Exceptions test. The Inspector for Sefton's Local Plan said in his report "The Page 3 Page 130^{ed} Needs (OAN) assessment is

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not an exact science and in my judgement a robust figure is approximately 640 dpa, which equates to 11,520 additional dwellings over the Plan period".(Martin Pike BA MA MRTPI Report to Sefton Council March 2017)

Since the Public inquiry Liverpool City Region's Strategic Housing and Employment Land Market Assessment (SHELMA) DRAFT OAN for Sefton has been assessed as 594 dpa after adjusting for affordable housing of 54 dpa. This is arrived at after using the demographic data of 540 dpa as the baseline assessment. This equates to 820 fewer homes over the 18 year plan period, whilst still fully meeting objectively assessed need for housing.

Sefton Local Plan Paragraph 4.44 states *"The Council is committed to an immediate review of the Plan if the publication of the subregional Strategic Housing and Employment Land Market Assessment (SHELMA) identifies a need for more housing"*. Formby Parish Council would like to see an immediate review given that the OAN has now dropped significantly. It is clear that the development at Brackenway is not necessary for Sefton to meet its objectively assessed need for housing.

The Nation Planning Policy Framework States *"For the Exception Test to be passed:*

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and*
- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*

Both elements of the test will have to be passed for development to be allocated or permitted".

Because of the windfall developments that have occurred in Formby since the start of the plan period the town is on course to supply 30% more dwellings than allocated in Sefton's Local Plan and with the fall in OAN from 640-594dpa there is no pressing need to the community for these additional homes. The scheme is, by its own admission detrimental to local wildlife, and might lead to the loss of some or all of the water vole population. The development is likely to be disruptively noisy with the potential for damage to property through vibration and subsidence if dewatering occurs. At the same time the scheme is not able to demonstrate a robust model of the effects of development on local flood risk. Even if the applicant's model is accepted, it fails to demonstrate wider sustainability benefits to the community that outweigh flood risk.

Fails to comply with EQ8 Part 2 Development proposals must not increase flood risk from any sources within the site or elsewhere, the flood risk model fails to consider the effect of SuDs on ground water, or understand the role of ground water in flood events despite referenced as a cause by Sefton Council in 2012. The flood models cannot describe known flooding events so cannot be relied upon. The FRA fails to consider the affects of an increase in ground water to the neighbouring estate.

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Fails to comply with EQ8 Part 2 SuDs must control pollution and should enhance water quality and existing habitats and create new habitats where practicable. The proposed scheme is less than 1m from the water table, which according to the BGS risks introducing pollutants into the ground water, and risks permanently inundating priority section 41 unimproved grassland. Also the SuDs scheme fails to take into account the effect wetter winters will have on ground saturation levels (climate change), both ground recharging from SuDs and the soak aways from neighbouring developments.

NH2 NATURE

2. Development which may affect other designated sites of nature and/or geological conservation importance, Priority Habitats, legally protected species and/or Priority Species will be permitted where it can be demonstrated that there is no significant harm.

3. Development which may cause significant harm will only be permitted in:

b. Local Sites (including Local Nature Reserves, Local Wildlife Sites and Local Geological Sites):

where the reasons for and the benefits of development clearly outweigh the impact on the nature conservation value of the site and its broader contribution to the ecological network,

c. Priority Habitats:

where the reasons for and the benefits of development on balance clearly outweigh the impact on the nature conservation value of the habitat and its broader contribution to the LCR Ecological Network, and

d. Protected and Priority Species: where it is demonstrated that no significant harm will result.

4. Where it has been demonstrated that significant harm cannot be avoided, appropriate mitigation, replacement or other compensatory provision may be required, to accord with the hierarchy of sites. The location of appropriate mitigation, replacement or other compensatory measures will be targeted, using a sequential approach as follows:

a. On site

b. Immediate locality and / or within the Core Biodiversity Area

5. Where significant harm resulting from development cannot be avoided, adequately mitigated or, as a last resort, compensated, then planning permission will be refused.

6. Development proposals which affect sites of nature conservation importance, Priority Habitats, legally protected species or Priority Species must be supported by an Ecological Appraisal and include details of avoidance, mitigation and / or compensation, and management, where appropriate.

Fails to comply with NH2 Part 2, 3.b, 3.c and 3.d The development is likely to cause significant harm, and the reasons for and the benefits of development, have NOT been demonstrated to outweigh the impact on the nature conservation value of the site and its broader contribution to the ecological network. This site has a healthy population of Water Voles a priority species and fastest declining mammal in the UK (watervoles.org.uk). Given the importance of the habitat and the likely degradation through development, plus the importance of Water Voles in

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national and European terms and in view of other developments in Formby MN2.20, MN2.49 compromising their habitats elsewhere, this well established group should be left alone. Development will lead to pollution, predation, possible ground gas seepage into burrows, or collapse of burrows due to construction and disturbance from the members of the public and dogs.

Fails to comply with NH2 Part 4, 4.a, and 4.b Onsite mitigation cannot be achieved; compensatory land lowering is an essential part of lifting development out of the flood plain, and we suggest will lead to habitat degradation and loss. The surrounding area is already a managed habitat so this wouldn't constitute compensation.

Given the above we ask that in accordance with NH2 Part 5, *“Where significant harm resulting from development cannot be avoided, adequately mitigated or, as a last resort, compensated, then planning permission will be refused”*.

EQ1 HEALTHY SEFTON

Development should help maximise opportunities to improve quality of life to make it easier for people in Sefton to lead healthy, active lifestyles, by:

g. Having regard to accessibility of homes, education, jobs, public transport services, health and other services, recreational opportunities and community, cultural and leisure facilities.

EQ3 ACCESSIBILITY

In order to improve accessibility in Sefton, new development must adhere to the following principles:

b. Where practical, be located in areas that are accessible, or are capable of being made accessible, to bus stops and rail stations,

c. Be accessible to an existing range of local services and facilities or, where appropriate, be supported by new services and facilities.

Fails to conform to EQ1 and EQ3 as the site is poorly situated with relation to public transport, is outside recommended distances for walkable neighbourhoods for Secondary Schools, trains station and there will be no bus service on the new development site, local GP and Dental services are over stretched and may not be able to accommodate new residents.

NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

NPPF Para 32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and

- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Fails to conform to NPPF Para 32, Sustainable transport modes such as an onsite bus service is not included. As the development does not perform well in terms of walkable neighbourhoods, the impacts of sustainable forms of transport have been overstated. Evidence cited above from the Chartered Institution of Highways & Transportation (CIHT 2015) Manual for Streets (2007) The Institute of Highways and Transportation, and Planning for Public Transport in Developments (IHT 1999) suggest that this development will generate more trips than identified in the Transport Assessment.

It fails to address the cumulative effect of development by neglecting traffic flows associated with the potential 69 dwelling residential development at Moor Lane, Ainsdale (Site MN2.11) or address planning application DC/2018/00079, Scoping opinion request for the construction of a well pad, Land To The North West Of Suttons Lane Great Altcar, in the supporting Transport Assessment.

NPPF Para 100. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

- where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to facilitate the relocation of development, including housing, to more sustainable locations.

Fails to conform to NPPF Para 100, as the modelling cannot be relied upon to determine the extent of pre and post development flood risk, for the reasons mentioned above. Given the comments from the BGS and the effects of groundwater and SuDs, and given that this area relies totally on soak-aways, it seems likely that ground water will be a growing problem in this part of Formby as the effects of climate change become more apparent, it is questionable whether development is sustainable in the long term, and in keeping with NPPF Para 100 such developments should be directed elsewhere.

In view of all the above Formby Parish Council ask that Outline Planning permission for Land at Brackenway be refused.

ENDS

Objection – Lancashire Wildlife Trust

Dear Sirs

The Wildlife Trust for Lancashire, Manchester and North Merseyside have submitted an objection to The land at Bracken Way housing development however in the officer's report it has been condensed to 'based on loss of designated Local Wildlife Site and comment that biodiversity enhancements are possible only if funding for management in perpetuity is put in place'.

This does not reflect the full nature of our objection

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I have copied below further comments from our objection and would like to draw these to the attention of the planning committee.

If a suitable scheme to manage the "wild life extension" was agreed, this would still amount to an unacceptable loss of habitat. Due to the significantly negative effect the construction of the development and recreational pressure the development would bring.

Management in perpetuity is not in itself enough, but more importantly who manages that site, a wildlife charity, NGO or private management company.

There would be no means of mitigating the harm caused to the good population of water voles shown in the study.

The development will allow for the degradation of a designated LWS (Freshfield Dune Heath) due to increased disturbance by increased number of humans and their pets and indirect construction impacts on a LWS.

The importation of 76,000 tonnes of topsoil and ecological effects of the material needed to raise the ground level within the development site remains a concern.

What is the composition of material that is proposed to be used? What are the implications of run-off/seepage from this material into the adjacent grassland?

Thank you for your consideration.

ENDS

Applicant response to further objections

Your Ref: DC/2018/00093

Dear David,

Land at Brackenway, Formby: LPA Ref: DC/2018/00093

On behalf of Taylor Wimpey UK Ltd, I write ahead of the determination of the above planning application at the Council's Planning Committee on 6th March 2019.

This letter responds to the following late objections submitted to Sefton Council:

- Letter from Formby Parish Council to Sefton Council dated 25th February 2019 and issued to the Applicant on 25 February 2019;
- Anonymous letter to local MP, Bill Esterson, dated 29th January 2019 and issued to the Applicant on 28 February 2019.

This letter provides a response to flood risk, drainage and ecology matters raised in the late representations.

Flood Risk and Drainage

RSK the applicant's flood risk and drainage consultant has reviewed both letters in detail and provide the following response in relation to flood risk and drainage:

Letter from Formby Parish Council

Climate change has been considered throughout the Flood Risk Assessment (“FRA”) with reference to the Environment Agency’s (“EA”) Climate Change Allowance Guidelines, adopted in 2016.

The FRA outline that the Guidance provides a range of peak river flow allowances against an Allowance Category. The allowance categories are based on percentiles (a measure used in statistics to describe the proportion of possible scenarios that fall below an allowance level), with:

- The central allowance based on the 50th percentile
- The higher central based on the 70th percentile
- The upper end based on the 90th percentile.

The determination of the allowance category applicable to the site is ascertained through the confirmation of the River Basin District in which the site lies, the flood risk vulnerability of the development and the flood zone designation of the site.

The guidance adopted in 2016 provides information of peak river flow allowances for developments in Flood Zone 2 and 3, against the allowances noted above to assess future changes of peak river flow.

In accordance with Table 1 of the Guidance, for a more vulnerable residential development (100 years design lifetime) located with sections of the site lying within Flood Zone 3 in the North West River Basin District, the upper end allowance should be considered for the Total Percentage Change for the 2080’s for the site. As such a maximum allowance of a 70% increase in the peak river flows in the North West River Basin District would be incorporated where applicable.

The 70% increase in peak flows for incorporation into the assessment of the flood model was agreed between RSK and the EA and the Local Lead Flood Authority (“LLFA”) as part of the consultation process.

The FRA further references the Climate Change Allowances Guidelines with respect to potential peak rainfall increases in the area. In accordance with the Flood Risk Assessments: Climate Change Allowances published on 19th February 2016#, for the surface water runoff assessment of a residential development (100 year lifetime), FRA’s are required to assess both the central and upper end allowances to understand the range of impacts at the site.

As such an allowance of a 40% increase in the rainfall intensity values for the period 2060 to 2115 have been included in RSK’s FRA to account for the impact of climate change on the design of the development with respect to the Central (20%) and Upper End (40%) allowance. Increased rainfall due to climate change is accommodated for within the drainage strategy produced for the site, with attenuation sized to accommodate up to a 1 in 100 year plus 40% rainfall increase over the lifetime of the development.

Formby Parish Councils (“FPC”) response notes the significance of groundwater in the Formby area. The FPC response cites a previous FPC submission stating: *“The infiltration rate must be considered in conjunction with the water table elevation which for most schemes should be at least 1m below the base of the SuDS scheme.”*

The FRA highlights that 1m of unsaturated ground beneath the invert of any infiltration features is not achievable for this development and as a result the FRA states: *‘due to the groundwater levels at the site, infiltration is not a viable means of discharge for surface water’*. In light of this, infiltration measures are not being considered as part of the drainage proposals for the site.

Furthermore, in principle the surface water drainage strategy for the site will;

- Limit surface water discharge rates to 21 l/s and

Agenda Item 8

- Discharge of surface water to a section of retained ditch, directed solely towards Wham Dyke at agreed greenfield / pre-development rates. This method ensures that there will be no direct connection created into Wham Dyke to facilitate the site drainage network whilst being directed away from Eight Acre Drain. Therefore, the system is designed as to not have an adverse impact on the existing dwellings off Hawksworth Drive.

FPC's response states that: *'Even before the site is lowered, ground water has been observed between 0.1 and 0.8m below ground level, the FRA found ground water at approximately 5.55m AOD during testing in January 2017. According to the UK Met Office "this was a rather dry and mild winter". Met office mapping shows that Formby experienced an unusually dry winter with rainfall being less than 70% of the expected average.'*

The FRA takes this into account and states that: *'The groundwater flood risk to the development (and surrounding) area prior to construction is considered to be medium to high; however, due to the ground level works to be undertaken at the site i.e. raising part of the site to 7.5mAOD to groundwater risk to the residential development will be considered low, whilst surrounding areas (including the area outlined for flood compensation) would retain a medium to high risk of groundwater flooding.'*

Based on the groundwater data available from January 2017, the FRA highlights that an indicative area of ground in the eastern area of the site boundary (4.4ha) has been lowered to levels between 5.75m AOD to a maximum of 5.6mAOD.

The application proposals will reduce the fluvial flood levels within Eight Acre Drain by reducing flows to the watercourse, achieved by severing the lateral field ditches, directing the surface water discharge from the site north towards Wham Dyke and through the creation of the flood compensation / storage areas to the north of Eight Acre Drain. The hard engineering options on the right bank of Eight Acre Drain (increasing the length and height of the bund in the vicinity of the bypass, non-return valves on the outfalls) and the soft engineering options (de-silting of Hawksworth Drive surface water drainage network, de-silting / improving Eight Acre Drain and Wham Dyke culverts and an improvement maintenance regime for Eight Acre Drain), as outlined throughout the assessment process, will provide further benefits to the Hawksworth Drive area.

This scheme ensures that all significant mitigation measures outlined through the Local Plan site allocation process and furthered through this planning application are considered and implemented to ensure a significant benefit to the Hawksworth Drive area.

The Sequential Test and Exception Test required by the NPPF were carried out by the Council as part of the preparation of the Local Plan. The Local Plan Inspector had regard to these tests in his report at paragraph 231 which states:

"Overall there are no significant constraints to the development of this site. The moderate harm to the Green Belt is no worse than that at many other sites, the landscape impact would be limited and the loss of a large area with LWS designation would be adequately mitigated by substantial ecological enhancement to the part that remains. A solution has been found to the serious flood risk which, because of the need for new housing in Formby and the lack of alternative sites with a lower risk, satisfies the Sequential and Exception tests of national policy. The allocation would result in sustainable development which is consistent with the Plan's objectives and is sound".

Paragraph 162 of the National Planning Policy Framework ("NPPF") is clear that *"where planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the sequential test again"*. In light of this, there is no requirement for the Applicant to re-apply the Sequential Test **Page 137** oundly applied at the Local Plan stage.

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

- (i) The application proposals align with Local Plan Policy MN6 and all aspects of the proposals were considered when the exception test was applied by Sefton Council at the planmaking stage. The location of housing is proposed on the area of land allocated for housing in the Local Plan and the maximum number of dwellings proposed as part of this application is up to 286 dwellings which accords with the estimated number of dwellings in Local Plan Policy MN2. Furthermore, the principal vehicular access will be taken from Formby Bypass, a 7.9 hectare extension to the Nature Reserve is proposed to the north and flood compensation is proposed to the east. All these aspects of the application proposals were considered when the Exception Test was applied by Sefton Council at the planmaking stage.
- (ii) Furthermore, no recent information about existing or potential flood risk should be taken into account. The Local Plan was adopted at its Full Council meeting on 20 April 2017 and no recent information about existing or potential flood risk has been raised since then.

Even if the Exception Test were to be re-applied again, which it clearly should not, then the application proposals would be passed for the following reasons:

- (i) The development would provide wider sustainability benefits to the community that outweigh the flood risk. The Local Plan is up to date and there are no immediate plans to review it. The Council cannot currently demonstrate a deliverable 5 year housing supply and the application proposals will make a positive contribution towards both the Councils identified open market and affordable housing requirements. Furthermore, the application will secure significant flood risk and drainage benefits to Hawksworth Drive and a 7.9 hectare extension to the nature reserve. The development will also secure a range of socio economic benefits in terms of job creation and investment which will be delivered during the construction and operational phases.
- (ii) The FRA has demonstrated that the development will be safe for its lifetime taking account of vulnerability of its users, without increasing flood risk elsewhere, and will reduce flood risk overall and specifically to the properties on Hawksworth Drive. No objections have been raised to the application by the EA, LLFA and United Utilities (“UU”).

The compensation strategy for the flood mitigation works was designed in accordance with the available groundwater levels at the time. The approach and scope to the flood modelling and flood compensation strategies has been discussed and agreed with the EA, LLFA and UU. The hydraulic modelling carried out and confirmed by the EA show that these measures not only ensure the proposed development remains flood free, but also offers benefits elsewhere by reducing the peak flood levels within Eight Acre Drain.

Response to the Letter written to MP Bill Esterson

Climate Change

Climate change has been considered throughout the FRA with reference to the EA’s Climate Change Allowance Guidelines adopted in 2016 as discussed in detail above.

The flood mitigation measures proposed within the FRA have been explored with the relevant statutory consultees, namely the EA, the LLFA and UU. The fluvial flood modelling carried out has been based on an existing EA supplied flood model incorporating Eight Acre Drain. This model has been modified to reflect the proposals for the flood storage area to the north of Eight Acre Drain. The modelled scenarios include pre and post development situations showing 100 and 1000-year return period flood extent outlines and 30% and 70% increase in flow to simulate climate change. Whilst it is acknowledged that there are predictions that show localised variations in climate change, the 30% and 70% increase in river flows are in accordance with the Government's latest guidance for the North West River Basin District (issued in February 2016) and has been produced by the EA who are the Government's expert on flood risk.

The modelling also included analysis of blockage scenarios of culverts beneath the Formby Bypass and the impact on the development. The EA are satisfied that the detail in the FRA and modelling exercises undertaken demonstrate that flood risk to the site has been successfully minimised to the appropriate standard of protection and that as a consequence of the proposal, flood risk elsewhere will not be increased. This is in accordance with Local Plan Policy EQ8 (Flood Risk and Surface Water).

Surface Water Drainage – Proposed Development

In terms of the surface water drainage for the proposed development, this will be further refined as the scheme develops, however the principals have been designed in line with the current Sewers For Adoption guidance and have been deemed fit for purpose by UU, who have confirmed that both the foul water and surface water for this site will drain into separate systems as those used by the customers along Hawksworth Drive. Therefore, the flows from this development will have no negative impact to the sewer flood risk at this location. The surface water scheme for the development has been assessed against the 100 year plus 40% climate change as required by the NPPF.

Furthermore, in principle the surface water drainage strategy will;

- Limit surface water discharge rates to the greenfield rate; and
- Discharge of surface water to a section of retained ditch, directed solely towards Wham Dyke at agreed greenfield / pre development rates. This method ensures that there will be no direct connection created into Wham Dyke to facilitate the site drainage network and not towards Eight Acre Drain and therefore not have an adverse impact on the existing dwellings off Hawksworth Drive.

Surface Water Drainage – Hawksworth Drive

Significant consultation has been held with the LLFA and UU over the potential measures that could be considered to reduce the flood risk issues on Hawksworth Drive.

The proposals will reduce the fluvial flood levels within Eight Acre Drain by reducing flows to the watercourse, achieved by severing the lateral field ditches, directing the surface water discharge from the site north towards Wham Dyke and through the creation of the flood compensation / storage areas to the north of Eight Acre Drain (as agreed with the EA).

In order to assess the baseline scenario, the existing network was modelled based on UU records and surveyed data and assessed against the 2012 flood event as a baseline.

The hard engineering options on the right bank of Eight Acre Drain (increasing the length and height of the bund in the vicinity of the bypass, non-return valves on the outfalls) and the soft engineering options (de-silting of Hawksworth Drive surface water drainage network, de-silting / improving Eight Acre Drain and Wham Dyke culverts and an improvement maintenance regime for Eight Acre Drain), as outlined throughout the Local Plan site at **Page 139**ther through this planning application , will

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provide further benefits to the Hawksworth Drive area. This scheme ensures that all significant mitigation measures outlined through the Local Plan site allocation process and furthered through this application process are considered and implemented to ensure a significant benefit to the Hawksworth Drive area.

Numerous mitigation options have been considered in conjunction with the LLFA and have been agreed as acceptable to reduce the flood risk to properties off Hawksworth Drive. The LLFA has no objection to the proposed development and it has been robustly demonstrated that the application proposals accord with Local Plan Policies MN6 and EQ8.

Ecology

FPC state that the development site forms part of the drainage area for Formby Dune Heath Site of Special Scientific Interest (“SSSI”) and a Site of Local Biological Interest (“SLBI”) and that impacts on drainage could lead to habitat change within the dune system and in turn affect reptiles and ground nesting birds using these off site habitats. However, the modelling work undertaken by RSK (the Applicants flood risk and drainage consultant) concludes there will be no increased risk of flooding offsite. Given this conclusion there is no reason to anticipate impacts on habitats or species within these designations.

FPC reiterate their previous concerns regarding the effect of flooding on water vole. However, following the amendments to the application proposals, and specifically that the banks of Wham Dyke will no longer be lowered, which together with attenuation of surface water flow rates, will ensure that there will be no change in the existing conditions for water vole using Wham Dyke.

FPC states that the temporary waterbodies of the compensatory flood plain would create conditions attractive to wildfowl and this would pose a significant risk to aircraft associated with the nearby Ministry of Defence (“MoD”) airfield. The site conditions alluded to by FPC are not borne out by the flood risk modelling undertaken by RSK. This indicates any water will dissipate quickly with standing water as a result of a 100 year event only being present for a few days. Furthermore, the MoD has confirmed no objection to the scheme following the amendments to the application proposals.

Summary

In summary, the Applicant has undertaken robust Flood Risk and Ecology Assessments which have been submitted in support of the planning application. The application proposals are entirely acceptable in terms of flood risk, drainage and ecology and no objections have been raised by the EA, LLFA, UU, Natural England and MEAS.

We trust that this information provides a helpful response to the late representations received and would be grateful if you could confirm safe receipt. Should you wish to discuss this letter or require further information then please do not hesitate to contact me.

Yours sincerely

Jon Suckley
Senior Director
For and on behalf of
GVA Grimley Limited t/a Avison Young

ENDS

DC/2019/00091: 17 Grange Park, Maghull

The first reason for refusal has been rewritten for clarity.

The proposal by virtue of its size, scale, massing and design will cause significant harm to the character and appearance of the street scene and the non-designated heritage asset and is therefore contrary to policies NH15 and SD2(i) of the Local Plan and paragraph 192 of the National Planning Policy Framework.

Other matters

Measurements

The applicant has questioned two measurements on the submitted plans.

It is accepted that the two storey extension to the front elevation will project 0.7m and not 1.5m. In relation to the distance between No 15 Grange Park`s kitchen window and the proposed extension, the applicant claims this is 5.2m not 4.5m, as set out in the report.

The hand drawn site plan submitted with the application shows this distance to be just over 4m. The distance has been separately measured on an Ordnance Survey Plan to be 4.5m and so the report is believed to be correct in that aspect.

Further representation

An e-mail in support of the application has been received from the next door neighbour at No 19 Grange Park.

Comment from applicant

The applicant feels the report is inaccurate to state that this is 'the only window to the kitchen' (of the neighbouring property at No 15). There are large patio doors with a window above them in the same room, and the applicant asks for the report to be amended.

The report does acknowledge the patio doors which serve a combined kitchen and dining room as two rooms have been knocked together. It is accepted there is a window above the patio doors but this makes no difference to the analysis of the report which is concerned with reduced light into the kitchen, the over-dominance of the proposed side extension on this room, and the poor outlook which would result.

Maghull Neighbourhood Plan

The report does not refer to the Maghull Neighbourhood Plan and this is an omission. It is not considered that the proposal conflicts with the Neighbourhood Plan.

Item 4C

DC/2018/02181: Land Severed From 29 Moorgate Avenue, Crosby

Additional comments from the Drainage Manager that will be added as an informative.

INFORMATIVE

The development site is at significant risk from surface water flooding.

Policy EQ8 of Sefton's Local Plan states that proposals for the attenuated discharge of surface water into anything other than the ground must demonstrate why the other sequentially preferable alternatives cannot be implemented:

- into the ground (infiltration);
- to a surface water body;
- to a surface water sewer;
- to a combined sewer.

We recommend the applicant implements the scheme in accordance with the surface water drainage hierarchy outlined above.

In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

Item 4D

DC/2018/02253: 145 Sefton Street, Southport

As a result of re-notification in relation to amended plans received reducing the projection of the proposed rear extension 5 letters of objection have been received from properties in the area - these reiterate comments received on the original proposal in relation to :-

- Additional traffic adding to existing parking and traffic problems
- Increased noise levels
- Insufficient parking
- Impact on property values
- Japanese knotweed in garden

The comments largely relate to possible childminding at the site which has been addressed on page 77 in the main agenda.

Item 5B

DC/2019/00004: Land adjacent to 3 and 4 Brickfield Close, Lydiate

The agent would like to address matters raised by the Lydiate Parish Council. And provided the following comments:

We can confirm this proposal does not include for the removal of any trees, we have positioned and designed the proposed bungalows that they do not affect the neighbouring site trees.

We believe this proposal, because it's location and scale (bungalow), has minimal impact on the surrounding area and will sit comfortably within the existing adjacent dwellings.

Town Hall
Trinity Road
Bootle
L20 7AE

Date:
Our Ref:
Your Ref:

Contact: Olaf Hansen
Contact Number: 0151 934 2067
Fax No: 0151 934 2034
e-mail: olaf.hansen@sefton.gov.uk

Dear Councillor

PLANNING COMMITTEE - WEDNESDAY 6TH MARCH, 2019

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
9	Late Reps 2 (Pages 3 - 6)

Yours faithfully,

Democratic Services

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Parish Cllr Maria Bennett
25 St Annes Road
Formby
L37 7AS

5th March 2019

Planning Services
Sefton Metropolitan Borough Council
Magdalen House
30 Trinity Road
BOOTLE L20 3NJ

Objection to DC/2018/00093 Outline application Land at Brackenway

I object to the above development on the grounds that:

1. This Development should have to pass an “Exception Test” which in its present form it does not.
2. Climate Trend Evidence together with evidence submitted by RSK clearly shows that this development will lead to flooding elsewhere
3. It is not clear from the evidence presented that the development will be safe for the lifetime of the development i.e. 100 years and the development is in breach of planning guidelines.
4. Formby’s Surface Water Drainage system is unfit for purpose (see below) and as such is not capable of accommodating the cumulative effects of this development even with the mitigation proposed
5. The proposed development does not provide sufficient mitigation for “recreational tramping” on the rare and environmentally valuable Dune Heath.
6. Paradise Lane will not be able to evacuate the site quickly enough in the event of a flooding incident
7. The development is too remote from Formby in terms of accessibility to be suitable for the elderly and families with young children. Currently there are no Primary School places available in the adjacent schools. Redgate school is not accessible by the local bus service.
8. This development should have been enabled using a Community infra-structure Levy in order to upgrade the SWMP as part of the overall development of Formby.

Exception Test

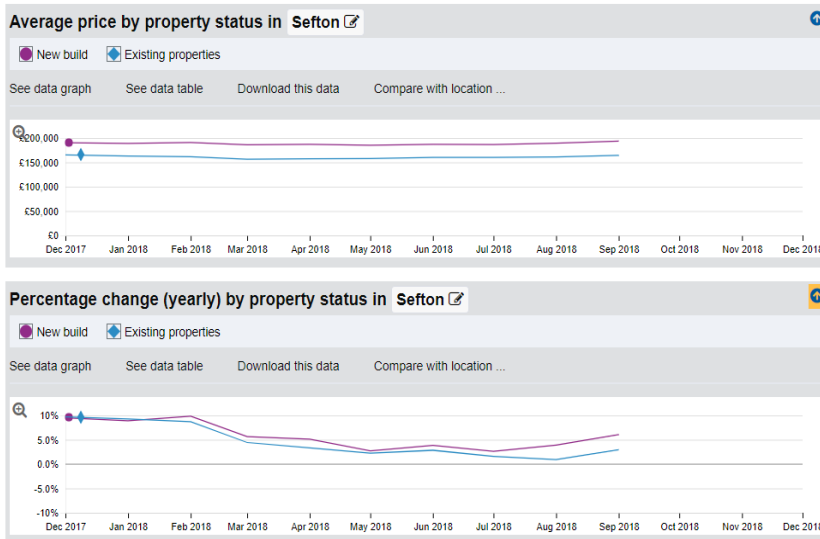
The Brackenway development should have to pass the **exception test**. This is because the proposed main entrance to the site (essential infra-structure) is in flood zone three and some of the site is in flood zone 2. Essentially, the 2 parts to the Test require proposed development to show that it will provide wider sustainability benefits to the community that outweigh flood risk, **AND** that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.

The sustainability benefits argued for the site are that it will produce housing to meet the needs of the Local Plan and provide us with affordable housing.

However, as SHELMA makes clear the proposed total of 286 houses are not needed to meet the requirements of the Local Plan. The high number of windfalls mean that the 286

figure is not required. Furthermore. The SHELMA report vindicated the opinion of the local residents and said the number of houses required is 594 (table 74) as opposed to the Local plan figure of 640 d.p.a.

Formby has a shortage of Affordable Housing, but it is doubtful whether this site will increase housing affordability in Formby. An analysis of Land Registry Data clearly shows that new houses are more expensive than existing property (see graph below).



Alleviate the existing surface water flooding problem

If the Brackenway development is to show a community benefit it must demonstrate it will alleviate the existing surface water flooding problem over the lifetime of the development which in planning terms is generally regarded to be 100 years. Planning guidelines are quite clear on this and yet the developers only provide us with a model **and data** for a *1 in 30 return period*. This is statistically significant given the MET office Study entitled **“Frequency of extreme rainfall events for selected towns and cities”** prepared for (Ofwat July 2010 by Michael Sanderson). This study shows that we can expect 1 in 100 extreme weather events to occur more frequently.

This is important because Sefton as the lead flood Authority identified that a **prolonged and heavy rainfall** event was a key factor in the surface water flooding event at Hawksworth Drive in 2012. This was only a 1 in 30 event but all the climate evidence suggests that we need to prepare for a 1 in 100 return event.

Indeed, a failure to do so would not only be a breach of generally accepted planning guidelines by Sefton Council but gross negligence. RSK only provide data for 1 in 30 weather events in fairness to them they do say there is almost certainly going to be a flood event in the future;

B Climate Trend Evidence together with evidence submitted by RSK clearly shows that this development is highly likely to lead to flooding elsewhere

RSK say

“The model was run using a surcharged outfall using the peak water level in Eight Acre Drain for the 30- year event of 5.935m AOD and a 30-year rainfall event falling on the network (this is the estimated return period for the flood event experienced in 2012,

however the water level in Eight Acre Drain during this event is unknown). It should be noted that if a 'Do nothing' option is considered, then the impacts of climate change will increase the likelihood and severity of a flood event."

The only thing we can be reasonably be certain of is that when we combine the data from the model with Sanderson's climate change data and correctly model it over the lifetime of the development i.e 100 years, The RSK model **cannot possibly demonstrate that this development will not lead to flooding elsewhere over the lifetime of the development.**

C It is not clear from the evidence presented that the development will be safe for the lifetime of the development i.e. 100 years and the development is in breach of planning guidelines.

The proposed development plans to use flood storage compensation areas for flood water attenuation. The problem with this approach is that much of this flood storage land will be too wet to significantly act as flood mitigation because of the increasing frequency of 1 in 100 year rainfall events. This means that when flood mitigation is most needed the likelihood is that these areas will be already full of water.

The ground water level is too high to allow this approach to be effective. Interestingly the developers at Liverpool road have had to make the swales and suds pools impermeable for precisely this reason. **The planning department need to explain why in the case of Brakenway this is not required?**

English Nature are cutting trees down on the coast to the immediate west of the site with a view to raising the water table this will mean that more water would have to be drained from the sand dunes and dune heath. English Nature would not be doing this if it didn't significantly raise the ground water level.!

The developers are going to use a pumped system for surface water drainage to direct runoff away from Eight Acre Drain. A pump failure scenario was only tested for a 1 in 30 event not for a 1 in 100 event (or were the model results unacceptable?). Does this mean the expected lifetime of the development is only 30 years instead of the general yardstick of 100 years?

Once again standard planning guidelines are not being followed.

D Formby's Surface Water Drainage system is unfit for purpose (see below) and as such is not capable of accommodating the cumulative effects of this development even with the mitigation proposed

RSK say on page 9 of their report that "**The existing surface water drainage system is not fit for purpose**". In 2011 Sefton calculated (SWMP 2011) there was a 3.3% risk or 420 these homes; businesses and infrastructure items being impacted by flooding during a year (1 in a 30 event). This means that during a 1 in 30 events 4% of all of Formby's homes, businesses and infrastructure could be impacted (Sefton average is 2%). Formby's Surface Water system drains into Downholland Brook. The entire drainage System for the Southport hinterland is designed to flow southward toward Downholland Brook.

The Brackenway development is the only development around Formby to drain water into this already defective system. Liverpool Road and Andrews Lane developers have recognised the problem and direct water into the Alt.

E The proposed development does not provide sufficient mitigation for “recreational tramping” on the rare and environmentally valuable Dune Heath.

The HRA produced by AECOM identifies the need for additional open Space over and above that required by E(Q)9 for a large Open Space in order to avoid damage done by “Recreational Tramping”. Given the need to keep large areas of the ground full of water and as a safe habitat for voles the developers have not allowed sufficient space. (see Section 4.3 HRA May 2016 AECOM)

Paradise Lane will not be able to evacuate the site quickly enough in the event of a flooding incident

It should be obvious to anyone who has attempted to use this road during the time when schools are emptying out or when an ambulance/fire vehicle is seeking to use this road that Paradise Lane is not capable of providing a route for mass evacuation.

The development is too remote from Formby in terms of accessibility to be suitable for the elderly and families with young children. Currently there are no Primary School places available in the adjacent schools. Redgate school is not accessible by the local bus service.

The Developer’s Accessibility Statement makes no mention of the fact that all of the adjacent Primary School places are full. The only available Primary School is at Redgate the other side of Formby. There is no direct bus service to this school and there are no plans to provide one.

The only practical solution would be for parents to use a car which goes against the LCR Healthy Travel to School Policy.

This development should have been enabled using a Community infra-structure Levy in order to upgrade the SWMP as part of the overall development of Formby.

Many of the drainage problems surrounding this site and others could have been more effectively solved to the satisfaction of both developers and residents if Sefton has adopted a Community Infra-Structure Levy. This would have supported more sustainable planning solutions by funding a holistic approach to planning. As it stands developer contributions under Section 106 will not provide a long-term solution to Formby’s Surface Water Problem which as RSK rightly point out given climate change is set to get worse.

Mrs Maria Bennett

Agenda Item 4a

Appendix B

Minutes of the 6th March 2019 Planning Committee Meeting

THIS SET OF MINUTES IS NOT SUBJECT TO "CALL-IN"

PLANNING COMMITTEE

MEETING HELD AT THE TOWN HALL, BOOTLE ON 6 MARCH 2019

PRESENT: Councillor Veidman (in the Chair)
 Councillor Michael O'Brien (Vice-Chair)

Councillors Ashton, Blackburne, Dutton, Jones,
John Kelly, Brenda O'Brien, O'Hanlon, Roscoe,
Spencer, Thomas, Lynne Thompson and Tweed

ALSO PRESENT: Councillors Jamieson, McCann, and Roche

104. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors McCann, and Gannon.

105. DECLARATIONS OF INTEREST

In accordance with Paragraph 9 of the Council's Code of Conduct, the following declarations of personal interest were made and the Members concerned left the room / remained in the room during the consideration of the item:

Member	Minute No.	Nature of Interest
Councillor John Kelly	Minute No.111 and DC/2018/00813 - Cabbage Inn, Fleetwoods Lane, Netherton, Bootle, L30 0QG	Prejudicial – Is a Member of the One Vision Housing Board. Left the room, took no part in the discussion of the item, and did not vote thereon.
Fiona Townsend, Legal Advisor	Minute No.107 DC/2018/00093 - Land North of Brackenway, Formby	Personal – a number of years ago had a family relationship with one of the petitioners. Stayed in the room during the consideration of the item.

Agenda Item 4a

PLANNING COMMITTEE- WEDNESDAY 6TH MARCH, 2019

106. MINUTES OF THE MEETING

RESOLVED:

That the Minutes of the meeting held on 6 February, 2019 be confirmed as a correct record.

107. DC/2018/00093 - LAND NORTH OF BRACKENWAY, FORMBY

The Committee considered the report of the Chief Planning Officer that recommended that the above application for Outline planning permission for the demolition of existing structures and construction of up to 286 dwellings including flood alleviation measures, extension of nature reserve, public open space, ground re-profiling and associated works. All matters are reserved except for access from the A565 and a new emergency vehicular/pedestrian/cycling access from Paradise Lane (layout, scale, appearance and landscaping are reserved for future consideration) be granted subject to the conditions and for the reasons stated or referred to in the report.

Prior to consideration of the application, the Committee received petitions from Mrs.Bennett, Ms.White, Messrs.Baxter, Clark, Connor, Evans, Gray, Irving, Lyons, Roberts, Parish Councillor McCann, and Councillor Jamieson (as Ward Councillor) on behalf of objectors against the proposed development and a response from the applicant's agents Mses.McFadyean, Seal, Messrs.Suckley, Whittingham, and Wooliscroft.

RESOLVED:

That the recommendation be approved and the application be granted subject to conditions and for the reasons stated or referred to within the report, Late Representations, Late Representations 2, and the completion of a Section 106 Legal Agreement.

108. DC/2019/00091 - 17 GRANGE PARK, MAGHULL, L31 3DP

The Committee considered the report of the Chief Planning Officer that recommended that the above application for the erection of two storey extensions to front, side and rear, to include Juliet balconies at first floor level, increase in the ridge height to incorporate rear dormers, single storey rear extension, and alterations to the front elevation of the dwelling house be refused for the reasons stated or referred to in the report.

Prior to consideration of the application, the Committee received a petition from Mrs.McGarry, the applicant, on behalf of supporters of the proposed development.

The Committee acknowledged the support for the proposal from local residents, and particularly from the next door neighbours, and considered this outweighed the reasons for refusal.

RESOLVED:

That the recommendation be not approved and the application be granted.

109. DC/2018/02181 - LAND SEVERED FROM 29 MOORGATE AVENUE, CROSBY, L23 0UE

The Committee considered the report of the Chief Planning Officer that recommended that the above application for the erection of a detached two storey dwelling house with accommodation in the roof space be granted subject to the conditions and for the reasons stated or referred to in the report.

Prior to consideration of the application, the Committee received a petition from Miss Kelly, on behalf of objectors against the proposed development.

RESOLVED:

That the recommendation be approved and the application be granted subject to conditions and for the reasons stated or referred to within the report and Late Representations.

110. DC/2018/02253 - 145 SEFTON STREET, SOUTHPORT, PR8 5DA

The Committee considered the report of the Chief Planning Officer that recommended that the above application for the erection of a single storey extension to the rear of the dwellinghouse be granted subject to the conditions and for the reasons stated or referred to in the report.

Prior to consideration of the application, the Committee received a petition from Mr. Truett on behalf of objectors against the proposed development and a response from the applicant, Mr. Haynes.

RESOLVED: That

- (1) the recommendation be approved and the application be granted subject to conditions and for the reasons stated or referred to within the report and Late Representations; and
- (2) subject to an extra condition, restricting the use of the extension for residential use only.

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PLANNING COMMITTEE- WEDNESDAY 6TH MARCH, 2019

111. APPLICATIONS FOR PLANNING PERMISSION - APPROVALS

RESOLVED:

That the following applications be approved, subject to:-

- (i) DC/2018/00813 - Cabbage Inn, Fleetwoods Lane, Netherton, Bootle, L30 0QG to be subject to an extra condition requiring 20% of the flats to be accessible for people with disabilities;
- (ii) the conditions (if any) and for the reasons stated or referred to in the Report of the Chief Planning Officer and/or Late Representations; and
- (iii) the applicants entering into any legal agreements indicated in the report or Late Representations:

Application No.	Site
DC/2018/00813	Cabbage Inn, Fleetwoods Lane, Netherton, Bootle, L30 0QG
DC/2019/00004	Land adjacent to 3 and 4 Brickfield Close, Lydiate, L31 4FA

112. VISITING PANEL

The Committee considered the report of the Chief Planning Officer which advised that the undermentioned sites had been inspected by the Visiting Panel on Monday, 4 March, 2019:

Application No.	Site
DC/2018/02181	Land Severed From 29 Moorgate Avenue, Crosby, L23 0UE
DC/2018/00093	Land North Of Brackenway, Formby
DC/2018/02253	145 Sefton Street, Southport, PR8 5DA
DC/2019/00004	Land Adjacent To 3 & 4 Brickfield Close, Lydiate, L31 4FA

PLANNING COMMITTEE- WEDNESDAY 6TH MARCH, 2019

DC/19/00091 17 Grange Park, Maghull, L31 3DP

DC/2018/00813 Cabbage Inn Fleetwoods Lane, Netherton
L30 0QG

RESOLVED:

That the report be noted.

113. PLANNING APPEALS

The Committee considered the report of the Chief Planning Officer on the progress on appeals lodged with the Planning Inspectorate.

Appellant	Proposal/Breach of Planning Control	Decision
Ms. Michaela Heath	DC/2018/01308 - 51 Selworthy Road, Birkdale, Southport, PR8 2HX - appeal against the Council's refusal to grant planning permission for the Erection of 1 no dwelling and alterations to the existing vehicular access.	Dismissed 21/11/2018

RESOLVED:

That the report be noted.

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Appendix C

Appropriate Assessment, Land North of Brackenway, Formby

Appendix 1: Appropriate Assessment DC/2018/00093 Land North of Brackenway, Formby

The applicant has submitted a Habitats Regulations Assessment Screening Report (*TEP, undated, 6483.007, version 3.0*) which discounts likely significant effects on qualifying features of the European sites due to the nature of the application site and measures which have been embedded within the proposed development.

The embedded measures proposed are not sufficient to enable a conclusion of no likely significant effects to be reached. Appropriate Assessment is therefore required in accordance with Sweetman (2018) and Regulation 63 (Habitats Regulations 2017).

The following Appropriate Assessment assesses whether the proposed development will have an adverse effect on the integrity of European sites alone and in-combination due to increased recreational pressure. In undertaking the Appropriate Assessment a clear distinction has been made between embedded mitigation measures (such as the on-site public open space, footpaths and bridleway) which as essential features and characteristics of the proposed development as set out in the HRA Screening Report and those which are characterised as additional mitigation measures which are proposed to avoid significant effects on European sites. The Appropriate Assessment has been completed on the basis that the following mitigation measures:

- Provision of a commuted sum towards managing impacts of recreational pressure on the Sefton Coast; and
- Provision of information in sales packs of each residential property, informing new residents of the presence and importance of European sites, and how residents can help protect them, including an outline ‘responsible user code’.

It is also completed on the basis that the mitigation measures are certain to be delivered as they will be required by the Competent Authority through suitably worded planning conditions and/or other binding legal agreements.

Receptor	Likely significant effect	Proposed Mitigation Measures	Adverse effect on site integrity with mitigation?
Qualifying species and habitats of the Sefton Coast SAC and the Ribble and Alt Estuaries SPA and Ramsar sites	Loss and degradation of habitats and displacement of qualifying species due to increased visitor numbers and residents from the proposed development	In addition to the embedded mitigation (i.e. public open space), the applicant has provided a package of additional mitigation measures comprising a commuted sum, to be used towards managing	Provided that the provision of the commuted sum is <u>secured through a s106 agreement</u> , and that the production of the information note for the sales packs is <u>secured by a suitably worded planning condition</u> , adequate mitigation will be provided and there will be no adverse

Agenda Item 4a

		<p>recreational pressure on the Sefton Coast, and an information note on European sites to be included within the sales packs of the new dwellings.</p>	<p>effect on the integrity of European sites.</p> <p>The commuted sum figure should mitigate 30% of the recreational disturbance arising as a result of the proposed development. The commuted sum figure must be used towards European Site Strategic Access Management and Monitoring Measures (SAMM) on the Sefton Coast SAC. The most effective SAMM on this case is to deploy additional coastal ranger capacity that will be funded via a commuted sum payment of £660 per dwelling (total for 286 dwellings £188,760). This commuted sum figure will provide approximately 9660 additional ranger hours as a SAMM measure over a 15 year period.</p>
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Agenda Item 5

Report to:	Planning Committee	Date of Meeting:	Wednesday 25 August 2021
Subject:	Planning Appeals		
Report of:	Chief Planning Officer	Wards Affected:	(All Wards)
Cabinet Portfolio:	Planning and Building Control		
Is this a Key Decision:	No	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary:

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

Recommendation(s):

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

Reasons for the Recommendation(s):

To update members on planning and enforcement appeals

Alternative Options Considered and Rejected: (including any Risk Implications)

N/A

What will it cost and how will it be financed?

(A) **Revenue Costs**
N/A

(B) **Capital Costs**
N/A

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Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets): There are no resource implications	
Legal Implications: There are no legal implications	
Equality Implications: There are no equality implications.	
Climate Emergency Implications: The recommendations within this report will	
Have a positive impact	N
Have a neutral impact	Y
Have a negative impact	N
The Author has undertaken the Climate Emergency training for report authors	N
There are no climate emergency implications.	

Contribution to the Council's Core Purpose:

Protect the most vulnerable: Not applicable
Facilitate confident and resilient communities: Not applicable
Commission, broker and provide core services: Not applicable
Place – leadership and influencer: Not applicable
Drivers of change and reform: Not applicable
Facilitate sustainable economic prosperity: Not applicable
Greater income for social investment: Not applicable
Cleaner Greener: Not applicable

What consultations have taken place on the proposals and when?

(A) Internal Consultations

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The Executive Director of Corporate Resources and Customer Services (FD.6479/21) and the Chief Legal and Democratic Officer (LD4680/21) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

Not applicable

Implementation Date for the Decision

Immediately following the Committee / Council meeting.

Contact Officer:	Tina Berry
Telephone Number:	0345 140 0845
Email Address:	planning.department@sefton.gov.uk

Appendices:

The following appendices are attached to this report:

Appeals extract from the back office system plus copies of any Planning Inspectorate decisions.

Background Papers:

The following background papers, which are not available anywhere else on the internet can be accessed on the Council's website www.sefton.gov.uk/planapps

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Appeals Received and Decisions Made

Email: planning.department@sefton.gov.uk

Contact Officer: Mr Steve Matthews 0345 140 0845

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

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

Appeals received and decisions made between 10 July 2021 and 08 August 2021

Appeal Decisions

Land To The Rear Of 61 Gardner Road Formby Liverpool L37 8DE

Reference: DC/2020/02046 (APP/M4320/W/21/3272332)

Change of use of the land from amenity space to a private garden.

Procedure: Written Representations

Start Date: 07/05/2021

Decision: Dismissed

Decision Date: 28/07/2021

34 Summerhill Drive, Maghull L31 3DW

Reference: DC/2020/02076 (APP/M4320/D/21/3268979)

Erection of a single storey garage extension to the front of the dwellinghouse.

Procedure: Householder Appeal

Start Date: 12/07/2021

Decision: Dismissed

Decision Date: 28/07/2021

The land at 2 Barkeley Drive, Seaforth, Liverpool L21 4LX

Reference: EN/2020/00311 (APP/M4320/C/20/3258710)

Appeal against without planning permission and within the last 10 years the change of use and conversion of the dwelling house to a 5 studio house in multiple occupation (HMO)

Procedure: Written Representations

Start Date: 10/11/2020

Decision: Allowed

Decision Date: 01/06/2021

Eden Salon, 32 Arbour Street, Southport, Merseyside PR8 6SQ

Reference: DC/2020/00949 (APP/M4320/W/20/3265736)

Erection of a two storey extension to the rear of property

Procedure: Written Representations

Start Date: 09/03/2021

Decision: Allowed

Decision Date: 28/05/2021

2A Marldon Avenue, Crosby L23 0SL

Reference: EN/2020/00094 (APP/M4320/C/20/3264144)

Without planning permission and within the last four years, the erection of a boundary fence and posts to the side of the dwelling house (as shown cross-hatched on the attached plan Ref A) in excess of 1 metre in height adjacent to a highway, Liverpool Road, Crosby.

Procedure: Written Representations

Start Date: 02/02/2021

Decision: Quashed

Decision Date: 28/05/2021

2A Marldon Avenue, Crosby L23 0SL

Reference: EN/2020/00094 (APP/M4320/C/20/3264143)

Without planning permission and within the last four years, the erection of a boundary fence and posts to the side of the dwelling house (as shown cross-hatched on the attached plan Ref A) in excess of 1 metre in height adjacent to a highway, Liverpool Road, Crosby.

Procedure: Written Representations

Start Date: 02/02/2021

Decision: Quashed

Decision Date: 28/05/2021

Reference: DC/2020/02059 (APP/M4320/W/21/3268667)

Variation of conditions 1, 14 and 16 pursuant to planning permission DC/2019/02432 approved 03/08/2020 to introduce gated access to the development

Procedure: Written Representations

Start Date: 26/03/2021

Decision: Allowed

Decision Date: 27/05/2021

34 St Andrews Road, Crosby, Liverpool, L23 8UB

Reference: DC/2020/01866 (APP/M4320/D/20/3266008)

Erection of two storey extensions to the both sides and rear, alterations to the roof, rear dormer extension, incorporating a balcony, a living green wall to form part of rear dormer, and alterations to the rear boundary and landscaping of the dwellinghouse (part retrospective).

Procedure: Householder Appeal

Start Date: 09/03/2021

Decision: Allowed

Decision Date: 30/04/2021

16 Waterway Avenue, Netherton L30 8RQ

Reference: DC/2020/01085 (APP/M4320/W/20/3262749)

Erection of a single storey extension to the rear of the dwelling house and a detached garage (alternative to DC/2020/00194)

Procedure: Written Representations

Start Date: 10/12/2020

Decision: Allowed

Decision Date: 05/03/2021

Bootle Cricket Ground, Wadham Road, Bootle, L20 2DD

Reference: DC/2020/00636 (APP/M4320/W/20/3262057)

Erection of safety netting/fencing on Wadham Road boundary of cricket ground

Procedure: Written Representations

Start Date: 25/11/2020

Decision: Allowed

Decision Date: 10/02/2021

New Appeals

34 Summerhill Drive Maghull Liverpool L31 3DW

Reference: DC/2020/02076 (APP/M4320/D/21/3268979)

Erection of a single storey garage extension to the front of the dwellinghouse.

Procedure: Householder Appeal

Start Date: 12/07/2021

Decision: Dismissed

Decision Date: 28/07/2021

Greenloons Farm Kirklake Road Formby Liverpool L37 2DD

Reference: DC/2019/01421 (APP/M4320/W/21/3271324)

Erection of dwellinghouse following demolition of existing dwelling

Procedure: Written Representations

Start Date: 20/07/2021

Decision:

Decision Date:

100 Cambridge Road Crosby Liverpool L23 7UA

Reference: EN/2021/00198 (APP/M4320/C/21/3276885)

Appeal against the creation of a balcony / terrace on top of the existing garage roof and erection of a rail to the perimeter of the balcony / terrace

Procedure: Written Representations

Start Date: 16/07/2021

Decision:

Decision Date:

51 Sandhurst Drive Aintree Liverpool L10 6LU

Reference: DC/2021/00943 (APP/M4320/X/21/3277991)

Certificate of Lawfulness for the proposed detached outbuilding in the rear garden.

Procedure: Written Representations

Start Date: 02/08/2021

Decision:

Decision Date:

9 Hawthorne Road Bootle L20 2DG

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Appeals received and decisions made between 10 July 2021 and 08 August 2021

Reference: DC/2020/01792 (APP/M4320/W/21/3277692)

Change of use of the first and second floors from gymnasium (Use class E) to dwelling (Use class C3) with alterations to the shop front to provide a separate access

Procedure: Written Representations

Start Date: 20/07/2021

Decision:

Decision Date:

77 Scarisbrick New Road Southport PR8 6LJ

Reference: DC/2020/02568 (APP/M4320/D/21/3276976)

Erection of a retractable enclosure for outdoor swimming pool (retrospective) and erection of fence to boundary wall

Procedure: Householder Appeal

Start Date: 12/07/2021

Decision:

Decision Date:

Park House Guest House Haigh Road Waterloo Liverpool L22 3XS

Reference: DC/2019/01043 (APP/M4320/W/21/3270408)

Outline planning application with all matters reserved except for access for extra care residential apartment building and independent living residential apartment building (C3) (up to 142 units), for occupants aged over 55 years and 100% affordable, including demolition of existing building.

Procedure: Written Representations

Start Date: 16/07/2021

Decision:

Decision Date:



Appeal Decision

Site Visit made on 6 July 2021

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 28 July 2021

Appeal Ref: APP/M4320/W/21/3272332

Land to the rear of 61 Gardner Road, Formby, Merseyside L37 8DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Matthew Edwardson against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2020/02046, dated 5 October 2020, was refused by notice dated 5 February 2021.
 - The development proposed is described as 'We need a change of use for the land to the rear of 61 Gardner Road from local amenity to garden use. We are purchasing the land from the Souini Group and need change of use to complete the sale. We will erect a 6ft wooden fence to complete the boundary.'
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of the proposed development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development proposed is the change of use of land from amenity space to a private garden, and the erection of an approximately 1.8 metre high concrete post and timber panel fence. I have dealt with the appeal on this basis as it more accurately describes the proposal.
3. The application form also states that the site address is 61 Gardner Road, however the Council's decision notice refers to the location of development as 'land to the rear of 61 Gardner Road'. I have used the Council's site address in the banner heading above as it is also more accurate.
4. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The content of the revised Framework has been considered but in light of the facts in this case it does not alter my conclusion.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

6. The appeal relates to a roughly rectangular shaped piece of open green land directly to the rear of 61 Gardner Road's back garden. It is part of an area of open space comprising amenity grassland and trees to the side of a pedestrian footpath named Mittens Lane. This footpath connects Gardner Road with other residential streets including Smithy Green and Watchyard Lane.

7. Long stretches of Mittens Lane have relatively narrow grass verges to either side of it, however these open up to form a larger area of grassland around and within a looped section of this footpath, to the rear of No 61. Although the appellant has informed me that this arrangement was a result of the presence of oil tanks rather than any planned provision, I consider this area of open space to provide an important green corridor and soft visual break in the built-up development. I note that, on a plain reading, Local Plan policy NH5 relates to all forms of open space, rather than that which is formally designated or identified as such.
8. I acknowledge that the proposed concrete post and timber fence would be similar in height and design to boundary treatments elsewhere in the area and that it would align with existing fence lines to the rear of the neighbouring properties at 63-71 Gardner Road. I am also aware that the appeal site only forms a relatively modest portion of this larger area of open space and that a mature sycamore tree is proposed to be retained.
9. Nonetheless, the proposal would result in an increased sense of enclosure beyond the rear of the property. The likely introduction of domestic paraphernalia associated with the change of use to garden land, would inevitably alter its character and significantly reduce the openness of this area of amenity grassland. Consequently, the large extent of fencing, likely associated domestic paraphernalia and the encroachment into the open space would be visually obtrusive when viewed from Mittens Lane and from the rear windows of neighbouring properties on Gardner Road, Smithy Green and Watchyard Lane.
10. I note the appellant's willingness to accept planning conditions for the protection of the tree roots during the works to erect the proposed fencing and for further details of the design and appearance of the proposed fence to be submitted to the Council for its approval. However, these would not provide sufficient mitigation measures to overcome the harm that I have identified above.
11. I therefore find that the proposed change of use and subsequent loss of an area of open space would significantly harm the character and appearance of the area. As such it conflicts with Policies EQ1, EQ2 and NH5 of A Local Plan for Sefton (2017) and Policy ESD2 of the Formby & Little Altcar Neighbourhood Development Plan 2012 to 2030. These collectively seek, amongst other matters, for development to positively contribute to local character, protect open space and retain and enhance important landscaped features.

Other Matters

12. The Council has provided little conclusive evidence to substantiate how the proposed development would lead to a less safe environment. Conversely, I am mindful that the proposed fencing would remove the relatively deep and secluded 'blind corner' to the western side of the fence line of No 63 and would prevent access to the rear garden area of No 61. Whilst the proposal would also create a blind spot to the side of its western fence line, this would be sited further away from the footpath, which curves away at this point, than the existing blind spot and would thereby provide greater separation between it and the users of Mittens Lane.

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Appeal Decision APP/M4320/W/21/3272332

13. Nonetheless, whilst I note the appellant's household's experience in respect of an intruder, it has not been substantiated that the proposal is the only practical means of ensuring the immediate security of the area or safety of the users of the footpath. These factors therefore limit the weight that I can attribute to this matter in favour of the proposed scheme.
14. I also note the appellant's dissatisfaction in respect of the delegated planning officer report's coverage of local resident's representations. Nevertheless, this matter has not had any bearing on my decision as I have only had regard to the planning merits of the proposal that is before me.

Conclusion

15. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should therefore be dismissed.

Mark Caine

INSPECTOR

Appeal Decision

Site Visit made on 22 July 2021

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2021

Appeal Ref: APP/M4320/D/21/3268979

34 Summerhill Drive, Maghull L31 3DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Williams against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2020/02076, dated 14 October 2020, was refused by notice dated 4 December 2020.
 - The development proposed is a garage extension to the front elevation.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. On 20 July 2021 a revised National Planning Policy Framework ('the Framework') was issued replacing the version of the Framework published in 2019. However, it does not change design policy in relation to the proposal.

Main Issue

3. The main issue is the effect of the proposed extension on the character and appearance of the host dwelling and the surrounding area.

Reasons

4. The appeal property is a two-storey semi-detached dwelling in an area characterised by a range of dwelling types and styles. A number have modest extensions to the front. Summerhill Road is relatively straight, but it rises and curves gradually near to No 34. Although not universal, properties in the road do have open plan frontages and are set back from the road. Properties also have off-street parking and/or front gardens. Several trees populate the front garden of 36 Summerhill Drive.
5. The adjacent dwelling at 32 Summerhill Drive has a single-storey front extension that abuts and extends forward of the appeal property's existing garage. This relationship reflects the slight variation between the front building lines of the semi-detached pairings at 30 and 32 and 34 and 36 Summerhill Drive and other properties on the south-eastern side of the road. This is in response to the curvature of the road.
6. Despite this variation, the proposed garage would project a considerable distance beyond the appeal property's front elevation and the extension at No 32. Given the depth of the proposed extension, the Council's House Extensions Supplementary Planning Document (SPD) explains that this type of development will only be permitted provided that it does not cause harm to,

among other things, the existing building and the character of the area. Extensions should also reflect the consistent line of buildings and the character of other properties in the area, including the design and depth of any front extensions on neighbouring properties. They should also be of a size compatible with the existing building.

7. The height, massing and appearance of the proposed garage would harmonise with the host property and the surrounding area. The proposal would also retain adequate parking and garden provision to the front. However, the size of the proposed extension's forward projection would not be in keeping with the host dwelling and it would not respond to the slight variation in the line of buildings that characterises the street. The effect from the south west would not be particularly harmful owing to the extension at No 32 but when the site is viewed from the north and from the area close to the junction of Summerhill Drive and Ashleigh Road the proposal would be especially noticeable and cause a detrimental effect on the character and appearance of the street scene even with the screening afforded by several trees.
8. It is commonplace for residents on the road to have a view of neighbouring properties. I also note the intention to render the flank wall of the extension to No 32. Even so, house extensions do need to be of a size and scale that is in keeping with the original dwelling. The proposal would not achieve this.
9. The submitted plan shows that the extension would be used as a garage, and it may allow larger vehicles to be parked inside thereby affording protection against prospective crime. I am mindful of the appellant's potential longer-term plan to adapt his home to form a downstairs bedroom which could allow a long-standing resident, to remain in his home whilst making efficient use of the house. Both matters weigh in favour of the appeal scheme, but they do not outweigh the significant harm that the proposal would cause especially as there is no substantive evidence to indicate whether the home could still be adapted by using either the current footprint or a smaller extension.
10. I conclude that the proposed extension would cause a significant harm to the character and appearance of the host dwelling and the surrounding area. Accordingly, it would not accord with Policy HC4 of A Local Plan for Sefton, Policy MAG 4 of the Maghull Neighbourhood Plan 2017 – 2037 and the SPD. Jointly, these seek, house extensions to be of high-quality design which is of a size and scale that is in keeping with the original dwelling and respects the general layout of the area.

Conclusion

11. The proposal would not harm the living conditions of neighbouring occupiers in terms of the loss of light or outlook. However, the proposed development would not accord with the Development Plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this.
12. For the reasons given above I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR



Appeal Decision

Site visit made on 28 April 2021

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 June 2021

Appeal Ref: APP/M4320/C/20/3258710

The land at 2 Barkeley Drive, Seaforth, Liverpool L21 4LX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs M Price against an enforcement notice issued by Sefton Metropolitan Borough Council.
 - The enforcement notice was issued on 6 August 2020.
 - The breach of planning control as alleged in the notice is without planning permission and within the last 10 years the change of use and conversion of the dwelling house to a 5 - studio house in multiple occupation (HMO).
 - The requirements of the notice are to cease using the premises as a House in Multiple Occupation (HMO).
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (f) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is allowed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the material change of use to a four bedroom house in multiple occupation (HMO), in accordance with the following plans: 0806.P.0104 and 0806.P.0103 dated July 2020, at 2 Barkeley Drive, Seaforth, Liverpool L21 4LX and subject to the following condition:
 - 1) No more than four persons shall be resident at the property at any time.
2. It is directed that the enforcement notice is varied by the deletion of two months and the substitution of four months as the period for compliance. Subject to this variation the appeal is dismissed and the enforcement notice is upheld insofar as it relates to the use as a five studio HMO and planning permission is refused in respect of the change of use and conversion of the dwellinghouse to a 5 - studio HMO on the application deemed to have been made under s177(5) of the 1990 Act as amended.

Preliminary Matter

3. The terms of the appeal on ground (a) derive directly from the alleged breach of planning control set out in the notice. Nevertheless, I do have the power under s177(1)(a) of the 1990 Act to grant planning permission for any part of the matters stated in the notice. I am also required to consider whether there is an obvious alternative which could overcome the planning difficulties, at less cost and disruption than total cessation of the use as currently required by the notice.

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4. Under the ground (f) appeal the appellant proposes that if use as a five bedroom/five person HMO is not found to be acceptable, permission be granted for use as a four-bedroom/four person HMO. In this respect they have submitted a floor plan which shows room two being used as a lounge which would also then enable the outdoor amenity space to be accessed from within the property and used by all occupants. This proposal has been previously submitted to as a planning application¹ and subsequently refused by the Council, since the appeal was made.
5. However, since the use of the property as a four bedroom HMO would form part of those matters constituting the breach as stated in the notice, it is therefore open to me to consider the merits of the alternative proposal under the ground (a) appeal. In doing so I have had regard to the Council's reason for refusal.

The appeal on ground (a) and the deemed planning application

6. The main issue is the effect on the living conditions of current and future occupants with particular regard to the standard of accommodation.
7. The Council's Flats and Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2018) (SPD) sets out minimum internal room sizes for HMOs. In this case there is dispute between the parties about which are the relevant standards. Whilst the rooms have double beds, the appellant confirmed that the rooms are let on a single occupancy basis and that there are five occupants. In the absence of contrary evidence, I have determined the appeal on this basis.
8. The rooms include a kettle, fridge, small work surface and some storage. Such facilities whilst normally found in kitchens are limited, and since the occupants have access to a communal kitchen, I consider it is reasonable to apply those standards relating to single room bedsits without kitchen facilities. However, there is no communal living room or lounge area, the only inside space for occupants outside of their bedrooms is the modest kitchen, which is not reasonably large enough for use as a communal dining or sitting area. Accordingly, I consider the standard to be applied is 15sqm. In this case all the rooms fall short of this standard.
9. The SPD recommends that all residents in HMO schemes have access to communal areas in which they can spend time to relax, socialise, eat meals etc. It goes on to state that this is particularly important as residents will otherwise only have one room to spend the majority of their time. However, if the rooms provided are spacious i.e., they meet the standards set out in the SPD, then the Council recognises that communal rooms may not be required as residents will have sufficient private space.
10. As already noted above, the only indoor space outside of the bedrooms consists of the modest kitchen and it seems unlikely that the occupants could comfortably spend a significant amount of time in that space together. Consequently, it seems occupants would spend a substantial amount of time in their bedrooms.
11. For a five person HMO the SPD requires a minimum of 40sqm outdoor amenity space which is accessible to all residents. The yard area at the house is,

¹ DC/2020/01442

- according to the Council, around 22sqm which is a significant shortfall. Additionally, this space can only be accessed from within the house through bedroom two and therefore, it seems that only the occupant of bedroom two would reasonably have access to and use of the space.
12. The SPD states that the Council may, in limited exceptional circumstances, accept a lower amount of amenity space if it is not possible to meet these standards, including where the proposal is within easy walking distance to a local centre and where the benefits of being close to community facilities and public transport are significant.
 13. Whilst the appellant stated that there are public parks within walking distance, they provided no details about how far away these are and, in any case, these provide a different function to private residential amenity space and as such do not provide a substitute.
 14. Overall, considering the shortfall in room sizes, the need to utilise bedrooms due to the very limited communal space available and the absence of outdoor amenity space for all residents, I find that the accommodation is undersized, resulting in deficient residential quality to the detriment of the living conditions of the existing and future occupants.
 15. Consequently, the use is contrary to Policy HC4 of the Sefton Local Plan which requires that there should be no significant harm to the living conditions of occupants. It also conflicts with the National Planning Policy Framework (the Framework) which requires a high standard of amenity for all existing and future users of buildings.
 16. There is adequate space for bin storage, and this would not have been a reason alone to dismiss the appeal.
 17. That the house could be occupied by a family of five does not alter my judgement since family occupation is different to occupation by unrelated individuals. Similarly, that the Council identified no other harm, is a neutral matter which cannot outweigh my findings.
 18. However, the appellant's proposed alternative would see room two being used as a lounge which would mean that the occupants would have access to a communal lounge and the outdoor amenity space.
 19. In the case, where occupants have access to a communal living room/lounge area, the bedrooms would need to provide at least 10sqm of space. All the bedrooms would achieve that standard and the kitchen and lounge would provide the required 7sqm and 11sqm.
 20. The outdoor amenity space required for a four person HMO would be 30sqm. At 22sqm there would remain a shortfall however, whilst I consider the provision of outdoor space is important, based on my site observations it appears that the space would be sufficient for the intended number of occupants, including for drying clothes and socialising. As such and considering the generally transient nature of occupants of HMOs, I find that the shortfall in outdoor space would not be materially harmful to the living conditions of the occupants.
 21. The Council referred to and provided copies of three appeal decisions in support of their argument on this matter. Those cases all related to the creation of self-contained flats. In the King Street case the shortfall was

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significant and only two of six apartments would have direct access to outdoor space. In the Linacre Road decision, it was a combination of a shortfall in the size of both the internal and external accommodation which was considered to be harmful. Finally, in the Peel Road decision, two of the flats would have had small balconies and the occupants of the ground floor flat would have had no access to private or communal outdoor space. I consider none of these cases are directly comparable to the appeal development either in terms of the type of accommodation or shortfall in provision and they do not alter my judgement.

22. Although there would be conflict with the SPD in terms of the size of the outdoor amenity space, the proposed alternative would accord with the overall aims to ensure a good standard of accommodation for occupants.
23. Given my above findings, I consider that the use as a four bedroom/person HMO, would have an acceptable effect on the living conditions of the occupants having regard to the proposed standard of accommodation. Therefore, there would be no conflict with the amenity protection aims of Policy HC4 of the Sefton Local Plan or the Framework.

Conclusion on ground (a)

24. For the reasons given, I find that the current use as a five studio HMO is unacceptable. However, since the appellant's alternative, would resolve the harm caused, I find this to be acceptable. I therefore intend to grant planning permission under s177(5) of the 1990 Act for the use proposed with a reduction in the number of bedrooms and occupants from five to four, with room two being used as a lounge.

Conditions

25. The permission is subject to the plans specified and a separate plans condition is not necessary.
26. A condition limiting the number of occupants to four is necessary in the interests of safeguarding the living conditions of existing and future occupants.

The appeal on ground (f)

27. The appellant's case under ground (f) I have already considered in detail under ground (a). Although planning permission has been granted in respect of parts of the development enforced against, the notice has been upheld without varying any requirements relating to them, since this could have given rise to two separate planning permissions, namely the one that has been granted in this appeal decision and the one that would be deemed to be granted by section 173(11) due to under-enforcement.
28. Attention is drawn to the provisions of section 180(1) as to the effect on the notice of the permission that has been granted. This provides that where planning permission is granted after the service of a copy of the notice for any development already carried out, the notice shall cease to have effect insofar as it is inconsistent with the planning permission.
29. The appeal on ground (f) therefore fails.

The appeal on ground (g)

30. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.
31. The appellant seeks to extend the period for compliance so that the occupants of the HMO can have more time to find alternative accommodation however, they did not specify what they consider a reasonable period to be. The appellant referred to the Government regulations² requiring landlords to give tenants six months' notice of their intention to seek possession, except in the most serious cases. I am aware that these measures were extended until 31 March 2021 however, I am not aware that they have been extended further.
32. Nevertheless, and whilst it is never possible to guarantee that occupants can find somewhere new to live, the HMO was occupied on the date of my visit and I must ensure anyone who will be deprived of their home is given a reasonable period of time to look for other housing.
33. Consequently, bearing in mind the potential disruption to one of the occupants, I conclude that it is reasonable and proportionate to extend the period from two to four months. The appeal on ground (g) succeeds to that extent.

Conclusion

34. For the reasons given above, I conclude that the appeal should succeed in part only, and I will grant planning permission for the material change of use to a four bedroom HMO in accordance with the following plans: 0806.P.0104 and 0806.P.0103 dated July 2020 but otherwise I will uphold the notice with a variation and refuse to grant planning permission in respect of the use of the dwellinghouse as a five studio HMO. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of s180 of the Act.

Felicity Thompson

INSPECTOR

² The Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2020



Appeal Decision

Site Visit made on 4 May 2021

by Sarah Manchester BSc MSc PhD MIEnvSc

an Inspector appointed by the Secretary of State

Decision date: 28th May 2021

Appeal Ref: APP/M4320/W/20/3265736

Eden Salon, 32 Arbour Street, Southport, Merseyside PR8 6SQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Miss Francesca Shaw against the decision of Sefton Metropolitan Borough Council.
- The application Ref DC/2020/00949, dated 9 June 2020, was refused by notice dated 9 September 2020.
- The development proposed is Erection of a two storey extension to the rear of property.

Decision

1. The appeal is allowed and planning permission is granted for Erection of a two storey extension to the rear of property at Eden Salon, 32 Arbour Street, Southport, Merseyside PR8 6SQ in accordance with the terms of the application, Ref DC/2020/00949, dated 9 June 2020, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drg No 1 – Location Plan and Site Plan; Drg No 2 – Proposed Ground Floor and First Floor Plans, as amended by the revised first floor window openings indicated on the plan 'New window drawings'; Drg No 3 – Existing and Proposed Elevations, as amended by the revised first floor window openings indicated on the plan 'New window drawings'.
 - 3) The use hereby permitted shall not commence until a scheme for the mitigation of noise arising from any plant or equipment to be installed on site has been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before the use commences and it shall be retained thereafter.
 - 4) The development hereby permitted shall not be occupied until facilities for secure storage of cycles have been provided in accordance with details submitted to and approved in writing by the local planning authority. The cycle storage facilities shall thereafter be kept available for the parking of bicycles.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the residential occupiers of 23 Sefton Street, with particular regard to outlook.

Reasons

3. No 32 is 2 storey attached property on the corner of Arbour Street and Sefton Street. It has a small single storey extension with a monopitch roof to the rear. The ground floor of the property is in use as a hairdressing salon and it has a residential use above. It is in a primarily residential area characterised by traditional semi-detached and detached properties finished in brick and render.
4. The proposal would be a 2 storey rear extension. The ground floor would be set in by roughly 1.3m, and the first floor by roughly 2.5m, from the adjoining property. It would have a hipped roof set below the ridge line of the host property and it would be finished in painted render and with a slate roof to match its host. The Council considers that the visual appearance of the proposal is acceptable and I see no reason to disagree.
5. The rear of No 32 faces the side elevation of 23 Sefton Street, being separated from it by the rear yard of the appeal property and the tall close-boarded boundary fence. The main 2 storey side elevation of No 23 is blank, but a small ground floor window in the side elevation of its rear outrigger extension serves a kitchen. A first floor window in the outrigger is obscurely glazed and it does not serve a habitable room.
6. The original plans illustrated a first floor kitchen window facing the blank main side elevation of No 23. However, the scheme was amended to include a blank first floor rear elevation with a first floor window in the elevation facing Sefton Street. On this basis, there would be no overlooking between habitable room windows or towards the garden of No 23. Moreover, the proposal would be to the north of No 23, such that it would not result in a loss of daylight or sunlight to the neighbouring windows or garden.
7. The ground floor kitchen window in the outrigger of No 23 looks onto the shared boundary fence with the 2 storey rear elevations of Nos 32-34 beyond. The proposal would project out from the main rear elevation of No 32 by approximately 3m. The increase in the bulk of development, at first floor level in particular, would be visible from the kitchen window and the outdoor space to the side of No 23. However, the proposal would not be directly opposite the neighbouring kitchen window. Given the existing context, and by virtue of its separation distance and oblique siting, the proposal would not be dominant or significantly overbearing to the neighbour's kitchen window.
8. My attention has been drawn to the Council's House Extensions Supplementary Planning Document Adopted June 2018 (the SPD). This advises that extensions should not have an overbearing effect on nearby properties, taking account of the position of the neighbouring windows and the way they face in relation to the extension. There should be at least 12m from blank 2 storey walls to neighbouring habitable rooms. In this case, the closest part of the new 2 storey wall would be a little over 11m from the kitchen window of No 23. However, the proposal is not directly behind the neighbouring window and the window faces away from the proposal. Taking into account that the proposal would not significantly harm the outlook from the neighbour's window, there is little evidence that the proposal would be contrary to the guidance in the SPD.
9. Therefore, the proposal would not harm the living conditions of the occupiers of 23 Sefton Street, with particular regard to outlook or an overbearing form of development. It would not conflict with the residential amenity aims of Policies

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HC3 or HC4 of A Local Plan for Sefton Adopted April 2017. These require, among other things, that development should not have unacceptable impacts on the living conditions of neighbouring properties, in particular that there should be no loss of outlook nor overbearing or overdominant effect on main windows of habitable rooms. On the basis of the evidence before me, the proposal would not conflict with the guidance in the SPD.

Other Matters

10. There would be no adverse impacts on the habitable room windows of No 32a, with particular regard to outlook and light. However, I note the concerns of the occupier of No 32a in relation to an unacceptable sense of enclosure and loss of sunlight to the rear yard during the late afternoon and evening. Given the orientation of the properties, and the depth, height and separation of the proposal from the neighbouring garden, any direct loss of sunlight to the garden late in the day would be a minor impact. The visual impact of the increase in the bulk of development would be mitigated by the set back of the first floor from the shared boundary. Consequently, while the proposal would be visible from the rear of No 32a, it would not be significantly detrimental to the living conditions of the neighbouring occupiers.

Conditions

11. The council suggested conditions in the event the appeal was allowed. I have assessed these against the tests set out in Paragraph 55 of the National Planning Policy Framework. Although not suggested, the standard condition limiting the lifespan of the planning permission and a condition specifying the approved plans are necessary in the interests of certainty.
12. The ground floor of the proposal would be used in connection with the commercial ground floor use of No 32. A condition securing a scheme of noise mitigation is necessary to protect the living conditions of neighbouring residential occupiers and to ensure any external equipment avoids adverse visual impacts. A condition requiring secure cycle storage facilities is necessary in the interests of promoting sustainable modes of transport.

Conclusion

13. For the reasons set out above, I find that the proposal would not harm the living conditions of neighbouring residential occupiers and it would not conflict with the development plan.
14. Therefore, the appeal should be allowed and planning permission should be granted subject to conditions.

Sarah Manchester BSc MSc PhD MIEEnvSc

INSPECTOR



Appeal Decisions

Site visit made on 14 May 2021

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 28 May 2021

Appeal A Ref: APP/M4320/C/20/3264143

Appeal B Ref: APP/M4320/C/20/3264144

2A Marlton Avenue, Crosby L23 0SL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Mr and Mrs Henry Francis Callaway against an enforcement notice issued by Sefton Metropolitan Borough Council. Appeal B is made by Mrs Maureen Callaway.
- The enforcement notice was issued on 5 November 2020.
- The breach of planning control as alleged in the notice is without planning permission and within the last four years, the erection of a boundary fence and posts to the side of the dwelling house (as shown cross hatched on the attached plan Ref: A) in excess of 1 metre in height adjacent to a highway – Liverpool Road, Crosby.
- The requirements of the notice are:
 - a) Remove the fence and posts between points A-B & B-C as shown on attached plan Ref: B.
 - b) Reduce the height of the fence and posts to a maximum height of one (1) metre between points A-B & B-C as shown on the attached plan Ref: B.
- The period for compliance with the requirements is 6 months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the 1990 Act as amended. Appeal B is proceeding on grounds (f) and (g).

Summary of Decision: Appeal A is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision. Appeal B does not fall to be considered.

Preliminary Matter

1. The Council has clarified that the word “or” was omitted after the first requirement and steps a) and b) were intended as alternatives. I am invited to correct the notice accordingly.
2. I am satisfied that I can make this correction without injustice. Although there has been a slight error in the wording, as acknowledged, it is clear that the requirements were drafted as alternatives since it would not be necessary, or possible, to comply with them both.

Appeal A on ground (a) and the deemed planning application

Background and Main Issue

3. The appeal on ground (a) is that planning permission should be granted for the matters alleged. The terms of the deemed planning application are derived from the allegation and, hence, planning permission is sought for the erection of a boundary fence and posts to the side of the dwelling house in excess of 1 metre in height adjacent to a highway – Liverpool Road, Crosby.

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4. The main issue is the effect of the development on the character and appearance of the street scene.

Reasons

5. The appeal site occupies a corner plot at the junction of Marldon Avenue and Liverpool Road (A565). The front elevation of the house faces onto Marldon Avenue with its side elevation facing towards Liverpool Road. The majority of the unauthorised fence sits alongside the side boundary to Liverpool Road and only a short stretch extends along Marldon Avenue. The remainder of the frontage is bounded by a garden wall with a privet hedge.
6. The property forms the end of a terrace of relatively substantial houses. The area is predominantly residential in character, although Merchant Taylor's School is located opposite and there is another educational establishment in the vicinity. I saw that Liverpool Road is busy and, while this was a snapshot in time, it is likely to be fair assessment given the road connects the city with Crosby and Southport. The presence of the schools will also result in increased activity at arrival and departure times.
7. Boundary treatment in the area is varied. The school opposite has a low timber fence to the playing field, with railings adjoining its parking area. The establishment to the north of the appeal site, Nazareth House, has a high red brick wall to Liverpool Road with railings and planting/trees to Marldon Avenue. The houses in the terraced group have standard height front garden walls with shrubbery, although the house at the opposite end has a high screen behind the wall with artificial greenery. I understand the screen may be unauthorised.
8. The fence subject to the notice is constructed from metal and extends to approximately 2m in height. It is designed to reflect a timber close boarded fence with a trellis and posts topped with ball finials.
9. The fence is prominently located and is highly visible due to the corner location, adjacent to a busy road. However, its design and colour softens an otherwise solid and bland appearance and the trellis detailing adds visual interest to the structure. Garden walls of a standard height are typical, however, there is not a consistent type of boundary treatment in the vicinity. The fence is seen in the context of the other types of enclosure nearby, in particular, the brick wall to Nazareth House. Also, the majority of the front wall and hedge along Marldon Avenue is unaltered, which is important. This forms a transition between the higher fence on Liverpool Road and maintains linkages with the garden walls further along Marldon Avenue.
10. In my opinion, the fence is not overly obtrusive and it does not stand out as a dominant or uncharacteristic feature.
11. I understand that the solid panel fence erected at No 199 Liverpool Road was refused planning permission and a subsequent appeal was dismissed¹. The character of that site and the design of the fence differed sufficiently from the matters before me to justify a different decision. A further appeal at No 43 Moorgate Avenue is referenced², however, I have limited details of that case and I am unable to make an informed judgement as to its relevance.

¹ Ref APP/M4320/D/19/3234374 dated 23 October 2019.

² Ref APP/M4320/D/18/3213398 dated 7 December 2018.

Other Matters

12. I understand that Merchant Taylors School is a grade II listed building. The Council has not suggested that the development has an impact on the setting of the listed building and there is no reason for me to find otherwise. I conclude that the setting of the listed building would be preserved in accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Conclusion

13. For the reasons given above, I conclude that the development does not have an adverse effect on character and appearance of the street scene. It accords with Policies EQ2 and HC4 of the Local Plan (2017) and the Council's Supplementary Planning Document – House Extensions (2018) which, among other things, seek to ensure development responds positively to the character, local distinctiveness and form of its surroundings, while protecting residential amenity. It would meet the aims of paragraph 127 of the National Planning Policy Framework which seeks to promote high quality design.

Conclusion

14. I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the development as described in the notice as corrected. The appeals on grounds (f) and (g) do not therefore fall to be considered.

Formal Decision

15. It is directed that the enforcement notice is corrected by the insertion of the word "or" after requirement a) in paragraph 5 of the notice.
16. Subject to the correction Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a boundary fence and posts to the side of the dwelling house in excess of 1 metre in height adjacent to a highway – Liverpool Road, Crosby at 2A Marldon Avenue, Crosby L23 0SL as shown on the plan attached to the notice.
17. Appeal A on grounds (f) and (g) and Appeal B do not fall to be considered.

Debbie Moore

Inspector



Appeal Decision

Site Visit made on 18 May 2021

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 May 2021

Appeal Ref: APP/M4320/W/21/3268667

Land West of Damfield Lane, Maghull, Merseyside L31 3EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Richard Gee of Roman Summer Associates Ltd against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2020/02059, dated 12 October 2020, was refused by notice dated 21 January 2021.
 - The application sought planning permission for variation of conditions 1, 14 and 16 pursuant to planning permission DC/2019/02432 approved 03/08/2020 to introduce gated access to the development without complying with conditions attached to planning permission Ref DC/2018/01681, dated 22 August 2019.
 - The conditions in dispute are Nos 1, 14 and 16 which state that:
 - Condition 1: The development hereby granted must be carried out strictly in accordance with the following details and plans: Proposed Location Plan (A003 Rev P05); Proposed Site Plan (A004 Rev P05); Proposed Block Plan (A005 Rev P05); Landscape Layout (101 Rev D); Access Layout (J977 Access Fig 1 Rev E); House Type 1 Plans and Elevations (A101 Rev P02 and A102 Rev P05); House Type 2 Plans and Elevations (A103 Rev P02 and A104 Rev P05); House Type 3 Plans and Elevations (A105 Rev P02 and A106 Rev P05); House Type 2A Plans and Elevations (A107 Rev P02 and A108 Rev P05); Material Specifications (A901 Rev P01); Site Section A-A (A007 Rev P02); Site Section B-B (A008 Rev P02); Landscape Layout (101 Rev G); Planting Plans 1 and 2, (103 Rev A and 104 Rev A); Archaeological Evaluation at Damfield Land document (ARS Ltd Report 2019/224); Otter and Water Vole Survey (Rachel Hacking Ecology, dated October 2019)
 - Condition 14: The approved hard and soft landscaping scheme (Landscape Layout, Drawing Number 101 Rev G and Planting Plans 1 and 2, 103 and 104A) shall be carried out in full within 3 months of occupation. Any trees or plants that within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective shall be replaced with others of a species, size and number as originally approved in the first available planting season.
 - Condition 16: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no gate, fence, wall or other means of enclosure shall be erected other than those expressly authorised by this permission.
 - The reasons given for the conditions are:
 - Condition 1: For the avoidance of doubt.
 - Condition 14: In the interests of visual amenity, protecting the character and appearance of Damfield Lane Conservation Area and ensuring privacy.
 - Condition 16: In order to protect the character and appearance of Damfield Lane Conservation Area and in particular views from the canal.
-

Decision

1. The appeal is allowed and the planning permission Ref DC/2020/02059 for variation of conditions 1, 14 and 16 pursuant to planning permission

DC/2019/02432 approved 03/08/2020 to introduce gated access to the development at Land West of Damfield Lane, Damfield Lane, Maghull, Merseyside L31 3EL granted on 21 January 2021 by Sefton Metropolitan Borough Council, is varied by deleting conditions 1, 14 and 16 and substituting for them the conditions in the attached schedule.

Preliminary Matters

2. As part of the appeal, a revised plan has been submitted by the appellant to resolve the discrepancy relating to the width of the gaps between the railing bars shown on the CGI image and the proposed elevation of the access gates. This change is minor and would not prejudice the Council or interested parties. I have therefore taken this plan into account in reaching my decision.
3. A Section 106 Agreement (s106) has been submitted as part of the appeal. This would update the provisions of an agreement relating to a previous scheme facilitating a community orchard and the management of it.

Background and Main Issue

4. Planning permission was granted on appeal in June 2019 for 14 no. 4 bedroom detached dwellings on the site¹. Since then, the Council has granted planning permission to vary condition no. 2² of that permission to allow for changes to the design, materials and internal layout of house types and landscape layout. A non-material amendment was also granted by the Council for changes to two house types and landscaping³. Development on site is now progressing but the dwellings are not yet ready for occupation.
5. The main issue is whether the proposed access gates would preserve or enhance the character or appearance of the Damfield Lane Conservation Area (CA), and the setting of St Andrew's Church, a Grade II listed building.

Reasons

6. The site lies within the Hall Lane Character Area. This is one of the oldest parts of Maghull and contains developments of a varied forms, style and type. The site is bound on its three sides by Damfield Lane, the grounds of St Andrew's Church, and the Leeds and Liverpool Canal. Mature trees line Damfield Lane and populate the church grounds. The CA is focussed around a historic group of buildings which include the church. The informal arrangement of buildings set within prominent and mature tree groupings, with boundary walls and a relationship to the canal positively contribute to the significance of the CA.
7. The A59 dual carriageway and flyover are to the north-west of the CA. The sight and sound of this strong physical boundary allied to development in the area affects the CA's alleged rural vernacular. From the A59, the CA and the church are largely concealed by the mature trees. There are glimpsed views of the upper part of the church tower which is experienced more easily from the canal towpath or Damfield Lane opposite the access to the appeal site. The listing description for the church remarks that it 'achieves a successful blend with both its semi-rural environment and with other nearby listed structures to form a well-balanced group.'

¹ Appeal Decision Ref: APP/M4320/W/19/3220771

² Council Ref: DC/2019/02432

³ Council Ref: DC/2020/02323

8. The access road to the development provides a key vista of the upper part of the church tower from Damfield Lane. This is not a historic vista as it has been revealed due to development on the site. Even so, it makes a positive contribution to the setting of the CA and in turn its significance. The vista is experienced by road users passing in a north-westerly direction for the section of the lane around its junction with the access. Owing to the speed of travel, the vista is mainly be experienced by non-motorised road users. Mature trees screen the lower part of the church. Passers-by travelling in a south-easterly direction do not experience the vista due to the alignment of the access, the siting of the approved dwellings and mature trees.
9. The proposed access gates would be set back from the road and take architectural cues from the development's contemporary style, appearance, and finish. The gates would be a solid feature across the site's entrance and within the foreground to the vista to the church tower, but they would not, despite their height, inhibit views of the upper part of the church tower which would extend above the height of the proposed gates. Gaps between each railing would allow views down the access and towards the church. The locality may not contain a boundary treatment of a similar design, but there are a range of fences and walls nearby of different scales. As such, I do not consider that the proposal would unduly draw attention away from the vista or how the church or CA are experienced as the sight line would be maintained.
10. Accordingly, I conclude that the proposed access gates would preserve the character and appearance of the CA and the setting of St Andrew's Church. The proposal would therefore accord with Policies EQ2, NH9, NH11 and NH12 of A Local Plan for Sefton, and Policy MAG 4 of the Maghull Neighbourhood Plan 2017 – 2037; which jointly, among other things, seek high quality design that responds positively to the character, local distinctiveness and form of its surroundings so that it preserves or enhances the significance of Sefton's heritage assets and their settings, having regard to scale and detailing.

Planning Obligation

11. The s106 would continue the previously approved access arrangement⁴ that requires the public to make a booking with a management company to access the community orchard. Thus, there proposed gated access would not alter the arrangements previously put in place albeit they would ensure that access is in a controlled manner even if there is not crime or a fear of crime in the area. No concerns are raised about the s106 meeting the tests of the Framework and Regulation 122 of the Community Infrastructure Regulations. I agree.

Conclusion and conditions

12. Decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. I shall impose all those that I consider remain relevant, having regard to the suggested planning conditions provided by the Council.
13. A plans condition is necessary to provide certainty. Conditions are necessary in the interests of highway safety for a construction management plan, the proposed access on to Damfield Lane, off-site works for pedestrian footways,

⁴ Appeal Decision Ref: APP/M4320/W/19/3220771

dropped crossing and tactile paving and markings and signage. For the same reason, conditions are necessary for the surfacing of areas to be used by vehicles, to ensure a Traffic Regulation Order is brought into effect, and to secure street lighting. A condition to secure electric vehicle charge points is necessary to mitigate and adapt to the effects of climate change. Conditions are necessary for tree protection measures, hard and soft landscaping and to control future development on the site in the interests of the character and appearance of the CA. A condition about fibre broadband is necessary to ensure that future occupants have advanced, high quality and reliable communications infrastructure. In the interest of providing enhanced ecological habitats a condition is necessary for bird boxes, swift bricks and sparrow terraces. So that Japanese Knotweed is eradicated a condition is necessary. A condition is necessary for a sustainable drainage system to ensure satisfactory drainage.

14. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed conditions but substituting them and restating those undisputed conditions that are still subsisting and capable of taking effect.

Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following details and plans: Proposed Location Plan (A003 Rev P07); Proposed Site Plan (A004 Rev P07); Proposed Block Plan (A005 Rev P07); Landscape Layout (101 Rev P); House Type 1 Plans (A101 Rev P03) and Elevations (A102 Rev P06); House Type 2 Plans (A103 Rev P03) and Elevations (A104 Rev P06); House Type 3 Plans (A105 Rev P03) and Elevations (A106 Rev P06); House Type 2A Plans (A107 Rev P03) and Elevations (A108 Rev P06); House Type 2B Plans (A109 Rev P01) and Elevations (A110 Rev P02); Planting Plans 1 and 2 (103 Rev D and 104 Rev D); Interpretation Board Detail and Frame (confirmed as 3 no. 1.3m x 1.1m); Access Layout (J977 Access Fig 1 Rev E); Proposed Gates (A909 Rev P07); Material Specifications (A901 Rev P01); Site Section A-A (A007 Rev P02); Site Section B-B (A008 Rev P02); Planting Plans 1 and 2 (103 Rev A and 104 Rev A); Archaeological Evaluation at Damfield Land document (ARS Ltd Report 2019/224); and Otter and Water Vole Survey (Rachel Hacking Ecology, dated October 2019).
2. The provisions of the approved Construction Traffic Management Plan (Brierstone), confirmation to Canal and River Trust Third Party Works Agreement email dated 14th February 2020 and Initial Site Setup and Traffic Management Plan (as per approval of details application DC/2019/02216) shall be implemented in full during the period of construction.
3. Tree protection barriers as specified within the Arboricultural Method Statement shall be maintained in a satisfactory manner around the outer limit of the crown spread of all retained trees until the development is completed. During the period of construction, no material shall be stored, or trenches dug within these enclosed areas.
4. The approved sustainable drainage system (Proposed Drainage Plan (18-1023-210

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Rev P10), Attenuation Pond (18-1023-205 Rev P3), Sustainable Urban Drainage Management Plan and email correspondence dated 1st March 2021 confirming all aspects of the sustainable drainage system will be maintained by the Development's Management Company) shall be fully constructed prior to occupation of development and be managed and maintained thereafter in accordance with the approved details.

5. A scheme of works for the proposed vehicular access on to Damfield Lane must be submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until this means of access has been constructed in accordance with the approved scheme.
6. A scheme of works for the following off-site improvements and alterations must be submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until these works have been carried out in accordance with the approved schemes:- construction of new 2 metre wide footways on either side of the proposed access with dropped crossing to the east side of Damfield Lane; new dropped crossing and tactile paving on either side of the new access; and appropriate carriageway markings and signage.
7. No part of the development shall be brought into use until areas for vehicle parking, turning and manoeuvring have been laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and these areas shall be retained thereafter for that specific dwelling.
8. No part of the development shall be brought into use until a Traffic Regulation Order for a 20mph speed limit on the proposed access road has been implemented in full.
9. No dwelling shall be occupied until all street lighting has been installed in accordance with the following approved plans and details; Bollard Lights Technical Specification Sheet, Street Lighting Calculations document and Proposed External Lighting Layout (169/E01 Rev P1).
10. No dwelling shall be occupied unless and until an electric vehicle charging point for that dwelling has been installed and is operational in accordance with the following approved details and plans; WallPod:EV Technical Data Sheet, Proposed Electrical Services Layout (House Types 1, 2, 2a and 3) (169/HT1/E01 T1, HT2/E01 T1, HT2A/E01 T1 and HT3/E01 T1). The approved infrastructure shall be permanently retained thereafter.
11. No dwelling hereby approved shall be occupied until details of full fibre broadband connections to all proposed dwellings within the development has been submitted to and approved in writing by the Local Planning Authority. The infrastructure shall be installed prior to occupation and made available for use immediately on occupation of any dwelling in accordance with the approved details.
12. The approved bird boxes to be fixed to trees shall be fitted prior to occupation of any dwelling, while swift bricks and sparrow terraces must be included within the construction of each dwelling (as per approval of details application DC/2019/02216).
13. The recommendations of the approved Japanese Knotweed Method Statement

dated 6th January 2020 along with the 30th January clarification letter, Cross Section of Excavation (JK19- 5740-07 Rev A) and full Excavation Option in Relation to Horse Chestnut Tree (JK19-5740-06) shall be carried out prior to the occupation of the development.

14. The approved hard and soft landscaping scheme (Landscape Layout, Drawing Number 101 Rev P and Planting Plans 1 and 2, 103 and 104A) shall be carried out in full within 3 months of occupation. Any trees or plants that within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective shall be replaced with others of a species, size and number as originally approved in the first available planting season.
15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no garages, outbuildings or other extensions to a dwelling shall be erected other than those expressly authorised by this permission.
16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no gate, fence, wall or other means of enclosure shall be erected other than those expressly authorised by this permission.

END OF SCHEDULE



Appeal Decision

Site Visit made on 13 April 2021

by Sarah Manchester BSc MSc PhD MIEnvSc

an Inspector appointed by the Secretary of State

Decision date: 30th April 2021

Appeal Ref: APP/M4320/D/20/3266008

34 St Andrews Road, Crosby, Liverpool, L23 8UB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Sophie Hartley against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2020/01866, dated 17 September 2020, was refused by notice dated 18 November 2020.
 - The development proposed is erection of two storey extensions to the both sides and rear, alterations to the roof, rear dormer extension, incorporating a balcony, a living green wall to form part of rear dormer, and alterations to the rear boundary and landscaping of the dwellinghouse (part retrospective).
-

Decision

1. The appeal is allowed and planning permission is granted for erection of two storey extensions to the both sides and rear, alterations to the roof, rear dormer extension, incorporating a balcony, a living green wall to form part of rear dormer, and alterations to the rear boundary and landscaping of the dwellinghouse (part retrospective) in accordance with the terms of the application, Ref DC/2020/01866, dated 17 September 2020, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Ref A001 Rev P01 - Existing Location Plan, 25.01.2019; Ref A301 Rev 14 - Proposed Ground Floor, 18.08.2020; Ref A302 Rev 13 - Proposed Upper Floors, 18.08.2020; Ref A401 Rev 14 - Proposed Front & Rear Elevations, 16.11.2020; Ref A402 Rev 13 - Proposed Side Elevations, 18.08.2020; Ref A004 Rev P06 - Proposed Site Plan, 27.10.2020; Ref A006 Rev P02 - Proposed Boundary Treatments, 27.10.2020; HYVERT - IWantPlants – living wall system specification document, 08.10.2020.
 - 2) The roof area of the extensions at first floor level shall not be used as a balcony, roof terrace, roof garden or other outdoor amenity area.
 - 3) Within 3 months of the date of this decision, the first floor rear Juliet balcony balustrades and the Green Wall (shown on plan Refs A401 Rev 14 - Proposed Front & Rear Elevations and A402 Rev 13 - Proposed Side Elevations) shall be installed and once installed the Juliet balcony balustrades and the Green Wall shall be retained thereafter.
 - 4) The second floor rear terrace shall not be brought into use until the side facing glass balustrades (shown on plan Refs A401 Rev 14 - Proposed Front & Rear Elevations and A402 Rev 13 - Proposed Side Elevations) have been

fitted with obscure glazing. Once installed, the obscure glazing shall be retained thereafter.

Applications for costs

2. An application for costs was made by Sophie Hartley against Sefton Metropolitan Borough Council. That application is the subject of a separate Decision.

Procedural Matters and Background

3. Planning permission Ref DC/2019/00263 was granted in April 2019 for erection of two-storey extensions to both sides and rear of the property and alterations to the roof incorporating 3 roof lights to the front and dormer extension to the rear with balcony. The permission has been implemented, but the works have not been carried out in accordance with the approved plans. The appellant sought to address this by application Ref DC/2020/00542 for a non-material amendment, refused in March 2020 on grounds that the amendments were material. A subsequent application Ref DC/2020/00697 for variation of condition 2 pursuant to planning permission DC/2019/00263 to allow alterations and modifications to the original approved design was withdrawn following a resolution by the Council in July 2020 to refuse it.
4. The application subject of the appeal is a resubmission of the withdrawn scheme. It differs from the extant permission in a number of ways including changes to the set back of the side extensions, increase in the size of the rear dormer and the first floor extension, alterations to windows and an extension of the roof area at first floor level to overhang the rear ground floor elevation. The amended plans reflect the development that has been constructed and which the appellant is seeking to retain. I have determined the appeal accordingly.
5. The Council's reasons for refusal include grounds relating to impacts on the living conditions of the neighbouring residential occupiers. An attempt was made to arrange access to the neighbouring property to assess the impact, but no response was received and No 36 was unoccupied at the time of my visit. Consequently, I was unable to view the appeal scheme from the neighbouring land. The third party representation includes photographs of the development taken from the neighbouring land and I was able to view the development from near to the shared boundary within the appeal site. I am therefore satisfied that no party would be prejudiced by my determination of the appeal on the basis of the representations and what I saw during my visit.

Main Issues

6. The main issues are the effects of the development on:
 - i) The character and appearance of the property; and
 - ii) The living conditions of the neighbouring residential occupiers.

Reasons

Character and appearance

7. The appeal property is a large 2 storey detached dwelling. It is in a residential area comprising dwellings in a range of sizes and styles, including single storey and 2 storey semi-detached and detached dwellings. The similar palette of

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Appeal Decision APP/M4320/D/20/3266008

- materials, the set back of properties from the street, and the verdant plots with mature planting result in a relatively harmonious character and appearance.
8. No 34 has a long front elevation facing the street, consisting of the original dwelling with subservient 2 storey side extensions at either end finished in materials to match. Although the side extensions have resulted in a significant increase in the width of the property, nevertheless they relate well to the main front elevation. Therefore, viewed from the front, the development is not discordant and it is not out of keeping with the original dwellinghouse.
 9. The rear of the property is overtly contemporary and imposing, being extensively glazed and modular in appearance with the first floor and dormer extensions each set back from the extension below. The extensions are substantially large and they are not finished in materials to match the host property. The development does not respect and it overwhelms the original rear of the property and its roof. However, the individual elements of the development relate well to one another and the high quality design has resulted in a coherent rear elevation.
 10. The rear of the property is not visible from St Andrews Road, with only limited oblique views afforded from the public domain. Glimpsed between No 34 and No 36, the rear ground floor extension is hidden behind the tall wall between the properties and the successively smaller rear first floor and dormer extensions appear subservient and they are not prominent. Viewed from locations to the front of No 32 and the intervening open land, the large ground floor extension is partially screened by the close-boarded boundary fence. The side elevation of the first floor extension can be seen, but the materials match the 2 storey gable end of the side extension. Viewed from the side, the development is not prominent or visually obtrusive. Consequently, when viewed from the public domain the development does not appear out of keeping and it does not detract from the appeal property.
 11. Therefore, on balance, and taking into account the high quality design and the substantially similar development previously approved, I find that the appeal scheme does not conflict with the design and visual amenity aims of Policies EQ2(3) and HC4 of A Local Plan for Sefton Adopted April 2017 (the LP). These require, among other things, that development should be high quality and it should make a positive contribution to its surroundings.

Living conditions

12. The Council's reason for refusal refers to the excessive bulk, scale and massing of the proposal being harmful to the living conditions of neighbouring properties. However, there is little substantive evidence in relation to the particular harm that would arise. Policy HC4 of the LP requires development to avoid a significant reduction in the living conditions of neighbouring occupiers with particular regard to loss of outlook from main windows of neighbouring habitable rooms, loss of light and overshadowing, overbearing effects on habitable rooms and loss of privacy. I will consider each of these in turn.
13. The side elevation of the neighbouring property, No 36, includes a kitchen door and what appears to be a secondary bedroom window. On this basis, although the sideways extension to No 34 reduces the separation distance between the neighbouring gable ends, it does not result in a loss of outlook from the principle windows of habitable rooms. Moreover, even if the neighbouring first

- floor window was a main bedroom window, the extension does not closely approach it such that there would be no significant loss of outlook.
14. By virtue of the orientation of the properties, the increase in 2 storey built development close to the shared boundary will result in an increase in shading to the side of No 36, including its patio area. While the garden of No 36 is large, nevertheless the loss of sunlight to the neighbours' sitting out area would be detrimental to their living conditions. However, I consider that the original appeal property would already have resulted in some shading to the neighbouring patio, such that the development does not result in significant cumulative detrimental impacts.
 15. The submitted photographs illustrate that the development is clearly visible from the patio and rear garden of No 36. Moreover, by virtue of its large size and design, the development is undoubtedly conspicuous. However, No 36 is itself a large detached property in a generous plot and the increase in scale and massing of the appeal property is not overbearing to the neighbouring occupiers. Moreover, the introduction of a green living wall to the side elevation of the first floor extension and boundary treatments would soften the appearance and help mitigate the visual increase in the bulk of the building.
 16. The development includes extensive glazing at first and second floor levels. There would be a second floor balcony and the protruding flat roof of the ground floor extension could be used as an outdoor space. Irrespective that there would be no overlooking between neighbouring windows, there would be opportunities to overlook the garden of No 36. However, the balcony would be surrounded by a glass balustrade obscurely glazed to the side to prevent close overlooking into the garden. Juliet balconies would be fitted to the first floor sliding doors in the side extensions to prevent access to the adjoining flat roof. The use of the roof of the ground floor extension as an outdoor area could be controlled by condition. Consequently, there would be no significant increase in overlooking or loss of privacy to the neighbouring occupiers of No 36.
 17. Therefore, the proposal would not result in significant harm to the living conditions of neighbouring residential occupiers. It would not conflict with the residential amenity aims of Policies EQ2 or HC4 of the LP.

Other Matters

18. The detailed third party representation made on behalf of the occupier of No 36 raises concerns including in relation to the development not being built in accordance with the approved plans, the accuracy of the plans and the visual representations, disruption during construction, and the removal of garden planting and the pond. While I understand neighbour's concerns, the development that has been built is substantially the same as the scheme illustrated on the submitted plans. While I have had regard to the other matters raised, they do not alter my findings in relation to the main issues.

Conditions

19. The Council has suggested planning conditions in the event that the appeal was allowed. I have assessed these against the tests set out in Paragraph 55 of the Framework. The development has been carried out such that the standard condition limiting the lifespan of the planning permission is not necessary. However, I have specified the approved plans in the interests of certainty.

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Conditions restricting the use of the ground floor extension roof and securing the Juliet balconies and obscure balustrade glazing are necessary to protect the privacy of the neighbouring occupiers. A condition relating to the living green wall is necessary in the interests of visual amenity.

Conclusion

20. For the reasons set out above, the appeal scheme would not conflict with the development plan. Therefore, the appeal should be allowed and planning permission should be granted, subject to conditions.

Sarah Manchester

INSPECTOR



Appeal Decision

Site visit made on 15 February 2021 by Hannah Ellison BSc (Hons) MSc MRTPI

Decision by R C Kirby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 March 2021

Appeal Ref: APP/M4320/W/20/3262749

16 Waterway Avenue, Netherton L30 8RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Carl England against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2020/01085, dated 23 June 2020, was approved on 20 August 2020 and planning permission was granted subject to conditions.
 - The development permitted is the erection of a single storey extension to the rear of the dwelling house and a detached garage.
 - The condition in dispute is No 4 which states that:
 - a) *A scheme of works for the closure and reinstatement of the existing vehicular and/or pedestrian access on to Wheatfield Close shall be submitted to and approved in writing by the Local Planning Authority.*
 - b) *No part of the development shall be brought into use until the existing vehicular and/or pedestrian access on to Wheatfield Close has been permanently closed off and the footway reinstated. These works shall be in accordance with the scheme approved under (a) above.*
 - The reason given for the condition is:
In the interests of highway safety.
-

Decision

1. The appeal is allowed and the planning permission Ref DC/2020/01085, for the erection of a single storey extension to the rear of the dwelling house and a detached garage at 16 Waterway Avenue, Netherton L30 8RQ, granted on 20 August 2020 by Sefton Metropolitan Borough Council, is varied by deleting condition 4.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Background and Main Issue

3. Planning permission has been granted for an extension and a detached garage to the rear of the appeal dwelling. This appeal seeks permission to carry out the development without complying with condition 4 of that permission which requires the closure of an existing vehicular access onto Wheatfield Close and the reinstatement of the footway. This condition was attached in the interests of highway safety.

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4. The main issue is the effect that removing the condition would have on highway safety.

Reasons

5. The appeal site is a corner plot on Waterway Avenue with Wheatfield Close. The boundary fence along the Wheatfield Close perimeter of the site is continuous, with no openings along it. Thus, whilst the crossover remains, vehicular access into the site is physically blocked.
6. The Council has not provided any evidence to substantiate their concerns with the existing access in terms of highway safety. I note that the edge of the footway dips away slightly towards the carriageway and there is a break in the existing grass verge. However, the dip is limited and is at the outer edge of the footway where it is unlikely that pedestrians would be walking due to the presence of the adjacent grass verges. They would therefore be unlikely to experience the slight change in levels within this part of the pavement.
7. The immediate stretch of footway is also continuous along this part of Wheatfield Close and is finished in one consistent material. As such, there are no hazards for pedestrians walking along this stretch of footway or issues of accessibility. Furthermore, there is nothing before me to indicate that the retention of the vehicular access would have any harmful effect on the safety of road users.
8. Consequently, the retention of the existing access would not lead to significant harm to highway safety. My attention has not been drawn to any development plan policies. However, the development as proposed without compliance with the condition would adhere to the National Planning Policy Framework (the Framework) which seeks to create places that are safe, secure and attractive and minimise the scope for conflicts between pedestrians, cyclists and vehicles.
9. Condition 4 is not therefore considered reasonable or necessary and thus does not meet the tests set out in paragraph 55 of the Framework. As such, it should be deleted in its entirety.

Conclusion and Recommendation

10. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is allowed.

H Ellison

APPEAL PLANNING OFFICER

Inspector's Decision

11. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

RC Kirby

INSPECTOR



Appeal Decision

Site Visit made on 5 January 2021

by Mr Andrew McGlone BSc(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th February 2021

Appeal Ref: APP/M4320/W/20/3262057

Bootle Cricket Ground, Wadham Road, Bootle, L20 2DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Bootle Cricket Club against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2020/00636, dated 14 April 2020, was refused by notice dated 24 July 2020.
 - The development proposed is the erection of safety netting/fencing on road boundary of cricket ground.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of safety netting/fencing on the road boundary of cricket ground at Bootle Cricket Club, Wadham Road, Bootle, L20 2DD in accordance with the terms of the application, Ref DC/2020/00636, dated 14 April 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2010/442-02 Rev D and site location plan.
 - 3) The netting, posts and fencing hereby permitted shall be coloured dark green within 3 months of their installation or before they are first used for a match whichever is the sooner.
 - 4) Prior to the netting, posts and fencing being used for a match a management plan, which includes details on how the netting, posts and fencing will be maintained shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupants of 170 to 212 (evens only) Wadham Road, with regards to outlook and the other considerations raised.

Reasons

3. The cricket club lies within an area largely characterised by residential dwellings. A two storey terraced row lines Wadham Road. A mixture of single storey and two storey residential properties line the site's eastern boundary. Ground levels gradually fall along Wadham Road from its junction with Hawthorne Road. A low wall and railings extend along the site's southern

boundary. Behind this, part way along the boundary, there are a row of posts that support protective netting. The netting was not in place at the time of my visit, but it is usually erected for the duration of the cricket season only.

4. Policy EQ2 of A Local Plan for Sefton (Local Plan) requires in relation to site design, layout and access: the arrangement of buildings, structures and spaces within the site, including density and layout, and the alignment and orientation of buildings, to relate positively to the character and form of the surroundings, and achieve a high quality of design. I agree with the main parties that no harm would be caused to the character and appearance of the area. However, the policy also seeks development to protect the amenity of those within and adjacent to the site.
5. The proposed netting, fencing and posts would be a permanent fixture along the Wadham Road boundary. Collectively, they would be considerably higher than the current boundary treatment despite the minor ground level differences between the pedestrian footway and the cricket club pitch. The paladin fence that would extend along the lower reaches of the boundary would differ to the design and appearance of the existing railings, but it would allow views through to the pitch and its design would protect the amenity of those adjacent to the site at a low-level from cricket balls.
6. However, the proposed posts and netting would harm the outlook of residents facing the Wadham Road boundary of the site. The new boundary treatment would rise well above the height of the terrace not to mention the ground and first floor windows that populate the front elevation. I recognise that the netting would allow views through into the cricket club, and the posts are relatively slim, but the permanency of the proposal across an elongated stretch of boundary would not protect the outlook of residents living opposite.
7. The cricket club is a not for profit organisation that has existed in the local community for many years and runs a series of teams. The appellant outlines that cricket balls tend to fly further than previously due to the evolution of players and technology. It is common ground that a range of different schemes have been tried along the Wadham Road boundary to protect residents and their property from cricket balls passing through or over the boundary. Despite these efforts, these have not proved successful and the club is now in a position whereby they are unable to secure insurance to cover for any damage caused by stray cricket balls. Added to this, there is the possible harm to the health and safety of residents, but also users of Wadham Road. The proposal aims to strike the balance of meeting the requirements of the cricket club and the amenity and safety of persons adjacent to it by providing a resolution for all concerned. The club has been granted funding subject to planning permission being granted for the proposed development.
8. The proposal would overcome the issues experienced by protecting the amenity of those next to the site as required by Local Plan Policy EQ2 which does not confine itself to the consideration of outlook. Local Plan Policy EQ4 is also supportive of the appeal scheme for the same reasons.
9. Balanced against this is the Council's suggestion that retractable posts and netting could be used instead of the permanent option proposed. The Council have not provided any substantive evidence of these products. On the other hand, the appeal scheme has been designed to address the needs of the club and protect resident's amenity from cricket balls. The club also explains that

there are issues with the stability of this type of product at the required height. This is a point which the Council does not dispute.

10. If I were to dismiss the appeal, the existing recycled lampposts and netting would continue to be used and repaired. However, they would still not be high enough to address the situation. The existing nets have been subject of vandalism and complaints from residents due to the fittings used. The club also explain that the netting can quickly become unsightly. Either way, there could be knock-on effects to a community-based club that provides opportunities for physical activity which is important for the health and well-being of communities. It is unclear whether the club would cease to exist, but the proposal would enable the club to modernise and stay at its existing home.
11. Residents were consulted as part of the planning application but also by the club beforehand. The former did not result in any representations being received. While this is not in its own right a reason to refuse or grant planning permission, it is of interest given the context to the case.
12. The proposal would harm the outlook of residents facing the site on Wadham Road. The colouration of the netting, posts and fencing in a single colour would ensure that the boundary would appear as a cohesive entity. However, there are also other factors such as health and safety that outweigh this harm which leads me to an overall conclusion that the proposed development would not harm the living conditions of the occupants of Nos 170 to 212. As such, the proposal would accord with part Local Plan Policies EQ2 and EQ4 which seek to protect the amenity of those adjacent to the site by minimising the risk of adverse impacts which includes damage to health and wellbeing and property.

Other matters

13. In this case, a planning judgement has been required throughout the process to weigh the competing aspects of the proposal against one another. As a result, it does not mean that Members of the Planning Committee cannot make their own mind up on the scheme. They are entitled to do so, and they are not obliged to follow local views either as their judgement should be planning based. In any event, I agreed with the Council about the scheme's effect on outlook, but other parts of my analysis lead me to a different conclusion.

Conditions

14. I have imposed a plans condition in the interests of certainty. Details of the materials to be used for the netting, posts and fencing are not necessary as they are evident from the scheme before me. However, I have imposed an amended version of this condition so that they are coloured in the manner suggested by the Council in the interests of residents living conditions and the character and appearance of the area. For the same reasons and given the background to this case and previous iterations of netting on the boundary, I have imposed a condition to secure a management plan setting out how the netting, posts and fencing will be maintained.

Conclusion

15. For the reasons given above I conclude that the appeal should be allowed.

Mr Andrew McGlone

INSPECTOR

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Planning Committee
Visiting Panel Schedule

Date Monday 23rd August 2021
Start: 10:00 am at BOOTLE TOWN HALL

Agenda Item	Time	Application Details	Ward
4A	10:40am	DC/2018/00093 Land North Of Brackenway Formby	Harington Ward

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