

# Public Document Pack



MEETING: PLANNING COMMITTEE

DATE: 16th February 2022

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. Joe Riley  
Cllr. Michael Roche  
Cllr. Paula Spencer  
Cllr. Anne Thompson  
Cllr. Lynne Thompson  
Cllr. Paul Tweed  
Cllr. Carran Waterfield

## Substitute

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

COMMITTEE OFFICER: Ruth Appleby / Ian Barton  
Telephone: 0151 934 2181 / 2788  
email: [ruth.appleby@sefton.gov.uk](mailto:ruth.appleby@sefton.gov.uk) /  
[ian.barton@sefton.gov.uk](mailto:ian.barton@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**

In light of ongoing Covid-19 social distancing restrictions, there is limited capacity for members of the press and public to be present in the meeting room indicated on the front page of the agenda at any one time. We would ask parties remain in the meeting room solely for the duration of consideration of the Committee report(s) to which their interests relate.

We therefore request that if you wish to attend the Committee to please register in advance of the meeting via email to [olaf.hansen@sefton.gov.uk](mailto: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;
- Your email address;
- Your Contact telephone number; and
- The details of the report in which you are interested.

In light of current social distancing requirements, access to the meeting room is limited.

**We have been advised by Public Health that Members, officers and the public should carry out a lateral flow test before attending the meeting, 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.**

# AGENDA

## 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 19 January 2022 (Pages 5 - 8)

## 4. Applications for Planning Permission - Approvals

### A DC/2021/02819 - 50 Elm Road, Seaforth (Pages 9 - 16)

Report of the Chief Planning Officer

## 5. DC/2020/00590 - Unit 1, Site of Mayflower Industrial Estate Liverpool Road, Formby – Update

Members will recall considering an application on 17<sup>th</sup> March 2021 (Minute No. 116) and 14<sup>th</sup> April 2021 (Minute No. 128), which sought the removal of an affordable housing condition attached to a 2019 planning permission for the erection of an apartment block containing 32 apartments (for over 55's). In support of the application, the applicant demonstrated that there was no market demand for on site affordable housing and also that there was a viability argument (verified by the Council's retained viability consultant). In this instance, a financial contribution of £266,000 towards providing affordable housing off site locally was considered to be a viable contribution whilst ensuring that the scheme can be

delivered and outweighing any harm to the living conditions of neighbouring residents. Although members were disappointed that the affordable housing contribution could not be achieved on site or in full, the lack of interest in the affordable housing units and difficulties with appointing a new developer were recognised as presenting significant challenges and necessitated the need to re-assess the situation based on the new circumstances.

At the committee meeting on 14<sup>th</sup> April 2021 (Minute No. 128), members resolved to approve the application subject to the applicant entering into a section 106 legal agreement to secure the financial contribution towards off site affordable housing.

Following the April meeting, complaints were received alleging that the applicant was not associated with the development and that the details contained within the application form, mainly the contact details and certificate of ownership, was incorrect. Following a formal investigation, it was clear that an error was made regarding the applicant's details identified on the application form. However, it is considered that this error did not lead to any gain for the applicant or caused anyone to suffer any loss. The application form (including the certificate of ownership) has been corrected and submitted to the Council. Local residents have been given the opportunity to review the updated information and whilst correspondence has been received from two residents, they do not raise matters that were not already addressed in the previous committee reports.

Members are therefore asked to note this update to enable the Council to proceed with completing the Section 106 and issue a decision.

- 6. Planning Appeals Report** (Pages 17 - 32)  
Report of the Chief Planning Officer.
- 7. Visiting Panel Schedule** (Pages 33 - 34)  
Report of the Chief Planning Officer.

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

## **PLANNING COMMITTEE**

### **MEETING HELD AT THE BOOTLE TOWN HALL ON 19 JANUARY 2022**

**PRESENT:** Councillor Veidman (in the Chair)  
  
Councillors Hansen, John Kelly, Sonya Kelly, Riley,  
Lynne Thompson and Waterfield

**ALSO PRESENT:** Councillor Pugh

#### **65. APOLOGIES FOR ABSENCE**

The following Members had submitted their apologies for absence following advice from the Director of Public Health to reduce the number of Members at Committee meetings for safety reasons associated with the recent local increase in Covid-19 cases – namely, Councillors O'Brien, Corcoran, Dutton, McGinnity, Roche, Spencer and Tweed. The minimum number of Committee Members were present to ensure that the meeting was quorate and adhered to political proportionality rules.

#### **66. DECLARATIONS OF INTEREST**

No declarations of any disclosable pecuniary interests or personal interests were received.

#### **67. MINUTES OF THE MEETING HELD ON 15 DECEMBER 2021**

**RESOLVED:**

That the Minutes of the meeting held on 15 December 2021 be confirmed as a correct record, subject to noting that the additional recommendation at Minute No. 60 is not required as it is covered on condition 9 of the application.

#### **68. DC/2021/02486 (FUL) & DC/2021/02487 (LBC) - 40 LANCASTER ROAD, BIRKDALE SOUTHPORT**

The Committee considered the report of the Chief Planning Officer recommending that the above applications for the Construction of 147 units of extra care accommodation in six new blocks and within the listed building, including the provision of ancillary accommodation and facilities in the listed building; the reconstruction of part of the listed building destroyed by fire; the repair and works for the conversion and extension of the listed building to the proposed use, including the demolition of some extensions to the building and detached curtilage buildings; repair of brick boundary wall; creation of a new access from Lancaster Road; construction of internal access roads and hardstandings for car parking,

# Agenda Item 3

PLANNING COMMITTEE- WEDNESDAY 19TH JANUARY, 2022

landscaping and Listed Building Consent for internal and external alterations including repairs and extensions to the Listed Building and works to the boundary wall 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 on behalf of objectors against the proposed development and a response by the applicant's agent.

Councillor Pugh, as Ward Councillor, made representations on behalf of objectors against the proposed development.

Arising from the discussion, Members discussed issues raised by the petitioners regarding the overlooking of properties on Granville Road and it was suggested that obscure glazing to the end (Northern/North Eastern elevation) of blocks C and D would alleviate this issue.

RESOLVED: That

- (1) the recommendation in respect of Application No. DC/2021/02486 be approved and the application be granted subject to the conditions and for the reasons stated or referred to in the report and in Late Representations and subject to:
  - (a) completion of a Section 106 Legal Agreement (as amended at Committee to allow for the occupation of Block E after the external works to the Listed Building were substantially complete, but before the internal works are substantially complete),
  - (b) agreement of Natural England to the final Habitats Regulations Assessment; and
  - (c) an additional condition relating to the revision of the layout of the end elevations (Northerly and North Easterly) of blocks C and D facing Granville Rd, to ensure windows are obscurely glazed with the final wording of the condition being delegated to the Chief Planning Officer.
- (2) the recommendation in respect of Application No. DC/2021/02487 be approved and the application for listed building consent be granted subject to the conditions and for the reasons stated or referred to in the report and in Late Representations.

## **69. DC/2020/02629 - 30 LIVERPOOL ROAD, FORMBY LIVERPOOL**

The Committee considered the report of the Chief Planning Officer recommending that the above application for the erection of a dwellinghouse including access on Liverpool Road, associated landscaping and infrastructure following the demolition of the existing outbuilding; and erection of a detached garage adjacent to the existing house including access on Liverpool Road 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 written representation (set out in the Late Representations document) on behalf of objectors against the proposed development and a verbal response by the applicant's agent.

Councillor Bennett, as Ward Councillor, was unable to attend and had submitted written representations on behalf of objectors against the proposed development.

RESOLVED:

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

## **70. DC/2021/02138 - 503-509 HAWTHORNE ROAD, BOOTLE**

Further to Minute No. 61 (15 December 2021) the Committee considered the report of the Chief Planning Officer recommending that the above application for the redevelopment of the site to provide new residential dwellings and extra care dwellings along with associated works including landscaping and provision of access from Hawthorne Road be granted subject to the 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 the conditions and for the reasons stated or referred to in the report and in Late Representations.

## **71. DC/2021/02224 - 4 DENSTONE AVENUE, AINTREE, LIVERPOOL**

This item was withdrawn.

## **72. 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.

Appellant	Proposal/Breach of Planning Control	Decision
Mr Brian Corrigan	APP/M4320/C/20/3258166 - Land North of Brewery Lane West of Rock Lane Rock Lane Melling. Appeal against unauthorised change of use of the site for residential purposes including the siting of caravans on land west of Rock Lane, Melling, L31 1EW	Allowed 02.12.21

# Agenda Item 3

PLANNING COMMITTEE- WEDNESDAY 19TH JANUARY, 2022

Marion Doherty	APP/M4320/C/20/3258167 - Land west of Rock Lane, Melling L31 1EW. Appeal against engineering works including the importation of hardcore to create a hardstanding area on land west of Rock Lane, Melling, L31 1EW.	Allowed 02.12.21
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RESOLVED:

That the report be noted.

## 73. VISITING PANEL SCHEDULE

The Committee considered the report of the Chief Planning Officer which advised that the undermentioned sites had been inspected by the Visiting Panel on 17 January 2022.

Application No.	Site
DC/2020/02629	30 Liverpool Road, Formby Liverpool
DC/2021/02486 & DC/2021/02487	40 Lancaster Road, Birkdale Southport
DC/2021/02224	Denstone Avenue, Aintree Liverpool

RESOLVED:

That the report on the sites inspected by the Visiting Panel be noted.

**Report to:** PLANNING COMMITTEE      **Date of Meeting:** 16<sup>th</sup> February 2022

**Subject:** [DC/2021/02819](#)  
[50 Elm Road Seaforth Liverpool L21 1BL](#)

**Proposal:** Change of Use from dwellinghouse (Class C3) into a House in Multiple Occupation (HMO) (Sui Generis) (7 persons) (Alternative to DC/2021/02343 refused 26/11/21)

**Applicant:** Mr A Rolfe      **Agent:** Mr Andrew Cunningham  
Andrew Cunningham Building  
Design Ltd

**Ward:** Linacre Ward      **Type:** Full Application

**Reason for Committee Determination:** Called in by Councillor Friel

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## Summary

This application seeks planning permission to change the use of a single dwelling to a House in Multiple Occupation (HMO).

The main issues to consider are the principle of the proposal and its impact on the character of the area, its visual impacts and impacts on the living conditions of nearby residents and future occupiers and on highway safety.

It is concluded the proposal will not cause significant harm and complies with policies in the Sefton Local Plan and with relevant planning guidance. In the absence of any other material considerations, the proposal is recommended for approval subject to conditions.

## Recommendation: Approve with conditions

**Case Officer**      Diane Humphreys

**Email**      [planning.department@sefton.gov.uk](mailto:planning.department@sefton.gov.uk)

**Telephone**      0345 140 0845

Application documents and plans are available at:

<http://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R3KZL6NWFrx00>

# Agenda Item 4a

## Site Location Plan



Reference: Map reference  
Date: 31/01/2022  
Scale: Scale: 1:1250  
Created by: Initials

## The Site

The site comprises 50 Elm Road, a terraced house situated on the north side of Elm Road within a residential setting.

## History

DC/2021/02343 Change of Use from dwellinghouse (Class C3) into a House in Multiple Occupation (HMO) (Sui Generis)(7 persons). Refused 26 November 2021.

## Consultations

### Local Plans Manager

There appears to be only one existing HMO within 50m of the proposal site (31 Cecil Road). Therefore, this proposal would not cause an over-concentration of HMOs locally (i.e. defined at 10% of the properties within 50m of a proposal).

### Highways Manager

No objections subject to a condition for cycle parking.

### Environmental Health Manager

No objection subject to conditions for increased sound insulation.

### Housing Standards Manager

The proposal will require an HMO licence and comments provided on room sizes, facilities and licence requirements.

## Neighbour Representations

The application has been 'called-in' by Councillor Friel to be determined by Planning Committee. The call-in requests the application to be refused on the following grounds:

- Contrary to planning policies
- Harmful to residential amenity
- Poor design quality
- Impact on quality of life of future occupants
- Density of HMO in area
- High occupancy of property

Individual written objections have been received from 7 residents of Elm Road as well as 6 residents from elsewhere in south Sefton. The grounds of objection include:

# Agenda Item 4a

## *Character of the Area*

- Too many HMOs in the area
- Property has been neglected
- Need for family homes for working people
- Residents are transient and negatively impact on the street's sense of community
- Unsightly bin area at the front
- Potential airbnb use

## *Living Conditions*

- Noise and disturbance
- Shared living unsuitable
- Lack of communal living space for future residents
- Adverse effect on neighbouring residents' quality of life and mental health
- Anti-social behaviour

## *Highway Safety*

- Parking problems with insufficient parking in the area

## *Other Issues*

- Loss of property values
- Residents often need health and social services which are already stretched
- First time buyers pushed out of market by greedy developers
- Concerned about fire safety and possible reduction in water pressure

## **Policy Context**

The application site lies within an area designated as primarily residential in the Sefton Local Plan which was adopted by the Council in April 2017.

## **Assessment of the Proposal**

This application follows the recent refusal of planning permission (reference DC/2021/02343) to convert the dwelling to a 7 person house in multiple occupation (HMO). The refusal was based on the proposal's failure to provide acceptable living conditions for future residents due to the inadequate size of three rooms and the lack of any communal dining or living area. The current proposal seeks to overcome these concerns.

The main issues to consider are the principle of the proposal and its impact on the character of the area, its visual impacts and impacts on the living conditions of nearby residents and future occupiers and on highway safety.

## **Principle**

The site lies within an area designated as a Primarily Residential Area in the adopted Sefton Local Plan and the principle of the development is acceptable under the terms of policy HC3, subject to compliance with the details of policy HC4 and the associated 'Flats and Houses in Multiple Occupation' Supplementary Planning Document (SPD).

Local Plan policy HC4.2 states that 'development involving the conversion of buildings to Houses in Multiple Occupation or flats will be permitted where it will not cause significant harm to the character of the area or the living conditions for either the occupiers of the property or for neighbouring properties'. These issues are discussed below.

## **Character of the Area**

Local residents are concerned about the proposal's impact on the character of the area.

It appears from the Council's records that there is one other house in multiple occupation or HMO (31 Cecil Road) within a 50-metre radius of the application site. Therefore, this proposal would not cause an over-concentration of HMOs locally, defined in the 'Flats and Houses in Multiple Occupation' SPD at 10% of the properties within 50m of a proposal. Planning permission was granted in July 2021 (reference DC/2021/00690) to use 66 Elm Road as a 3 unit HMO however this property sits outside the 50 metre radius.

The proposal will not have a material impact on housing stock available within the wider area. The use of the property by a single family could generate a similar amount of activity in and around it, and it is not necessarily the case that parking demand will be greater either, particularly given the sustainable location of the development.

The proposal's impact on the character of the area is considered acceptable and any potential harm would not be significant enough to justify refusal of planning permission on this ground alone.

## **Visual Impact**

The proposal involves some minor changes to the fenestration on the ground floor at the rear of the property. These amount to changing the rear windows to doors with window openings and inserting a small additional window in the shared kitchen. These changes are acceptable in visual terms.

With regards to bin storage, the plans indicate that bins would be kept in the front garden which is a common feature with terraced properties. The properties have low front boundary walls and the Design and Access Statement adds that 'a low bin screen will be erected to improve visual amenity'. The details of this screen and its implementation can be secured by condition.

# Agenda Item 4a

## **Living Conditions**

### *Impacts on Neighbouring Properties*

The fenestration changes proposed to the rear are at ground floor level only and would not increase the potential for overlooking to properties on Cecil Road.

As the property is terraced it is considered appropriate for a scheme of sound insulation to be provided to protect neighbouring properties as recommended by the Environmental Health Manager. This can be secured by condition.

### *Future occupiers*

The proposal has been assessed against the standards set out in the Council's 'Flats and Houses in Multiple Occupation' Supplementary Planning Document (SPD). This provides guidance in respect of room sizes and facilities provided for future occupiers as well as requiring an area of outdoor amenity space.

The current proposal involves the provision of two HMO rooms, a shared kitchen/dining area and a shared bathroom on the ground floor, two HMO rooms, a shared kitchen/dining area, shared bathroom and shared WC on the first floor and two HMO rooms on the second floor. The second floor rooms are in the rear half of the property which has a higher eaves level with windows in its rear elevation. All HMO rooms are for 1 person with the exception of the larger ground floor room which is for 2 people.

All room sizes and the facilities provided for future residents satisfy the SPD standards. All habitable rooms will have a reasonable outlook. In line with advice from the Environmental Health Manager, a condition can be imposed to secure a scheme of sound insulation to minimise noise impacts where HMO rooms are adjacent to communal areas including one of the second floor HMO rooms which is above a communal kitchen/dining area.

The SPD requires an area of private outdoor amenity space available for all residents to use. The current proposal would require a minimum area of 50 square metres for the 6 bedsits proposed. The proposal includes an area of outdoor amenity space at the rear of the property amounting to 98 square metres. This would be private and accessible to all residents in the property via the ground floor shared kitchen/dining room. An acceptable standard of outdoor space is therefore achieved.

## **Highway Safety**

No off-street car parking is proposed and the applicant has submitted a Minimum Accessibility Standard Assessment (MASA) that reviews the accessibility of the site. The MASA concludes that

the site is accessible to public transport with bus services providing access to local and more distant destinations. The Highways Manager has reviewed the application and raised no objections on this basis.

Cycle parking will need to be provided in accordance with Sefton's 'Sustainable Travel and Development' Supplementary Planning Document and this can be secured by condition as recommended by the Highways Manager.

## **Other Issues**

It is considered that the concerns of residents have been addressed above. Matters relating to property values are not material planning considerations and so cannot be taken account of in making the decision on an application.

It is confirmed that, so far as it is possible to do so, this report and the recommendations contained in it are to be read as being compatible and compliant with such of the provisions of the Environment Act 2021 as are in force at the date of this report.

## **Planning Balance and Conclusion**

The proposal is considered acceptable in principle and in respect of its impact on the character of the area. Concerns relating to visual impact, impacts on living conditions and on highway safety can be addressed by planning conditions.

The proposal will not cause significant harm and complies with relevant planning policy and guidance. In the absence of any other material considerations, the proposal is recommended for approval subject to conditions

## **Recommendation - Approve with Conditions**

### **Time Limit for Commencement**

1) The development hereby permitted shall be commenced before the expiration of five years from the date of this permission.

Reason: In order that the development is commenced in a timely manner, as set out in Section 91 of the Town and Country Planning Act 1990 (as amended).

### **Approved Plans**

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

# Agenda Item 4a

Drawing No. 100 rev A Existing Location Plan  
Drawing No. 103 rev C Proposed GA Plans and Elevations  
Drawing No. 104 rev A Proposed Site Plan

Reason: For the avoidance of doubt.

## Before the Development is Occupied

3) The development shall not be occupied until facilities for the secure storage of cycles have been provided in accordance with details to be submitted to and approved in writing by the local planning authority and they shall be retained in perpetuity thereafter.

Reason: To ensure that enough cycle parking is provided for the development in the interest of promoting non-car based modes of travel.

4) The development shall not be occupied until a bin storage screen has been provided in accordance with details to be submitted to and approved in writing by the local planning authority and the approved screen shall be retained in perpetuity thereafter.

Reason: To safeguard the appearance of the area.

5) Prior to the occupation of the development hereby permitted a scheme of sound insulation that protects the living conditions of neighbouring properties from the proposed use and protects the living conditions of future residents of HMO room 5 from the below communal kitchen/dining area and any HMO bedroom that shares a separating structure with any communal area such as halls, stairs, landings etc. The sound insulation works shall be completed as approved before the use of the building begins and thereafter retained in perpetuity.

Reason: To safeguard the living conditions of neighbouring/adjacent occupiers and land users.

## Ongoing Conditions

6) The maximum number of residents occupying the premises shall not exceed 7 (seven) people.

Reason: To avoid an over-concentration of people living in the property.

## Informatives

1) The applicant is advised that the proposal will require the formal allocation of addresses. Contact the Development and Support team on 0151 934 4195 or E-Mail [snn@sefton.gov.uk](mailto:snn@sefton.gov.uk) to apply for a street name/property number.

# Agenda Item 6

<b>Report to:</b>	Planning Committee	<b>Date of Meeting:</b>	Wednesday 16th February 2022
<b>Subject:</b>	Planning Appeals		
<b>Report of:</b>	Chief Planning Officer	<b>Wards Affected:</b>	(All Wards)
<b>Cabinet Portfolio:</b>	Planning and Building Control		
<b>Is this a Key Decision:</b>	No	<b>Included in Forward Plan:</b>	No
<b>Exempt / Confidential Report:</b>	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

# Agenda Item 6

## Implications of the Proposals:

<b>Resource Implications (Financial, IT, Staffing and Assets):</b> There are no resource implications	
<b>Legal Implications:</b> There are no legal implications	
<b>Equality Implications:</b> There are no equality implications.	
<b>Climate Emergency Implications:</b>  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

# Agenda Item 6

The Executive Director of Corporate Resources and Customer Services (FD.6697/22.) and the Chief Legal and Democratic Officer (LD.4897/22...) 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.

<b>Contact Officer:</b>	Tina Berry
<b>Telephone Number:</b>	0345 140 0845
<b>Email Address:</b>	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](http://www.sefton.gov.uk/planapps)

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## Appeals Received and Decisions Made

Email: [planning.department@sefton.gov.uk](mailto: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 [23 December 2021](#) and [27 January 2022](#)

## Appeal Decisions

### [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:** Dismissed

**Decision Date:** 21/01/2022

### [1 Heather Close Formby Liverpool L37 7HN](#)

**Reference:** EN/2021/00083 (APP/M4320/C/21/3283819)

Without planning permission and within the last four years, the erection of a brick wall with pillars in excess of 1 metre in height to the front boundary of the land.

**Procedure:** Written Representations

**Start Date:** 18/10/2021

**Decision:** Dismissed

**Decision Date:** 06/01/2022

### [Kirkstone Road North Litherland Liverpool L21 7NT](#)

**Reference:** DC/2021/01290 (APP/M4320/W/21/3279863)

Prior notification application for 18.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.

**Procedure:** Written Representations

**Start Date:** 24/09/2021

**Decision:** Dismissed

**Decision Date:** 23/12/2021

## New Appeals

### [27 Fell View Southport PR9 8JX](#)

**Reference:** DC/2021/01858 (APP/M4320/D/21/3289692)

Erection of a fence in the rear garden (retrospective completed 27/04/2021).

**Procedure:** Householder Appeal

**Start Date:** 21/01/2022

**Decision:**

**Decision Date:**

### [31 Harbord Road Waterloo Liverpool L22 8QG](#)

**Reference:** DC/2021/01455 (APP/M4320/D/21/3288465)

Erection of a single storey extension to the rear of the dwellinghouse, after demolition of existing conservatory

**Procedure:** Householder Appeal

**Start Date:** 17/01/2022

**Decision:**

**Decision Date:**

### [Orrell Hill Farm House Orrell Hill Lane Ince Blundell Liverpool L38 5DA](#)

# Agenda Item 6

**Reference:** EN/2021/00648 (APP/M4320/C/21/3289208)

Appeal against use of land for the storage of buses, caravans and other vehicles without planning permission

**Procedure:** Written Representations

**Start Date:** 17/01/2022

**Decision:**

**Decision Date:**



## Appeal Decision

Site visit made on 14 December 2021

**by M Savage BSc (Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 January 2022**

**Appeal Ref: APP/M4320/X/21/3277991**

**51 Sandhurst Drive, Aintree, Liverpool, Merseyside L10 6LU**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr and Mrs Brian and Maria Gerrard against the decision of Sefton Metropolitan Borough Council.
- The application ref DC/2021/00943, dated 7 April 2021, was refused by notice dated 16 June 2021.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is a detached building located in the rear garden.

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the Council's decision to refuse an LDC was well-founded. This will turn on whether the proposed development would constitute permitted development by virtue of the provisions of Article 3(1) and Class E(a) of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)('the GPDO').

### Reasons

3. An application under S192(1) of the Town and Country Planning Act 1990 (as amended)(the 'Act') seeks to establish whether (a) any proposed use of buildings or other land; or (b) any operations proposed to be carried out in, on, over or under land, would be lawful. In an application for a LDC, the onus is firmly on the applicant to demonstrate on the balance of probabilities that the proposed development would be lawful.
4. S192(2) sets out that if on application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect.
5. Permitted development rights for the erection of a single storey building at the rear of the dwellinghouse to form a games room are said to have been confirmed by the Council on 6 August 1984. However, this relates to a building which has now been removed. It is not disputed that the host dwelling benefits from permitted development rights, what is in dispute is whether the appeal scheme comprises accommodation that is for a purpose which is incidental to the enjoyment of the dwellinghouse.

# Agenda Item 6

Appeal Decision APP/M4320/X/Z1/3277991

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6. In consideration of the term “incidental to the enjoyment of the dwellinghouse” there should be some connotation of reasonableness in the circumstances of each case, it should not be based solely on the unrestrained whim of a householder. The test is whether the proposed building is genuinely and reasonably required or necessary in order to accommodate the proposed use or activity and thus achieve that purpose.
7. The main house is a two-storey semi-detached building and garage, with a combined footprint of around 85 square metres (sqm). Although the entrance to the main dwelling is located off Sandhurst Drive, there is a second vehicular access to the rear of the property, from Kempton Park Road. The access is gated, with a drop kerb and hardstanding within the rear of the garden, presumably for the parking of vehicles.
8. The proposed building would have a footprint of approximately 82sqm and would comprise a garden room/games room, with a toilet, basin and shower and a room which is identified as a ‘store’. The games room area would measure approximately 10.5m x 6.5m. A standard full sized snooker table is stated to measure 3.66m x 1.89m, with the minimum room size that is required for comfortable cueing 6.7m x 4.9m. I accept that a games room to accommodate such a table could be incidental to the enjoyment of the dwellinghouse, however, there would be significant space remaining. While the appellants state they are not exclusively interested in snooker, it is not clear what else they intend to use the games room for.
9. The appellants assert that the building would not provide primary living accommodation such as bedrooms and/or a kitchen, however, it would provide a bathroom. The Permitted development rights for householders: Technical Guidance (2019) advises that a purpose incidental to a house would not cover normal uses, such as a bathroom. Although there may be instances where a shower is reasonably required as part of an incidental use, snooker, in my view, is unlikely to generate the need to shower. Consequently, the bathroom proposed would duplicate accommodation provided in the main dwelling.
10. While the appeal building would be single storey and would comply with the size limitations set out in the GPDO, the floor space provided would be significant compared with the floor space provided by the main dwelling. Though size is not a conclusive factor in determining whether the proposal would be incidental to the use of the main dwellinghouse, the word ‘incidental’ connotes an element of subordination in land use terms in relation to the enjoyment of the dwelling house.
11. The main door to the outbuilding faces towards Kempton Park Road and whilst bifold doors are shown, they face towards the rear garden of No 53, rather than the host dwelling. The building appears to be laid out to function separately to the main dwelling, with its own bin storage, garden area, parking and access from Kempton Park Road. The layout of the building, its size and orientation away from the main dwelling and the inclusion of a bathroom suggests the building would not be used for purposes which are incidental to the enjoyment of the dwellinghouse.
12. Thus, for the reasons above, I am not persuaded, on the balance of probabilities, that the proposed outbuilding would be for a purpose incidental to the enjoyment of the dwellinghouse and as such, it is not development which is permitted by Class E of Part 1 of the GPDO.

## **Conclusion**

13. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a detached building located in the rear garden was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

*M Savage*

INSPECTOR



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### Appeal Decision

Site visit made on 3 December 2021

**by D Moore BSc (HONS), MCD, MRTPI, PGDip**

**an Inspector appointed by the Secretary of State**

**Decision date: 06 January 2022**

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#### **Appeal Ref: APP/M4320/C/21/3283819**

#### **1 Heather Close, Formby, Liverpool L37 7HN**

- 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.
  - The appeal is made by Miss Suzanne Deary against an enforcement notice issued by Sefton Metropolitan Borough Council.
  - The enforcement notice was issued on 3 September 2021.
  - The breach of planning control as alleged in the notice is without planning permission and within the last four years, the erection of a brick wall with pillars in excess of 1 metre in height to the front boundary of the land as shown on the attached plan entitled "wall plan" between points A and B.
  - The requirements of the notice are to remove the wall and pillars from the property OR lower the height of the wall and pillars to no higher than 1 metre in order to comply with permitted development rights.
  - The period for compliance with the requirements is 2 months.
  - The appeal is proceeding on the grounds set out in section 174(2)(e), (f) and (g) of the 1990 Act as amended.
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#### **Decision**

1. The appeal is dismissed and the enforcement notice is upheld.

#### **Background**

2. The enforcement notice concerns a boundary wall with pillars. The appellant sought planning permission, retrospectively, for the wall but the application was refused by the Council<sup>1</sup>. The subsequent appeal was dismissed<sup>2</sup>. The appellant argues that there are numerous other examples of higher fences and walls in the local area, including the immediate vicinity, and there have been no objections to the unauthorised development. Further, it is suggested that the landscaping, which has been planted adjacent to the wall, will become established within 12 months and would provide suitable screening. Also, it is explained that the construction of the wall is such that it would not be possible to lower it, as required, without damaging that part which would remain under permitted development rights. The resulting wall would become an eyesore.
3. These arguments all concern the merits of the development, which are its impact on the character and appearance of the area and how any impact may be mitigated. These matters all relate to a ground (a) appeal, that planning permission should be granted for the matters alleged. However, ground (a) has not been pleaded and I am unable to take these considerations into account.

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<sup>1</sup> Ref DC/2020/02369.

<sup>2</sup> Ref APP/M4320/D/21/3269181 dated 18 May 2021.

4. I understand that a previous enforcement notice was withdrawn as it contained errors relating to the extent of the unauthorised wall, and there was no location plan. Those errors were resolved when the second notice was issued. There is no evidence before me that the current notice is invalid.

## **The ground (e) appeal**

5. The main issue to consider is whether the appellant has shown, on the balance of probability, that the notice was not served as required by section 172 of the 1990 Act as amended and, as a result, there has been substantial prejudice. The appellant argues that the paperwork served by the Council was incorrect and incomplete.
6. Section 172(2) requires that a copy of an enforcement notice shall be served on the owner and on the occupier of the land to which it relates and on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
7. The Council has provided a completed copy of the Planning Contravention Notice, dated 18 June 2021, which lists the names of the occupiers and owners of the appeal property. This information was cross referenced against the Land Register and Council Tax records. The Council has confirmed that the notice was served on all the owners and occupiers identified through this process. In the absence of any evidence to the contrary, I am satisfied that the notice was served as required. The appeal on ground (e) fails, therefore.

## **The ground (f) appeal**

8. The ground (f) appeals are that the steps required by the notice to be taken, or the activities required to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. While the connection is not explicit, the wording of Section 174(2)(f) of the 1990 Act links back to Section 173 which provides that an enforcement notice shall specify the steps to be taken, or activities to cease, in order to achieve, wholly or partly, remedying the breach or remedying any injury to amenity. In this case, the notice requires the removal or alteration of the wall so that it conforms with the relevant permitted development limitations. Hence, its purpose is to remedy the breach of planning control. I must consider whether the requirements exceed what is necessary to achieve that purpose.
9. Deemed planning permission is granted by virtue of Article 3 and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), which concerns gates, fences and walls. Under A.1. development is not permitted by Class A - *if (a) the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed— (i) for a school, 2 metres above ground level, provided that any part of the gate, fence, wall or means of enclosure which is more than 1 metre above ground level does not create an obstruction to the view of persons using the highway as to be likely to cause danger to such persons; (ii) in any other case, 1 metre above ground level.* The appeal site is not a school and the limitation is 1 metre.

# Agenda Item 6

Appeal Decision APP/M4320/C/21/3283819

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10. The wall has been constructed adjacent to a highway without planning permission and parts of it exceed 1 metre in height. This constitutes a breach of planning control. In order to remedy the breach, the unauthorised development must be removed or altered so that it would fall within the limitations of development permitted under the GPDO. This is what the requirement sets out, which is not excessive.
11. The appellant indicates that the injury to amenity could be remedied through landscaping. If I were to accept this argument, I would need to grant planning permission for the wall, as built, and impose a condition to ensure the landscaping is maintained. However, as explained, there is no ground (a) appeal and no mechanism for me to grant planning permission. In any event, this would not achieve the statutory purpose behind the notice, which is to remedy the breach of planning control.
12. I conclude on this matter that the steps required by the notice are not excessive to achieve its statutory purpose and the appeal on ground (f) must fail.

## **The ground (g) appeal**

13. The ground (g) appeal is that the time required for compliance with the notice falls short of what should reasonably be allowed. The appellant is seeking 12 months to allow the landscaping to grow, which it claimed would screen the wall.
14. I understand the appellant's intentions. However, if I were to allow 12 months for the landscaping to become established, the breach of planning control would remain and the notice would still have to be complied with. This would not achieve the appellant's aim, which is to retain the wall as built. The issue of whether or not the development would be adequately screened by planting concerns the planning merits, which have been previously considered and are not relevant to this appeal.
15. I conclude, therefore, that the two months allowed for compliance with the notice is reasonable and proportionate and the appeal on ground (g) fails.

## **Conclusion**

16. For the reasons given above, I consider that the appeal should not succeed.

*D Moore*

Inspector

## Appeal Decision

Site visit made on 16 November 2021

**by F Rafiq BSc (Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 December 2021**

**Appeal Ref: APP/M4320/W/21/3279863**

**Kirkstone Road North, Ford, Litherland L21 7NT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of The Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Hutchison UK Ltd against the decision of Sefton Metropolitan Borough Council.
- The application Ref DC/2021/01290, dated 7 May 2021, was refused by notice dated 1 July 2021.
- The development proposed is an 18.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works.

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The name of the appellant company is spelt differently on the Application Form and Appeal Form. I have used the name as spelt on the former in this decision.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) require the proposed development to be assessed solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on this basis.
4. The principle of development is established by the GPDO and the provisions of the Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have, though, had regard to the policies of the Local Plan for Sefton (Local Plan) and the National Planning Policy Framework (Framework) insofar as they are a material consideration relevant to matters of siting and appearance.

### Main Issue

5. I consider the main issue is the effect of the proposed development's siting and appearance upon the character and appearance of the surrounding area.

### Reasons

6. The appeal site is situated on the north-eastern side of Kirkstone Road North close to the junction with Anderson Way. It is on an area of pavement that is positioned away from the edge of the vehicular carriageway and is adjacent to a grassed area of land. Along Kirkstone Road North in the vicinity of the site

# Agenda Item 6

Appeal Decision APP/M4320/W/21/3279863

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- are three storey terraced blocks which contain a mix of retail and other commercial uses on the ground floor, and residential above. The wider area is however predominantly residential, formed mainly of two storey dwellings interspersed with larger areas of green space such as Kirkstone Park on the opposite side of Kirkstone Road North. These open spaces, some of which contain trees and other planting, as well as the wide pavement and vehicular carriageway, gives the area a spacious, suburban character.
7. The proposed mast would be positioned close to an existing streetlight which is situated close to the edge of the vehicular carriageway on Kirkstone Road North. There are also other street furniture items in the area, such as a telegraph pole further to the rear along Anderson Way. Despite the proximity to these vertical features, the proposed mast, at 18m in height, would be more than double the height of the telegraph pole and also that of the streetlight. It would also be significantly taller than any of the nearby properties and would thereby appear as a visually intrusive feature in the streetscene. I was able to see the location of nearby mature trees, but these are within Kirkstone Park on the opposite side of Kirkstone Road North and would not provide any roadside screening of the monopole. In any event, in other views where the trees and proposed mast would be seen together, the latter would appear conspicuously tall and be higher than any built or natural features in the area.
  8. I appreciate the efforts that have been made to minimise visual intrusion, including the slim line pole design and the avoidance of more bulky and intrusive support structures. The appellant has also set out that there is an opportunity to select the colour of the pole. I also appreciate that in a built-up area, telecommunication installations do not in themselves appear unusual. However, in this particular instance, the excessive height of the mast and its intended positioning, would result in it appearing as an incongruous feature that would be harmful to the character of the area.
  9. The appellant states that there would only be limited opportunity for a negative impact on residential amenity and that there are no residential properties that directly overlook the site. The mast would, however, be clearly seen from a number of residential properties, including the upper floor flats along Kirkstone Road North and the end property at No 1 Anderson Way. I do not consider as the appellant states, that these would be suitably distanced, and the proximity to these properties and the height of the mast would cause significant harm to the outlook of the residents within neighbouring properties.
  10. A number of cabinets are also proposed which the Council are concerned would give rise to a sense of clutter. However, as the cabinets would be low level structures positioned in a linear arrangement close to existing bollards, they would not unduly add to street clutter. As such, I do not find that this element of the proposal would unacceptably harm the character and appearance of the area.
  11. The Framework sets out that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and in this respect there is a need to support the expansion of electronic communications networks, including next generation mobile technology. The proposed mast would provide 5G coverage and a number of potential benefits have been set out by the appellant. Reference has also been made to the Government's Future Telecoms Infrastructure Review (2018) and 'Planning for

Growth' (31 March 2011). These are said to support the proposal and the appellant has also made reference to another appeal decision in this respect<sup>1</sup>. The Council acknowledge the substantial benefit to the area in terms of facilitating next generation mobile technology and improving existing coverage. I see no reason to take a different stance. The Council have however commented that the appellant has not properly addressed other potential sites in the area referencing, in particular, the area towards the junction of Church Road and Netherton Way.

12. The appellant states that the proposal is in a highly constrained cell search area and is influenced by various factors, such as the separation required from other equipment and the presence of underground services. Within the search area, a number of sites were considered and discounted, including some in the general vicinity of Church Road and Netherton Way which were discounted for reasons citing the 'location of a cycle lane' and in the case of one site, additionally citing obstruction from overhead tree canopies. I recognise that there is a need to ensure sufficient space for cyclists and to avoid natural features such as trees, but there is no persuasive evidence before me that explains how these factors led to the discounting of these sites. From my observations, the area around that junction includes areas of grass verge and wider areas of pavement, including areas that are not obstructed by tree canopies. These locations could potentially accommodate the proposal and I find the analysis of discounted options by the appellant is too generalised to eliminate other options.
13. I appreciate the need for this installation is to address the provision of 5G coverage in the area. It would provide benefit in terms of access and speed to a multitude of users and this weighs in favour of the appeal as does the potential of this proposal to facilitate future site sharing and use for future technologies. I have also no reason to question the need for a new site for this proposal and the adherence by the appellant to the sequential approach in considering existing base stations/structures, site sharing or installing on an existing building or tall structure. The proposal would, however, for the reasons set out above, be harmful to the character and appearance of the area. I note that a mast with a height of 18m is the minimum required. On the evidence before me though I am not convinced that less harmful alternatives have been properly explored and it is my overall view that the need for the proposal does not in this case, outweigh the harm.
14. Given my findings, the proposed development conflicts with paragraph 115 of the Framework and also the aims of policies EQ2 and HC3 of the Local Plan, which seek, amongst other matters, development that is sympathetically designed and makes a positive contribution to its surroundings.

## Other Matters

15. Although the appellant considers that other locations would place the mast closer to more sensitive receptors or require an increase in height, I am not persuaded from the available evidence that this would necessarily be the case.
16. The proposal would not result in an obstruction to the free flow of pedestrians and there have not been any objections from statutory consultees. I note the concerns in relation to the potential effects on health but the appellant has

<sup>1</sup> Appeal Ref: APP/G4240/W/20/3263529

# Agenda Item 6

Appeal Decision APP/M4320/W/21/3279863

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provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). A lack of harm in these areas are neutral matters and do not weigh in favour of the proposal.

17. I note the appellant sought pre-application discussions with the Council who did not provide a response. This appeal follows the Council's formal decision, and I can confirm that I have assessed the development on both its merits and impacts.

## **Conclusion**

18. For the above reasons and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*F Rafiq*

INSPECTOR

**Planning Committee**

**Visiting Panel Schedule**

Date Monday 14<sup>th</sup> February 2022

Start: 10:00 am at BOOTLE TOWN HALL

Agenda Item	Time	Application Details	Ward
4A	10:15am	DC/2021/02819 50 Elm Road, Seaforth L21 1BL	Linacre

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