

# Public Document Pack

**Sefton Council** 

MEETING: PLANNING COMMITTEE

DATE: 19th January 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. 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. Sinclair D'Albuquerque  
Cllr. Gordon Friel  
Cllr. Dave Robinson  
Cllr. John Dodd  
Cllr. Janis Blackburne  
Cllr. Linda Cluskey

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## **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 [ian.barton@sefton.gov.uk](mailto:ian.barton@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.**

# **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 15 December 2021** (Pages 5 - 8)

Members are requested to note that the additional condition approved at Minute No. 60 is not required as it is covered in condition 9 of the application.

## **4. Applications for Planning Permission - Petitions**

### **A DC/2021/02486 (FUL) & DC/2021/02487 (LBC) - 40 Lancaster Road, Birkdale Southport PR8 2JY** (Pages 9 - 70)

Report of the Chief Planning Officer

### **B DC/2020/02629 - 30 Liverpool Road, Formby Liverpool L37 4BW** (Pages 71 - 88)

Report of the Chief Planning Officer

## **5. Applications for Planning Permission - Approvals**

### **A DC/2021/02138 - 503-509 Hawthorne Road, Bootle L20 6JJ** (Pages 89 - 110)

Report of the Chief Planning Officer

**B C/2021/02224 - 4 Denstone Avenue, Aintree  
Liverpool L10 6LH**

(Pages 111 - 116)

Report of the Chief Planning Officer

**6. Planning Appeals Report**

(Pages 117 - 150)

Report of the Chief Planning Officer

**7. Visiting Panel Schedule**

(Pages 151 - 152)

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 15 DECEMBER 2021

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

Councillors Corcoran, Dutton, John Kelly,  
Sonya Kelly, McGinnity, Riley, Lynne Thompson,  
Tweed and Waterfield

ALSO PRESENT: Councillor Bennett

#### **57. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Hansen, Roche, Spencer and Bradshaw (Substitute Member).

#### **58. 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 concerned remained in the room and took part in the consideration and voting on the item:

Member	Minute No.	Nature of Interest
Councillor Dutton	Minute No. 60 - DC/2021/01762 - Land Off Raven Meols Road / Harebell Close/ The Ravens, Formby	knows a member of the applicant's family but does not believe that this would affect her decision on the matter.

#### **59. MINUTES OF THE MEETING HELD ON 17 NOVEMBER 2021**

RESOLVED:

That the Minutes of the meeting held on 17 November 2021 be confirmed as a correct record.

#### **60. DC/2021/01762 - LAND OFF RAVEN MEOLS ROAD/HAREBELL CLOSE/THE RAVENS, FORMBY**

The Committee considered the report of the Chief Planning Officer recommending that the above application for the erection of a detached dwelling and associated access from Harebell Close be granted subject to

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the conditions and for the reasons stated or referred to in the report. Further conditions were set out in the late representations document and a further condition for the purposes of clarity and certainty in relation to mitigation tree planting was reported at the meeting.

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 Bennett, as Ward Councillor, made 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 and in Late Representations subject to condition 7 being amended to increase the woodland and habitat management period from 25 years to 30 years and subject to the following additional condition:-

"No part of the development shall be occupied until a landscaping scheme detailing the proposed tree replacement planting has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include tree planting to mitigate the loss of trees identified to be removed in the approved Arboricultural Implications Assessment. The scheme shall include details of their species, size, location and a schedule of implementation".

Reason: To ensure that trees lost as a result of development are appropriately mitigated."

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

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.

Arising from the discussion Members expressed concern regarding vehicular access from the site onto Hawthorne Road and considered that there should be one point of vehicular access to the site which should be a controlled access.

**RESOLVED:**

That consideration of the application be deferred to enable the Chief Planning Officer to discuss the possible option of a single, controlled point of vehicular access to the site with the applicant and Ward Councillors.

## 62. DC/2021/01602 - 8A GRANVILLE ROAD, BIRKDALE

The Committee considered the report of the Chief Planning Officer recommending that the above application for the erection of an additional storey, together with accommodation in the roofspace, together with single storey extensions to the side and rear, together with roof terraces to the first floor to the front and Juliette balconies to the rear be granted subject to the conditions and for the reasons stated or referred to in the report.

Arising from the discussion Members expressed concern that the existing trees on the site should be protected from being removed and the Chief Planning Officer reported that this could be achieved by way of an additional condition.

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 subject to an additional condition which will protect the existing trees on the site.

## 63. 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 N. Davis	DC/2019/01421 - Greenloons Farm Kirklake Road Formby Liverpool L37 2DD. Appeal against refusal by the Council to grant Planning Permission for the erection of dwellinghouse following demolition of existing dwelling.	Dismissed 08/11/2021
Anwyl Construction Company Ltd	DC/2019/01043 - Park House Guest House Haigh Road Waterloo Liverpool L22 3XS. Appeal against refusal by the Council to grant outline Planning Permission 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.	Dismissed 08/11/2021

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RESOLVED:

That the report be noted.

## **64. 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 13 December 2021.

Application No.	Site
DC/2021/02138	503-509 Hawthorne Road, Bootle
DC/2021/01762	Land Off Raven Meols Road/Harebell Close/The Ravens, Formby
DC/2021/01602	8A Granville Road, Birkdale

RESOLVED:

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



**Report to:** PLANNING COMMITTEE      **Date of Meeting:** 19 January 2022

**Subject:** [DC/2021/02486 & 02487](#)  
[Former Birkdale School for the Hearing Impaired, 40 Lancaster Road, Birkdale, Southport PR8 2JY](#)

**Proposal:** DC/2021/02486 (planning application) - 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, landscaping.

DC/2021/02487 (listed building consent) - Listed Building Consent for internal and external alterations including repairs and extensions to the Listed Building and works to the boundary wall.

**Applicant:** Birkdale Retirement Village Ltd      **Agent:** Mr. Paul Sedgwick  
Sedgwick Associates

**Ward:** Dukes Ward      **Type:** Major application

**Reason for Committee Determination:** Petition endorsed by Councillor Pugh

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## Summary

The proposals seek planning permission and listed building consent for a Class C2 (residential institutions) Extra Care development on the former Birkdale School for the Hearing Impaired, Lancaster Road, Birkdale.

The report, and the circumstances relating to the site, raises a variety of complex issues. Many of these issues run parallel to those relevant when planning permission and listed building consent were last granted for a smaller Extra Care scheme in December 2018 (referred to throughout the report as 'the 2018 permission'. As such, the headline points are as follows:

1. The school was last occupied in 2003 and has since fallen into a dreadful condition, with the principal Grade II building (known as 'Terra Nova') severely damaged by fire in May 2010. Approximately a third of the building, the right hand side elevation facing towards Lancaster Road, has been razed to the ground, and the remainder has been

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exposed to a number of freezing winters which have contributed further to the deleterious condition of the building's interior.

2. Works have now commenced on the listed building in accordance with the planning permission and listed building consents already granted meaning that restoration and refurbishment is already under way on site. The works are certified as lawful.
3. There have been previous unsuccessful attempts to develop the site in the period since. Most notably, an application for conversion of the listed building and the development of a large part of the grounds for residential development was dismissed at appeal in 2015. This followed a previous scheme which also went to appeal but was withdrawn in June 2012.
4. The current proposal seeks to convert, extend, refurbish and remodel the listed building, with new build development within the grounds to facilitate a C2 'Extra Care' use, for over 55s with a professionally recognised health care need. The main listed building offers a range of communal facilities for all occupiers.
5. The new build components are more extensive than those provided for by the 2018 permission, and the rationale is explained in the main report.
6. The end user is confirmed to be Cinnamon Care Ltd. As such, an identified care provider and finalised model is explained in the report, which in part informs the Section 106 Legal Agreement (point 22 below).
7. The report discusses in detail the differences between this use and conventional dwellings, which is of significance in particular having regard to Council policy on affordable housing.
8. On the basis that the end use is accepted as C2 'Extra Care', the principle of development is acceptable in policy terms, as the significance of restoring the heritage asset is considered to outweigh some minor conflicts with the Local Plan and the National Planning Policy Framework ('the Framework') in relation to recreational use of the land, for reasons explained in the main report.
9. In 2020, case law emerged from a case in Oxfordshire (*Rectory Homes Ltd v SoSHCLG and South Oxfordshire DC [2020] EWHC 2098 (Admin)*) for an extra care development of 78 units, which serves to confirm that any requirement for affordable housing is based on the precise wording of planning policies rather than what use class the scheme falls under.
10. In the light of the case law at (9), the applicant agreed that Policy HC1 of the Local Plan should be ascribed weight and in accepting that requirements for affordable housing are applicable, submitted a viability report.

11. The conclusion of the Council's retained viability consultant is that not only would the scheme prove unviable if any affordable housing was provided, it is barely viable even without such provision.
12. The development impacts on key heritage assets, most notably the listed former school building, and the West Birkdale Conservation Area. The report comments in detail on the heritage significance of the site and the key heritage points. Most significantly, the deteriorated state of the asset is acknowledged, but not considered in making the final heritage assessment (the Framework paragraph 196).
13. The development causes 'less than substantial harm' to heritage assets, and this harm must be weighed against the public benefit derived from bringing the listed building back into use.
14. The new build designs are exciting and contemporary in nature.
15. Historic England have raised no objection to the proposals.
16. The proposal gives rise to the need for a comprehensive landscaping approach to reflect the new use, both responding to and informing new building layouts and the opportunity to better reveal heritage assets and open up key views of the building.
17. The proposal has been subject to review by highway colleagues, and with some slight modification to improve pedestrian connections to Granville Road, is acceptable in relation to parking provision on site, accessibility and overall highway safety.
18. Where impacts have been identified on neighbouring properties, these have been reviewed in conjunction with immediately affected residents and the applicants during the process, and no significant harm is considered to arise to neighbouring properties as a result.
19. Open space to the site frontage, though visible from Lancaster Road, is set below the carriageway level within a new landscaping framework and will benefit all future occupiers. There are also landscaped areas to the rear of the four new blocks A-D, set behind parking courts.
20. Detailed drawings are provided in relation to the listed building conversion, ensuring the finer detail of the internal conversion is understood and can easily be monitored over the duration of the application's implementation.
21. A full range of ecological surveys have been produced, which raise no fundamental points of concern, and the applicant has reviewed the implications of the development

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in relation to recreational pressures of the Sefton coastline. A number of mitigation measures have been incorporated into the scheme as a result.

22. The applicant will enter a Legal Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) committing to a phasing plan which will ensure that the listed building is restored and constructed at an early stage; this is necessary for the scheme to work in any event as without the communal facilities in the building, the new build blocks serve no purpose for end users.
23. The report properly balances the acknowledged heritage harm against the public benefits of the proposals, most notably facilitating the re-use of the listed building and providing much needed Extra Care accommodation and does so having regard to the relevant statutory tests.
24. All other policy and material planning considerations give weight to the conclusion that the proposal is acceptable once all relevant matters have been assessed.

The conclusion from the above points is that planning permission and listed building consent should be granted for the proposals.

## **Recommendation:**

**DC/2021/02486 - Approve with conditions subject to:**

- a) completion of a Section 106 Legal Agreement, and
- b) agreement of Natural England to the final Habitats Regulations Assessment

**DC/2021/02487 – Grant listed building consent with conditions.**

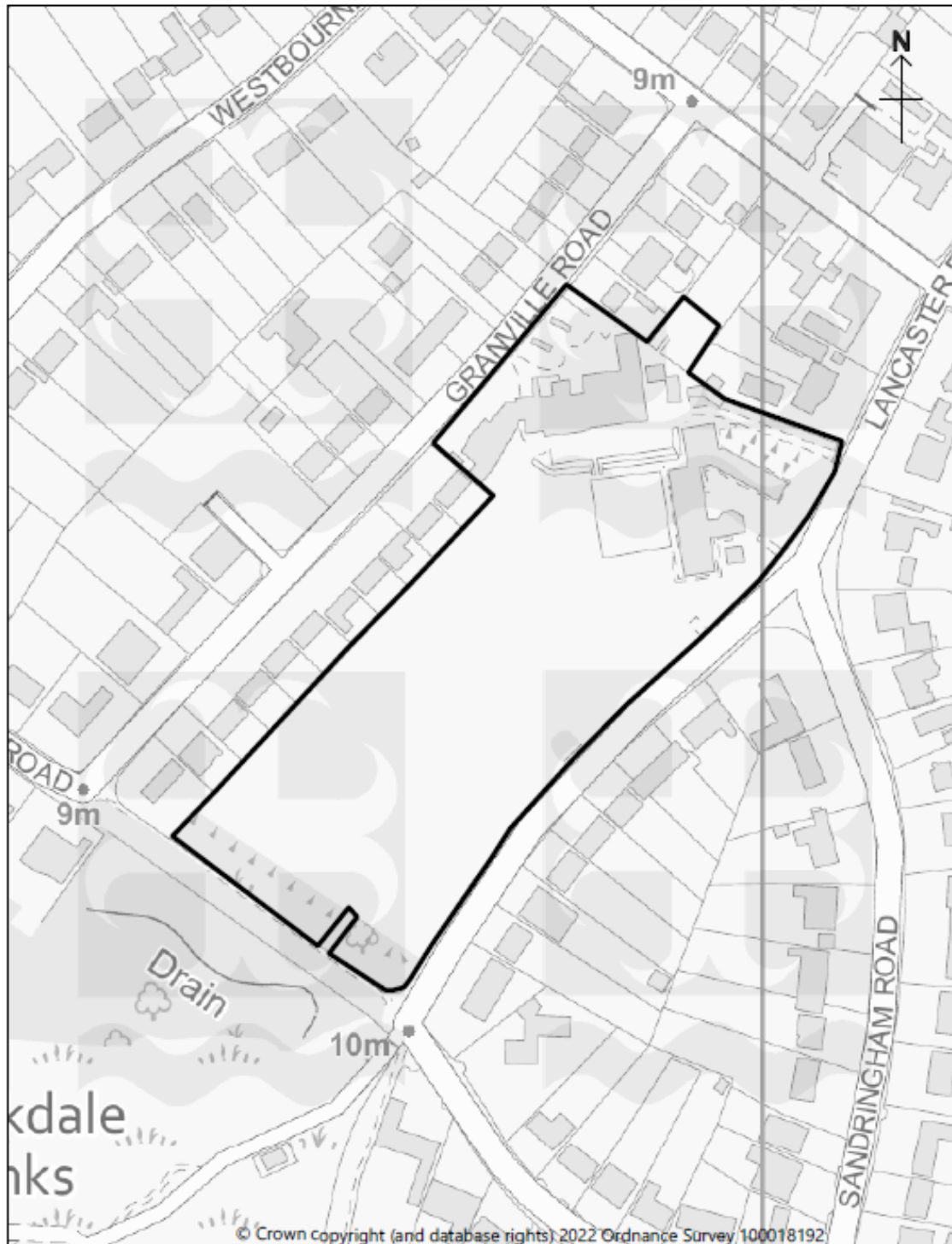
**Case Officer** Steven Faulkner

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

**Telephone** 0345 140 0845

Application documents and plans are available at:

Site Location Plan



Sefton Council



Reference: Map reference  
Date: 10/01/2022  
Scale: Scale: 1:2500  
Created by: Initials

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## The Site

The site lies around 0.9 km west of Birkdale local centre and comprises the former Birkdale School for Hearing Impaired Children. The school closed in 2003 and is occupied by a Grade II listed building on the north east side ('Terra Nova') and a later separate building constructed in the 1970s.

Part of the former school fields fronting Granville Road was developed with 11 dwellings in 2000. This was subject to a Section 106 Legal Agreement, which sought to ensure grass cutting and lining of cricket and football pitches comprised within the land, and tree planting along the Lancaster Road frontage.

The listed building and the other buildings to Lancaster Road suffered extensive fire damage in May 2010. The remainder of the site largely comprises unkempt green area and varied groupings of trees. The fields are sunken a couple of metres below the carriageway level to Lancaster Road.

If optimum condition was to be assumed, the site is a positive feature of the conservation area. However, its long term lack of maintenance and stewardship has led to significant degradation.

The surrounding area is characterised by residential property of mixed era, spacious layout with low density and individual design. Much of the built form is from the interwar period adopting varying styles including gothic, modern revival and arts and crafts styles.

To the south west of the site lie Birkdale Hills and the Royal Birkdale Golf Links.

## History

Planning permission was granted in May 2000 for the erection of 11 two storey dwellinghouses with garages fronting Granville Road.

An application to convert the former school building to form 27 apartments including internal and external restoration and alteration, erection of 16 detached two storey dwellings, new and revised access from Lancaster Road, parking, landscaping and public open space was refused in March 2011 and the appeal was eventually withdrawn in June 2012. (S/2010/1671).

In 2013 a further application was submitted for conversion to form 27 apartments, and 30 dwellings in the grounds. The applicant appealed against the non-determination of the application and this appeal was dismissed in September 2015. (S/2013/0890)

Planning permission was subsequently granted in November 2018 for 113 units of extra care accommodation in six new blocks and within the listed building alongside associated car parking, access and landscaping (DC/2018/00607). The pre-commencement planning conditions for this application have been approved and a lawful start has been made to this development on site which was confirmed by a certificate issued on 14 October 2021 (DC/2021/02356).

## Consultations

**Highways Manager** – no objections subject to conditions

**Environmental Health Manager** – no objection subject to suggested conditions for acoustic protection to car parks and noise from plant/equipment

**Contaminated Land Manager** – no objection

**Natural England** – further consultation response awaited having regard to Habitats Regulations Assessment

**Merseyside Fire and Rescue** – no objections

**Flooding and Drainage Manager** – comments awaited

**Cadent Gas** – no objection

**Merseyside Environmental Advisory Service** – no objections subject to conditions and completion of HRA review by Natural England

**Police Architectural Liaison Officer** – no objections but suggestions on boundary treatments and hard surfacing

**Tree Officer** – further landscaping plan requested

**Historic England** – no objection

**Twentieth Century Society** – no comments received

**The Georgian Group** – no comments received

**Society for the Protection of Ancient Buildings** – no comments received

**Victorian Society** – no comments received

**Council for British Archaeology** – no comments received

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**Historic Buildings and Places** - no comments received

**United Utilities** – no comments received

## Representations

A petition of 56 signatures has been provided objecting to the application and is endorsed by Cllr John Pugh. Cllr Sir Ron Watson and Cllr Prendergast have also written broadly expressing support for the principles but raising concerns over specific details relating to site layout, density and impacts on nearby residents.

Around 20 individual representations have been received from residents of Granville Road, Sandringham Road and Lancaster Road. These all object to the proposals, though some express more general support for the principle of securing the site's future. Some comment that they had supported the original plans but cannot support these due to the changes to height and design and proximity to properties compared with the 2018 permission.

The objections are based on the following main points:

**Design** – many objections comment on the design which is seen to be poor, does not reflect the character of the local area, far from appealing, too high with blocks no longer recessed, square, angular buildings with little detail, an eyesore, more like what would be envisaged in a city environment.

Design should give consideration to two storey blocks more centrally located, A design with red brick and traditional windows would be supported, development too great a contrast, inappropriate materials (use of grey bricks inappropriate)

The previous two storey Block E now three storey, will dominate Lancaster Road, increased number of occupiers is presumed to be down to Block E. Developer has claimed that building heights are unchanged from previous.

Plans fail to create well-connected, attractive outdoor areas for local residents

**Impacts on adjoining properties** – proposed windows and balconies will cause unacceptable overlooking of properties particularly on Granville Road and Sandringham Road respectively and in some instances, a serious loss of privacy is cited. Also claims of loss of light, and sunlight in particular from the new apartment blocks.



**Heritage** - Development is uncharacteristic of wider conservation area, key vista point from Lancaster Road looking across to Terra Nova has been moved since the 2015 permission. Conservation comments relate to the listed building but not to the impact on Conservation Area

Other general comments and objections are raised as follows -

- Development results in 'over development' of the area.
- Concern over construction traffic passing nursing homes on Lancaster Road and Grosvenor Road
- Insufficient room for tree planting
- Insufficient greenspace
- Increased pressure on junctions and traffic accident blackspots
- Noise from parking to the rear of properties
- Impacts on local drains and sewers
- Impacts on ecology and wildlife
- Proposals reflect an attempt to get an initially acceptable development but replace it with an alternative that is wholly out of character
- Proposals bring interference with the European Convention on Human Rights, notably, Articles 6 and 8
- Query raised as to whether new hedgerow would replace the existing to rear of Granville Road, concerns over removal or allowing it to grow inappropriately
- Proposal will bring strain on medical and health care facilities
- A nearby development at Oxford Road has come to a halt - should this not be prioritised?
- Works must prioritise the listed building above the new build components.

## Policy Context

The application site is designated as an Education and Care Institution by the Sefton Local Plan adopted by the Council in April 2017. Policy HC7 'Education and Care Institutions' is therefore relevant and point 3, which refers to sites formerly in use as schools, colleges or care institutions, states that:

*"Development for an alternative use which is compatible with the surrounding area is acceptable in principle, where appropriate evidence is provided that the institution and its ancillary facilities are surplus to recreational requirements."*

Subject to that assessment being undertaken and provided there is no conflict with HC1 'Affordable and Special Needs Housing' there would be no planning policy objection to the proposal in land use terms.

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Policies NH5 'Protection of Open Space', NH9 'Heritage Assets' and NH11 'Works Affecting Listed Buildings' are also of significance as are the related provisions of the National Planning Policy Framework.

## Assessment of the Proposal

### KEY DIFFERENCES BETWEEN 2018 PERMISSION AND CURRENT PROPOSAL

The proposals largely replicate the already approved proposals for the listed building itself. The main changes to the scheme are in respect of the free standing blocks, providing for supported living units (SLUs) and, as set out in the applicant's Planning Statement, involve the following:

- Redesign of all new blocks and providing a more formalised high quality landscape setting
- Increasing accommodation from 113 to 147 units;
- Extending new Blocks A – D towards the site boundary to increase floorspace without impact on the setting of the listed building;
- Re-siting Block E to respond better to the listed building and the formal gardens and lawns in front of it.

The applicant states that there are no changes proposed to the operations of the business. On site care and support is retained as well as the shared facilities available to all residents. Shared indoor accommodation is provided on the ground floor of the listed building and includes a restaurant, bar, lounge, courtyard garden, treatment rooms, library, hair dresser, gym and activities room, laundry, reception, management and staff accommodation.

The residential accommodation will be in the form of assisted living units (ALUs) and are for people relying most heavily on support services and shared facilities such as the restaurant. They are to be provided within the listed building and the attached Block F, so that they are close to the carers and the shared facilities.

The Supported Living Units (SLUs) are for people who require care but are less dependent. The approved layout was informed in part by the siting and extent of existing development associated with the listed building. These developments are being replaced with new residential blocks – E and F, although the siting has been altered a little to respect views of the listed building from Lancaster Road and also to ensure that new development is visually and structurally separated from the historic structure.

Four additional blocks (The Villa blocks A-D) are to be constructed and take the form of a crescent located towards the southern end of the site. They are functionally linked to the core facilities in the listed building whilst the degree of separation from it respects its setting and character, and frame the panoramic views of it from Lancaster Road, an important element of the conservation area. The grounds between the listed building and Lancaster Road will be managed to retain the view of the school over landscaped greenspace.

It had been hoped that the 2018 permission would come to full fruition, and this scheme offered an excellent solution for the site bringing the listed building back into full use and new built form that would offer an enhanced setting whilst being fully respectful of the presence of existing adjoining occupiers. As this development will not proceed, it is necessary to explain why a larger scheme is contemplated in the present.

The 2018 permission was promoted by Octopus Investments and their architects on the basis that they would fund the development of the scheme. Therefore, the current consented scheme and mix of units was formed by Octopus on this basis. However, the deal was never completed as the economics of the scheme was found subsequently not to work. This mainly due to the huge cost of renovating the Listed Building, which in addition to the necessary basic infrastructure is understood to require £30m investment before one single sale takes place.

The applicants then explored the possibility of bringing forward the 2018 permission with another developer but received substantial and consistent feedback on it as follows:

- The mix of units was wrong. The Assisted Living Units (intense Care generally for one senior adult) needed to be 80% 1 beds of a certain size where the previous development had units of two bed size representing 75% of the mix.
- The communal space offering for services and support was also too small to be a successful operation. Likewise with regard to the supported living units, which needed to be 75% 2 beds as opposed to being entirely 2 bed.
- Operationally, there needs to be staff to support the number of residents and at 113 units it never worked efficiently. The staff costs were identified to be too great for this number of residents. At one stage, the applicant had contemplated introducing a further block for extra massing but it was made clear by officers that development must rely on the broad basis of what had already been approved, with the views across the listed building retained, and this leading to the exploration of further space behind the approved blocks.

The applicant has also highlighted issues associated with the ongoing Covid pandemic. They indicate that infection control has created a massive problem and concern in senior living and care residences. The pandemic creates a much larger and critical sensitivity to this care environment. As such, the scheme has been designed in such a way that it would reduce the possibility of infections: -

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- Shortened journey distances internally for a resident to gain access to their apartment
- Ability for residents to pass each other in the hallway and stay socially distanced
- Improved outside access and grounds
- Increased cleaning staff to sanitise every 3 hours of the day.

Without this confidence of the best design to reduce, if not eliminate, potential infections the applicant has indicated that they could not possibly expect to sell the units. It would have been unlikely within the 2018 permission that these measures could have been put in place.

Issues with the pandemic have also led to increasing the level of communal space for services as well as infection control measures in extra spaced hallways, which has placed a huge burden on to the viability of the scheme; the efficiency of net to gross floorspace obviously declines.

The current scheme has allowed for a suitable balance between all of these factors to propose a viable and deliverable scheme in massing, offset of listed building restoration costs and efficiency in its operation which will work ad infinitum. The applicant is committed to the scheme as submitted and the funding is earmarked for the plans presented. It is envisaged that marketing would commence in the Spring should permission be forthcoming.

This summary reflects the rationale behind the changes to the scheme. In practice, there is increased number of 1-bed units within the supported living accommodation, and the total number of bedrooms equates to 231 in the present scheme vs 223 in what has been approved, an increase of eight.

## **STATUTORY TESTS APPLICABLE TO DETERMINATION OF APPLICATIONS**

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that, where regard is to be had to the statutory development plan in determining an application for planning permission, the determination shall be made in accordance with the development plan unless material considerations indicate otherwise.

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 confirms that, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 (1) of the Act states that with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

In addition, Section 16 (2) of the Act requires that when considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Within this context, 'preserving' means to do no harm. These provisions inform paragraphs 199 and 206 of the Framework and confirm that great weight must be afforded to the heritage impact of the proposals. To do so, it is important to understand the significance of the heritage assets, and this is explained in further depth later in the report.

## **USE CLASS**

Clarification of Use – the distinction between Use Class C2 (Residential Institutions) or C3 (Dwellinghouses)

Typically, 'Extra Care' housing is for people whose disabilities, frailty or health needs make ordinary housing unsuitable but who do not need or want to move to long term care (residential or nursing homes). This can give rise to tension over the precise use class in which such premises sit, whether Use Class C2 (residential institutions) or C3 (dwellinghouses), or possibly in extreme cases, sui generis i.e. not falling within any single use class as defined by the Town and Country Planning (Use Classes) Order 1987 (amended) (referred to as 'UCO').

Care homes and housing for the elderly may often be classed under Use Class C3 (dwellinghouses) if they do not provide the features usually associated with a residential care facility. However, this proposal is put forward on the basis that it would fall within Use Class C2 under the UCO.

This would give rise to it being exempt from, notably, the requirement for affordable housing provision, and education contributions (the latter as it is intended for over 55s).

The application was submitted prior to the Council adopting the Supplementary Planning Document 'Affordable and Special Needs Housing and Housing Mix' in June 2018. However, it is still nevertheless a relevant material consideration. The SPD sets out a number of conditions to be met in order for a proposal to be considered C2.

- The accommodation must be restricted to households where at least one member is in need of care and aged 55 years or over,
- Each resident in need of care must commit to a minimum care package that provides the equivalent of at least 2 hours of weekly personal care and this should be additional to any service charge,
- The proposal should include a number of communal facilities that demonstrate that the development, when taken as a whole, is clearly intended to provide residential accommodation to people in need of care. This may include, but not be restricted to:

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- Communal lounge
- Kitchen/dining room
- IT room/library
- Community room
- Staff areas and office
- Treatment rooms
- Hairdressing salon
- The individual units within the proposal can be self-contained (i.e. have a kitchen, bathroom, separate entrance, lockable front door etc.) as the scheme as a whole will be considered to determine what Use Class it is, taking into account the points above.

The matter has been reviewed in detail throughout the application process, with the above criteria in mind. All of the above criteria are met, with the exception that any resident in need of care must commit to minimum package of 1½ rather than 2 hours. The care on offer is not only fully identifiable but capable of being readily secured through a Section 106 Legal Agreement.

Occupiers would be subject to an initial health assessment undertaken by an appropriately qualified and experienced person on behalf of the Owner, to establish the occupier(s) care needs. This would also determine the level and type of care/support required and ensure that the accommodation and care/support services provided are appropriate to those needs. Ongoing health assessments would have to be made to ensure that the level of care and support, and the accommodation provided, remain appropriate to needs as assessed.

The care would take a variety of forms, including, but not limited to, assistance with personal hygiene, dressing and undressing, preparation of meals, ordering or collection of medication, bill payment, and maintaining contact with family members. Assistance would also be available for residents with impaired mobility or medical needs or who may otherwise require such assistance due to age or ability with household chores and errands, including assistance with cleaning and laundry, and assistance with the delivery and collection of post/parcels to maintain contact with family members, and or to pay bills and to facilitate independent living.

A variety of other factors put forward are considered to support the view that the proposals constitute a C2 rather than a C3 use:

- The apartments are of a larger size than would be expected for standard open market housing, with generous facilities for manoeuvring space and accessibility
- There is lift provision to each of the blocks to maximise accessibility; though these can be provided for residential development and may be considered desirable, they are not a specific requirement for Class C3 dwellings
- Main Entrance doorways will have powered openers for ease of entry/exit.
- Each apartment is fitted with a nurse call system

- Windows on the new blocks have lowered sills to permit views from a seated position or bed
- Solid structural soffits permit easier retrofitting of hoists, which would not as a matter of course be provided for Class C3 dwellings
- Standard features supportive of elderly living will also be provided as a matter of course, such as wider apartment entrance doors and higher socket positions
- Showers will be level threshold with the ability to easily remove features to help with assisted bathing, as well as being set up to accommodate wall mounted seating or grab rails.

The application demonstrates that the design of the submitted scheme has been informed by the requirements of the Care Quality Commission (CQC), and the need to meet the care needs of future residents. Included within the proposals is a commitment to delivering required care on site in-house 24 hours per day. Medical care will be provided on site and a range of care packages for residents will be available.

The granting of planning permission would be subject to a planning obligation confirming that the owner/developer must ensure that a domiciliary care provider, registered with the CQC, is based on site and services are available to residents 24 hours a day every day of the year for as long as the scheme is occupied.

Additionally, all residents are contracted to receive, as a minimum and for the duration of their occupancy, an entry-level personal care package (expressed as access to an emergency care package). This would be through an additional service charge to each occupant over and beyond that anticipated by non-institutional accommodation.

It will also be necessary to ensure that communal accommodation not contained within the listed building is available for all end users. The development does not seek to wholly depart from the concept of independent living but would offer communal facilities which facilitate assisted living meeting the needs of the occupants whilst allowing for their social well-being and interaction with the outside world.

In conclusion, the nature of the care being provided has been thoroughly assessed and is readily quantifiable through a Section 106 Legal Agreement. Subject to this being set out via the heads of terms expressed elsewhere in the report, it is considered that the proposal, whilst not quite complying with the minimum care package set out in the SPD, falls under Use Class C2 of the 1987 Town and Country Planning (Use Classes) Order (amended). This reflects the fact that the characteristics of the proposal must be considered in combination and when taken as a whole the proposal is clearly intended for over 55s in need of care. The application and its impacts are, from there on, assessed against this premise.

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## **PRINCIPLE OF DEVELOPMENT IN LAND USE PLANNING TERMS**

The site is designated as land within educational and care institution. As such, Policy HC7 of the Local Plan is relevant. This confirms that development for an alternative use which is compatible with the surrounding area is acceptable in principle, where appropriate evidence is provided that the institution and its ancillary facilities are surplus to recreational requirements (Policy NH5).

Policy NH5 'Protection of open space and Countryside Recreation Areas' is relevant, notably part 1b which states that development on open space is acceptable where an assessment has shown the public open space or outdoor sports facilities to be surplus to requirements, and 1b ii) where the loss of such facilities would be replaced by equivalent or better provision.

As set out in paragraph 11.71 of the explanation to policy NH5, this policy covers outdoor sports facilities used by local teams and sports leagues even if there is no general, formal public access.

The site was bound by a Section 106 Legal Agreement dated May 2000 and signed by the Council and the Birkdale School for Hearing Impaired Children which required Birkdale School to prepare and mark out the existing football and cricket pitches on the site, and to allow, by agreement, 'properly constituted and affiliated clubs teams or other [local] schools' to use the land and changing facilities outside school hours.

The Planning Statement notes that: "These works were carried out and the site was used from time to time as specified in the obligation. However, there was no requirement to continue to maintain the land as playing fields and following the closure of the school [in 2003], the land has not been managed as pitches and is now unsuitable for such use. Additionally, the changing facilities referred to have become wholly unusable. The obligation depended on the school use for maintenance of pitches and provision of changing facilities...."

Though the Section 106 Legal Agreement is a material consideration, it is agreed that, prior to the school closing 18 years ago, managed access by local recreation clubs was allowed, subject to agreement. However, there has been no such access allowed since the school closed in 2003. Additionally, changing facilities were provided within the school, and that is no longer practical. It is therefore agreed that no recreational use of the site has taken place since at least 2003.

In 2015, an appeal was dismissed in relation to application S/2013/0890 for the conversion of the former school to form 27 apartments (including internal and external restoration and alteration), erection of 30 dwellings, new and revised access, parking landscaping and public open space.

The Inspector's letter stated: "Paragraph 74 of the Framework [the 2012 iteration] also indicates that existing open space should not be built on unless, among other things, the land



is surplus to requirements. I am aware that the site was used for sport by outside bodies while the school was in operation, and indeed there is still a planning obligation in place that requires it to be allowed to be used in this way. There has been some interest in using the site for sports, and this was affirmed at the inquiry by Southport and Birkdale Sports Club. However, no expression of interest has been taken forward and there is no ongoing requirement for the owner to maintain the grounds or apparently any willingness of an outside body to do so”.

The appeal Inspector’s conclusion that “I was not presented with convincing evidence of need or of a shortage of open space to convince me that the whole of the space should be retained for sports or recreation” is noted. The Inspector went on to determine the application despite the planning obligation being in place.

However, the Council’s most recent Playing Pitch Strategy (2016) refers to this as one of a number of sites “currently not in use and, therefore, classified as disused/lapsed sites”. Under ‘current status’ the Playing Pitch Strategy states that this is a “Lapsed playing field site last used approx. 12 years ago. ...”. For the application site, the Playing Pitch Strategy’s ‘recommended action’ is to: “Explore opportunities to bring the site back into use to meet identified shortfalls in the Assessment.

Alternatively, if bringing the site back into use is not feasible or sustainable or disposal of the site is inevitable, it must meet the requirements of the second criterion of paragraph 99 of the Framework [in effect, part 1 b ii of Local Plan policy NH5]. This requires replacement provision of an equivalent or better quantity and quality in a suitable location.

The Playing Pitch Strategy identifies a shortfall of youth [grass] football pitches and a shortfall of three full size 3G pitches in Southport (and a shortfall of at least 11 full size 3G pitches across Sefton). No requirement for either additional cricket or hockey pitches is identified in Southport.

For football, given the appeal Inspector’s 2013 conclusions and that the last formal recreational use of the pitches on the site was 2003 at latest, it is considered unreasonable to require compensatory provision of a football pitch as recommended by the 2016 Playing Pitch Strategy.

Thus while the proposal may not meet a strict application of the ‘tests’ in paragraph 99 of the National Planning Policy Framework and Local Plan policies HC7 ‘Education and care institutions in the urban area’ and NH5 ‘Protection of open space and Countryside Recreation Areas’, it is considered to be unreasonable to meet these tests given the specific issues faced by this site.

As there is no identified cricket shortfall in Southport in the 2016 Playing Pitch Strategy, and given the site-specific issues as above, it is considered that any former cricket pitches on the site are surplus to requirements and that their loss is acceptable in terms of Local Plan policies

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HC7 'Education and care institutions in the urban area' and NH5 'Protection of open space and Countryside Recreation Areas'.

In summary, it is considered in this case that there is an overwhelming need to ensure that the heritage asset is restored, provided it meets the relevant heritage tests set out below. The site has been vacant since 2004, and the listed building has long since been a liability, subject to repeated complaint over its condition, vandalism, anti-social behaviour, and with no hitherto acceptable approaches to its restoration.

It is also emphasised that there is an extant permission in place for development of the wider grounds too, which would further limit the weight that can be given to the issues associated with preserving the playing field.

For this reason, the minor deviation from the above planning policies is considered to be outweighed by the need for development that will secure the long term future of the heritage asset. To this degree, the provisions of Sections 66 and 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 are afforded great weight.

## **HERITAGE ANALYSIS**

The building and former playing fields are a recognised 'designated heritage asset' as set out by the provisions of the National Planning Policy Framework and the following paragraphs set out the required approach to assessing heritage impact.

It is important to firstly understand the significance of the heritage assets. The impact of the proposed development on the heritage asset must then be quantified, before reaching a conclusion having regard to the relevant heritage related statutory and policy tests.

### Significance of Heritage Assets – Conservation Area

The Council designated West Birkdale Conservation Area in October 1988. It is located due west of Birkdale Village and north of Royal Birkdale Golf Links and covers an area of late Victorian development. The attractive Victorian and Edwardian buildings are abundant within the conservation area. Characteristically these are large houses with long gardens, some of which have been converted into flats. Later buildings are of a more romantic style composed of brick with steeper roofs and half timbering in attractive and ingenious combinations.

In some cases, round towers gave a touch of fairytale castle architecture, and an example of this can be found at no 3 Grosvenor Road. The revival of Tudor/Elizabethan style with smooth red Accrington brick and black and white half-timbered upper floors marked the development of late Victorian houses in the 1880s and lasted through to the 1930s. Development spread from Lulworth Road, Beach Road, Westbourne Road, Grosvenor Road, Lancaster Road, and Waterloo Road towards Selworthy Road.

The conservation area was designated because the character of the Victorian and Edwardian section of the park was being gradually eroded by the loss of original buildings, trees and Southport pavements. In addition, developments of flats, by their form, scale and materials, paid scant respect to the street scene and the character of the area.

The character of West Birkdale Conservation Area is linked to the impressive range of late Victorian and Edwardian buildings, and its connection with the development of Birkdale Park. The conservation area is notable within the Birkdale Park area for its relatively late Victorian and Edwardian houses set in large gardens, Southport pavements, brick boundary walls and mature trees.

## Significance of Heritage Assets – Listed Building

The 'Terra Nova' building was deemed by English Heritage (now Historic England) to be of national importance in terms of its architectural and historic interest and as a result was included in a list compiled by the Department for Culture, Media and Sports (DCMS) in July 1999 as a formally designated Listed Building.

The building was constructed in 1902 and purposefully designed for the specific use as a boarding school including the laying out of playing fields. The design is of a simplified Queen Anne style by the local architect Edward Shelbourn and was extended by him in 1908.

The school appears to have been positioned in an impressive open landscape context to give the boarding school a sense of grandeur, whilst also utilising the space as playing fields and to obtain maximum sunlight throughout the day due to its south facing axis. Its use as a school, albeit from a public boarding school to a school for the partially hearing was uninterrupted from 1902 until its closure in 2003, (other than use of the building as a Central National Registration Office when requisitioned during the second world war).

Within this context, for the building's setting to be properly maintained, it is clear that the scale and grandeur of the building should be commensurate with the spaciousness of its open landscaped setting and the views afforded to it.

## West Birkdale Conservation Area – Conservation Area Appraisal

The West Birkdale Conservation Area appraisal (2008) explains in considerable further detail key characteristics of the conservation area.

The appraisal notes that "the perpendicular streets of Grosvenor Road and Westbourne Road largely set out the spatial character of West Birkdale Conservation Area. Grosvenor Road runs through the heart of the area and is the principal point of access. The conservation area is generally flat with no one natural focal point with buildings of a consistent density and size throughout.

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The appraisal also comments that views of specific buildings are not generally important to the West Birkdale Conservation Area as there is very little hierarchy between the older buildings. The only one 'feature' building and the exception to this rule is 'Terra Nova', the former school building, due to its significantly larger size and open grounds.

Views towards its prominent south facing elevation are identified a critical part of the character of the conservation area. At present, though tree cover has become more established to Lancaster Road, the building can nevertheless be appreciated from long distances with the field in the foreground and comes into sharper focus travelling in a north easterly direction up Lancaster Road.

Many of the roads gradually curve, progressively revealing the buildings, whereas in other instances, straighter sections of roads display a large number of houses together. In these views the continuity of the building form and style is particularly important.

The regularity of the housing in West Birkdale opens up to a wide grassed area to the south and south-west of Terra Nova (the former school for the partially hearing). This open area of greenery adds considerably to the 'green' character and sense of spaciousness in West Birkdale.

The site is recognised as one of those areas where the general grain and pattern of built form prevailing in the remainder of the conservation areas breaks down.

The appraisal confirms that most buildings throughout the conservation area are of a consistent height and comments that where there is a sudden change of scale in a street it can have a detrimental effect.

It is important that any development of the site responds positively to these identified characteristics. Given the school building is identified as the only primary landmark in the area, it is important that development does not serve to reduce its prominence as a primary feature and the unique setting of the building within the conservation area becomes all the more important to retain.

## Assessing the Heritage Impact of Development

Policy NH9 'Heritage Assets' point 3 (c) refers to the spacious planned character of Victorian and Edwardian suburban conservation areas including Birkdale as a strategic priority for safeguarding and enhancing.

Point 4 confirms that designated heritage which is 'at risk' will be a priority for action. Opportunities to secure enhancements to safeguard and sustain these assets will be expected to be taken.

Point 5 confirms that proposals affecting Sefton's heritage assets and their settings should ensure that features which contribute to their significance are protected from losses and harmful changes. Development should therefore:

- Secure the long term future of the heritage asset,
- Be designed to avoid harm,
- Be of a high quality design which is sympathetic to the historic context of the heritage assets affected,
- Incorporate proposals for proper repair and re-instatement of historic features and/or involve work which better reveals the significance of Sefton's heritage assets and their settings, and;
- Where losses are unavoidable, a thorough analysis and recording of the asset should be undertaken.

Policy NH11 'Works affecting listed buildings' refers to a series of criteria which confirm that new development affecting the building's setting must respect and conserve historic and positive existing relationships between the listed building and its surroundings. Development which harms elements that contribute to the significance of a Listed Building or its setting will not be permitted, unless it can be demonstrated that public benefits outweigh the harm.

For reasons explained in the next section on 'Impact on Heritage Assets', the scheme does not fully meet the provision of the Local Plan. As such, the heritage related provisions of the National Planning Policy Framework apply. It must therefore be established whether or not the proposals constitute sustainable development within the context of the Framework paragraph 11 in which case the principle could be acceptable.

Paragraph 11 footnote 7 refers to policies in the Framework with (in part) reference to "designated heritage assets". In view of the impacts on designated heritage assets, it is therefore necessary to consider whether the heritage based paragraphs of the Framework below comprise restrictive components.

Paragraph 196 of the Framework states that where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision. This is clearly the case in this instance. Therefore, heritage analysis cannot regard the restoring of the heritage asset, notably, the rebuilding of the fire damaged third, as a benefit, because it would endorse wilful neglect of the asset itself. The re-use of a vacant building on the other hand, can, in my opinion, be considered beneficial, and the listed building was vacant for several years prior to it being fire damaged.

Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

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Paragraph 202 of the Framework goes on to confirm that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

As a result of the above paragraphs, it is necessary to weigh the 'less than substantial harm' identified against any public benefits that may arise. If the public benefits of the proposal outweigh the identified harm, it may be concluded that planning permission should be forthcoming subject to compliance with all other relevant policies and material planning considerations.

## Impact on Heritage Assets

The applicant has modelled their development on the basis that a total of 149 units are required and has centred the communal facilities on the Listed Building, whilst carefully considering the size, scale and position of all new buildings to ensure the least amount of harm.

As per the 2018 permission, clear sightlines have been maintained to the former school building, consistent with those identified to be significant at the 2015 Public Inquiry, retaining the relationship between the building and its grounds. The quantity of development is greater than that offered by the 2018 permission but continues the theme of drawing the eye to the listed building when viewed from the south and west, with good retention of the open space, and the proposed form of the new build is also seen as appropriate in principle, affording clarity between the original development and layout, and the new built form.

In respect of the listed building, there are elements of demolition required, though much relates to later additions. Most notably, there is significance in the loss of the fives court which is noted to contribute to the understanding of the importance of sport at the former school. There will be certain levels of internal partitioning required, and the subdivision of certain rooms, to facilitate the new use and to overcome practical difficulties with internal layout.

The former swimming pool would be converted to apartment accommodation, reducing further the understanding outlined above, as would the dining room/guest dining room. A series of other fire safety measures will be required within the building, and these taken in isolation would be seen as causing 'less than substantial harm'.

At the point of its listing, the building contained the uPVC windows that now remain, as well as the unsympathetic later additions. Nevertheless, these additions adversely impact on the listed building.

With regard to the impact of the proposals on setting, the original building's curtilage was extensive, and over the years the original setting of the building was compromised by the construction of a number of ancillary buildings within the curtilage. Furthermore in 1999 a

number of residential dwellings were built on Granville Road which further diminished its significance.

The new proposed Blocks A, B, C and D are built on the previous curtilage, and cause a degree of harm to the setting of the listed building, by further diminishing the original curtilage. However, due to the new villas' location backing onto the previous development on Granville Road, and their orientation being specifically aligned to retain views of the prominent elevation of the Listed Building, the proposals are considered to have been designed to cause the least amount of harm to the building's setting.

The additional buildings around the envelope of the Listed Building to Lancaster Road (Blocks E and F) have been built as far as practicable on the footprint of the previous building within the Listed Building's curtilage and have been designed to provide the level of development required by the end user to achieve a viable use, whilst designed to cause the least amount of harm to the building's setting.

With regard to the conservation area, the appraisal makes the 'Terra Nova' building an exception in relation to it being a 'feature' building, with views towards its prominent south facing elevation identified as critical. Development in the grounds of the school, on the former playing field, is seen itself to cause 'less than substantial' harm, with there being a case for concluding that it does not follow the precise pattern or grain of development within the conservation area.

Balanced against the harm identified are the benefits brought by rebuilding and reuse of the listed building, which is a key focal building within the conservation area. These benefits will secure its long term future and enable the conservation area to be removed from the national 'Heritage at Risk' register. Nevertheless, taking of all of the above into account, 'less than substantial' harm results to the listed building, its setting and the West Birkdale Conservation Area.

As such, the identified harm is such that the proposal does not meet the strict provisions of Policy NH9 of the Local Plan in so far as it relates to heritage matters. The conclusion is that the scheme does not enable application of paragraph 11 of the Framework relating to sustainable development.

As such, planning permission can only be forthcoming if the public benefits of the proposal clearly outweigh the harm identified to result from the proposals as set out by paragraph 202 of the Framework.

## Public Benefits of Proposal

In discussing the public benefits, the heritage impacts are largely set aside, save for the key point recognised in Planning Practice Guidance that public benefits can include heritage benefits, such as sustaining or enhancing the significance of a heritage asset and the

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contribution of its setting, reducing or removing risks to a heritage asset and securing the optimum viable use of a heritage asset in support of its long term conservation.

Set aside from the deterioration of the asset discussed elsewhere, this benefit can be considered to weigh in favour of the scheme, in so far that it enables the optimum viable re-use of the building. The vacancy was not as a direct result of the significant fire damage; the building has been vacant ever since the ceasing of its use as a school. On that basis it is reasonable to regard re-use as a benefit, rather than the benefit resulting from its reconstruction as a result of fire damage.

Potential sites for a C2 development of this size within Sefton are very limited. In addition to the constraints imposed by the Green Belt, a site of reasonable proportion within reasonable reach of a range of facilities and services is required and these are difficult to find in the built up area, the more so given the need for Sefton to continue to deliver residential development and other associated services through the adopted Local Plan. As such, it is important that when a suitable site comes forward the opportunity should be taken.

The need for additional housing for older people is recognised as critical in the Local Plan. As confirmed by Paragraph 8.25 of the Local Plan, 'it (was) estimated that, in 2014, 35.6% of the population in Sefton were aged 55 or over, compared with 29.6% in the North West and 28.8% for the whole of England.' The Local Plan also confirms that the population of Formby and Southport is generally older, with trends suggesting an increase in over 55 population by 14% over 2011-2021, with a 40% increase in over 85s over the same period. Alongside this, it is reasonable to conclude that there would be an increased likelihood of long-term illness or disability.

The Extra Care accommodation would assist in addressing some of these pressures, freeing up houses that are under occupied elsewhere, releasing them for family occupation and thus making more efficient use of the existing housing stock. The provision of 147 units in the C2 use class (combining supported and assisted living) when there is a lack of suitable alternative sites is regarded as a significant public benefit of the proposal.

The proposal would also bring various social benefits, most notably an alternative option for older people with on-site support in an attractive location adjacent to the Sefton Coast. It would bring significant health and quality of life advantages for its residents and a corresponding reduction in the overall pressure on public health and social services.

With regard to economic benefits, the scheme would represent a significant investment within the borough, in respect of construction, bringing a substantial boost to local employment, and once operational, would give rise to 31 full time and 17 part time jobs which would amount to 43 full-time equivalents, considering the varied hours of the part time jobs. Residents would also generate significant expenditure in local shops and services. The annual expenditure generated by 147 units can be regarded as substantial. Though Birkdale can be regarded as an affluent location irrespective, there are clear economic benefits.



Individually and in combination, these public benefits are substantial and weigh significantly in favour of the proposal. In the specific circumstances of this case they outweigh the 'less than substantial' harm identified to the listed building and its setting, and the West Birkdale Conservation Area.

The public benefits provided by the scheme give rise to a clear and convincing justification for it going ahead, subject to compliance with other policies of the Local Plan and the relevant parts of the Framework. The proposal therefore meets the test set in paragraph 196 of the Framework and would comply with Policies NH9 and NH11 of the Local Plan, policies which are regarded as consistent with those contained within the Framework.

### Phasing of Development

It is essential that should permission and listed building consent be forthcoming that the listed building is addressed at the earliest stage possible. It is also in the applicant's interest regardless, given they will need to ensure the early delivery of communal facilities, all of which are within the listed building. It is therefore intended to secure the following sequencing through the Section 106 Legal Agreement:

- Not to Occupy any part of the Development until both external and internal works to the Listed Building are Substantially Complete and the Listed Building is ready for Occupation at least in part
- To carry out construction of the Development in accordance with the following phasing:
- Commencement of works to the Listed Building, including enabling works and demolitions, and fit out with Commencement of Blocks E and F.
- Blocks A-D and their associated access shall not be Commenced until Substantial Completion of the external shells of Blocks E & F and the external shell of the Listed Building".

Subject to the above phasing plan, it is considered that the listed building will be restored in timely fashion once work commences.

### Conclusion on heritage matters

The proposals give rise to a certain level of 'less than substantial' harm, as envisaged by Paragraph 202 of the Framework. However, the public benefits are considered to outweigh the identified harm, and significantly, are sustainable even without reasonable regard to the advantages of bringing a listed building back into positive use.

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The assessment above therefore addresses the statutory requirements of Sections 66 and 72 of the Town and Country Planning (Listed Building and Conservation Areas) Act by balancing the harm to heritage and concluding that the proposals are acceptable when taking all heritage policies at national and local level into account.

## **AFFORDABLE HOUSING AND VIABILITY**

Local Plan Policy HC1 'Affordable and Special Needs Housing' requires that schemes of 15 homes or more in Southport must provide 30% of the scheme as affordable housing, which should be split 67:33 between affordable/social rent and affordable ownership homes. As the development is for 147 units, it would be expected that 45 units in total would be available on this basis. This was not an issue for the 2018 planning application as at that point there was no affordable housing requirement due to case law.

In response to the requirement of HC1(9), the applicant has submitted a viability report which suggested that the development could not proceed with a reasonable return to the developer if this was made a requirement of the scheme.

In December 2021, this report was reviewed in detail by the Council's retained viability consultant, CP Viability. This was carried out in accordance with the RICS document 'Assessing viability in planning under the National Planning Policy Framework 2019 for England (Guidance Note 1st Edition, March 2021)', and the Planning Practice Guidance on Viability published in 2018 and since updated. The report's findings remain valid for a six month period (i.e. until June 2022).

Assessing the viability of this development is an extremely complex exercise, not least as it is providing for a form of development that has few local comparators, a premium can be attached to the units in respect of their location and profile. Additionally the costs associated with restoring the listed building require an extensive, unique form of analysis when it is required to inform the possibility of delivering affordable housing. In this respect, the applicants have employed specialist advisors, and in turn, and with the agreement of the Council, CP Viability instructed Sutcliffe's (specialist heritage cost consultants) to independently review restoration costs to help inform their report on viability.

The report of CP Viability has concluded that, assuming a nil land value, if 30% affordable housing were to be achieved within the development it would give rise to a negative residual land value. If no affordable housing is delivered, the profit margin for the developer would amount to 14.03%, which is less than the 15-20% normally expected within viability guidance, and below the 18% deemed to be at a viable level for a scheme such as this. As such the scheme is not viable and therefore not capable of providing any affordable housing based on these reports.

As part of the viability process, and for completeness, the applicant also undertook an assessment relating to Vacant Building Credit (VBC). For VBC purposes, the floorspace figures

are measured on the basis of Gross Internal Area (GIA) which is considered to be the best practice and widely accepted by the Planning Inspectorate. These figures are therefore not necessarily the same as planning application floorspace figures, which are measured externally.

Where the floorspace is eligible, Planning Practice Guidance on viability allows for this to be used to offset affordable housing requirements, but in practice, the total measured floorspace on site amounts to 3,587 sqm, which includes the part of the building required to be reinstated owing to fire damage. The building has also been measured by Council Building Control officers and is verified to truly reflect the available on-site floorspace.

The formula for assessing Vacant Building Credit is as follows:

- (i) Difference between the proposed and existing floorspace:  $a - b = c$
- (ii) Divided by proposed floorspace :  $c/a = d$
- (iii) Multiplied by the affordable housing policy requirement :  $d$  multiplied by 30%

### Assumptions

- Existing gross floor area: 3,587 sq. m
- Proposed gross floor area: 16,593.82 sq. m
- Affordable Housing Requirement 30%

### Calculation

Difference between the proposed and existing floorspace :  $16,593.82 (a) - 3,587 (b) = 13,006.82 (c)$

Divided by the proposed floorspace :  $13,006.82 (c) / 16,593.82 (a) = 0.783851868 (d)$

Multiplied by the affordable housing policy requirement :  $0.783851868 (d)$  multiplied by 30%  
= 23.51%

Therefore the affordable housing policy requirement after the application of VBC is 23.51% rather than 30%. In short, the application of VBC 'saves' 6.49% affordable housing (i.e. 30% - 23.51%).

The eligible VBC which is relevant to the determination of the current planning application (or any application) is the amount of eligible floorspace at the date of determination of the application and not that at the time the application is submitted (because either additions or reductions to the eligible VBC floorspace could take place in the intervening period). Accordingly, it will be necessary to check with the applicants' agent whether the eligible VBC floorspace has changed between the date of measurement and the date of the determining the planning application.

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In this regard, assurances of 'no change' (or if there has been change, what change has taken place as it could lead to a reassessment of eligible VBC and any consequent affordable housing obligation) will be sought from the applicants' agents as close to the date of the determining Planning Committee as is possible and this will be reported to Members, either by late representation, or verbally at Planning Committee.

It should be borne in mind that the fire damage occurring in 2010 took place at a point when the building was known not to have been insured. This is confirmed by the Proof of Evidence supplied by the Council's then retained viability consultant to the 2015 Public Inquiry, who stated that the insurance ceased as of June 2009 and is reconfirmed now by the applicant. Clearly had insurance been in place, it would have enabled much if not all the damage to have been restored, and in turn given rise to a lesser cost than that now contained in the various reports.

This risk is that the failure to insure the building effectively means that the redress for the fire damage that occurred is being subsidised because of the Council's acceptance of no affordable housing provision within this present application, but there is also an extant permission for 113 units that gives rise to no affordable housing.

It should be noted that the applicant only acquired the site in July 2021 and cannot be held to account for earlier matters. Since their acquisition, they have put considerable resource into further security, reporting on and stripping asbestos out of the building, clearing detritus from within the building, making the building safe and internal scaffolding of the stairwell and clock tower, and commissioning surveys, such as the current timber survey and structural surveys of the fire damaged area, including clearance and palleting of materials.

The applicant has supplied a letter from the current insurers which explains the difficulties associated with insuring vacant buildings where there is no ongoing construction work. The current insurance is from construction insurers and if the current work stops for more than 30 days, they have the right to cancel the policy. As such, it is important for contractors to remain on site in order for insurance cover to be retained.

Whilst these circumstances are most unfortunate, the site has a new owner, it is accepted that such insurance can prove difficult to secure, it is not a strict legal requirement, and it is all too apparent given the length of vacancy that a viable development will simply not come forward if there is insistence on affordable housing.

In summary, the applicants have demonstrated that the development would not be able to proceed at all if the full policy requirement of 45 units on site is met. If the development does not proceed, a variety of other benefits that weigh in favour of the development would not materialise. As such the development does not conflict with Sefton Local Plan Policy HC1 and Paragraph 63 of the NPPF and this is afforded significant weight in the planning balance.

## **DESIGN, LAYOUT AND LANDSCAPING**

The applicant has produced a comprehensive Design and Access Statement alongside the planning application, which explains in significant detail how the proposals have been conceived. The document has been revised in conjunction with the amended plans and is considered to be of the highest quality; hence much of the commentary in relation to design and layout draws direct reference from it.

Central to the design requirement and having regard to the above assessment of heritage considerations, was that of maintaining key views of the listed building from the surrounding areas. These views have been identified through the heritage analyses and were supported by the Inspector at the 2015 appeal, when looking from Lancaster Road in a north westerly direction across the fields.

It is also crucial that the new development is sufficiently separated from the listed building not to compete with it or detract from its setting through an unsuitable choice of materials, or by the unfortunate blocking of key views. The sweeping roads identified through the Conservation Area Appraisal are also influential in creating the crescent against which the new build villas sit on the open space, and also assists in drawing the eye towards the listed building.

### Blocks A-D, freestanding, on open space to rear of properties fronting Granville Road

The blocks are of rectangular form but take a different shape to the 2018 permission, whilst maintaining the curvature layout, the buildings extend further backwards towards Granville Road with the longer parts of their respective elevations being inward facing (i.e. block A's longer elevation faces Block B, and so on.)

The design of the blocks seeks to complement rather than emulate the character of the Conservation Area. The material palette reflects the internal and external decorative features of the Listed Building and succeeds in complementing it. The blocks are three storeys in height and comprise a buff brick material in town house scale, and strong vertical emphases to reflect the gable features of the listed building, with there being a reduced impression of built form when viewed from Lancaster Road to that resulting from the 2018 permission.

The blocks decrease in size moving in north easterly direction, and in total accommodate 56 of the 147 units (the 2018 permission accommodated 44 within these same blocks). The buildings are set out so that there is a modicum of parking to the frontages, but in contrast to the 2018 permission, the balance of car parking is mostly accommodated between the longer elevation blocks, as opposed to being set directly behind the buildings.

The buff brick is similar to that envisaged by the 2018 permission, and balconies are provided for residents who would have their own private useable space within the buildings.

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## Block E, freestanding, end elevation to Lancaster Road

Block E is broadly in the position of the later free standing fire damaged blocks which have been removed since the 2018 permission, but it has been re-positioned to better frame the listed building, running at 90 degrees to the main elevation of the former school facing the former playing field. It also allows for maintained views of the listed building from key viewpoints along Lancaster Road.

The material palette is consistent with the other proposed new buildings on site, to reinforce the perception of the current scheme as a consistent and easily understood modern intervention.

The buildings are positioned further from 38 Lancaster Road than the 2018 permission, and windows are offset from the elevation to that property, allowing for further landscaping and planting to this area. The building will house 20 units within three storeys accessed from a centralized corridor.

The building projects slightly forward of no. 38 Lancaster Road but does so to a lesser degree than the block on the 2018 permission and the change in orientation reduces the extent of the elevation directly facing Lancaster Road.

## Block F, adjoining listed building, fronting Granville Road

This block would sit alongside the existing building, in lieu of some very unsympathetic previous extensions, and would be joined to the listed building through the provision of a new glass link to allow the separation of historical and new build structures. The glazed link provides an access to the communal facilities contained within the listed building.

The building sinks into the landscape to maintain important views of the listed building from Granville Road, from where its height will be seen as single storey due to the level differences both existing and intended. The treatment of Block F again follows the material palette of the other new blocks.

Block F is screened by vegetation to the Granville Road frontage, and by the existing level change. When added to the further level change proposed, the building is perceived to cause relatively little impact when viewed from Granville Road and from the hard standing area to the northern side of Birkdale School. There is also a critical and dramatic view of the listed building from Granville Road looking in a north-easterly direction but the building is positioned such that this is maintained.

The glazed connection to the Listed Building provides access to all apartments and services such as post boxes, the lift, and bin storage room. A secondary escape stair is provided and discharges to the rear elevation, to the garden and pedestrian access from Granville Road is reliant on the pedestrian connections to the car park. The glazed connection to the listed

building is considered to ensure an appropriate balance between the functional requirements of the use and the need to ensure that the listed building does not become overwhelmed by the new development around it.

## Listed building – rebuilding and restoration

The rear of the listed building would be completely revamped by removing previous inappropriate extensions. A new main entrance will be created to the building, accessed from Granville Road. This will offer significant enhancement to the street scene. Though the formal entrance to the south elevation will remain, it will be for residents only and it prevents vehicular movement across the front of the listed building.

The new entrance as proposed will be a contemporary, lightweight design. As per the free standing new blocks, it reads as a marked contrast to the historic fabric. The new entrance foyer sits within an existing lightwell, and a vista through the building is created to enable the south facing terrace and landscape beyond to be visible from the foyer. This will promote circulation throughout the building with minimal intervention to the building's historic fabric.

As referred to above, the original northern elevation of Birkdale School is essentially restored and alongside more modern, and sympathetic additions, it allows for the original elevational make up to be much better understood, with a legible and pragmatic approach now taken to re-introducing a building into the wider public domain that is not only functional for its users but is clear and easily understood by others.

## Energy Efficiency and Low Carbon design

The applicant's design and access statement sets out various measures to commit to energy efficiency within the new build components of the scheme, as follows:

- Metered electricity and power factor correction equipment to ensure efficient delivery of power.
- LED lighting and improved lighting controls, such as implementation of daylight sensing technology to allow lights to dim or switch off when occupancy is low or ambient levels are high.
- Enhanced space heating controls to supplement high levels of thermal insulation equipped with ultra-high performance electric panel heaters or air source heat pumps controlled by a thermostat.
- Increased hot water generating efficiencies such as domestic hot water systems using direct electric immersion or air source heat pump technology to take advantage of renewable energy.
- Heat recovery ventilation to supply fresh clean air to the living rooms and bedrooms and recover waste heat from extract systems serving kitchens and bathrooms.

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- Natural ventilation using opening windows in each residential space to provide purge ventilation and summer temperature relief and ensure good air quality and low energy consumption.

The above measures can be incorporated into planning conditions and the proposals are anticipated to adhere to Building Regulations in relation to the conservation of fuel and power, climate change and sustainable construction. A condition is also attached which requires electric vehicle charging points in line with policy requirements and as a result the development would be compliant with Sefton Local Plan Policy EQ7.

## Security and safety considerations

The site's long standing dereliction and overall lack of stewardship has, over time, resulted in a considerable degradation of the heritage asset, augmented by the fire of May 2010. Repeated instances of access to the land and buildings have been a source of continued complaint from local residents. This informs a variety of considerations applicable both for neighbouring occupiers and end users.

The applicant confirms that the site will be managed by the operator through an on-site presence 24 hours a day, 7 days a week, by a team with substantial experience of managing safety for end users. Access to the site will be monitored by CCTV and end users would have a facility for direct contact with duty staff on an urgent basis where a security concern arises.

The applicant intends that the surrounding boundary walls are fully brought to order, with gaps filled where necessary, and realigned to the vertical where required. Though secure site boundaries have been suggested, the applicant does not intend to fence off large parts of the site, indeed, the public will not be dissuaded from what has been a longstanding permissive and informal use of the land, but the presence of additional buildings, natural surveillance and specific security measures within the building will assist in ensuring there is an improved level of formal security and passive surveillance once development is complete.

Additionally, all lighting for the development is covered by a planning condition, and the future landscape management plan also required by condition would enable ornamental hedging to be kept to a low level in the interest of maintaining appropriate surveillance.

As per the 2018 permission, the proposal also removes many of the rear boundaries of properties on Granville Road out of the wider public view, which is seen as another marginal benefit.

Within the development itself, units will be fitted with new intercom, lockable windows will be provided, and louvered doors to plant rooms. It is also proposed to have external lighting to entrance areas to ensure safe access for end users.



## Trees and Landscaping

The concept of the landscaping is to refresh the site visually, to provide a suitable backdrop and external environment for new buildings to sit, whilst being positioned carefully to draw the eye to key views. It has also been devised to allow for maximum tree retention, notably to the Granville Road frontage and, more selectively, to Lancaster Road, whilst also retaining the woodland to the western portion of the site adjacent to the public footpath beyond which sit the sand hills and Royal Birkdale golf links.

Additional native tree planting is provided to enhance visual amenity whilst contributing to the enhancement of ecological diversity and wildlife.

The applicant has produced a tree and vegetation survey to identify the distribution, condition and visual distinctiveness of existing trees and vegetation groups to the recommendations of British Standards. A tree constraints plan identifies constraints in relation to existing retained trees.

The survey identified trees of moderate to low condition, mainly towards the outer edges and boundaries of the site with a large number of self-set trees developing in and around the unmanaged environment of the previous school buildings.

The woodland to the western boundary is largely unmanaged and crowded with some leaning trees. This provides visual enclosure and screening from longer distance views on this part of the site and associates with the wider treescape across the adjacent Birkdale Golf Course. This gives a sense of maturity to the character of land. Trees of better quality will be retained to boundaries of the site where possible. The remainder of the site is intermittently maintained grassland, i.e. the former playing fields. All retained vegetation will be protected during the construction phase to avoid damage to both canopy and rooting zones.

The existing tall evergreen hedge at the junction with Sandringham Road will be removed and replaced with more appropriate species, which will contribute to providing a bespoke setting for the new building. The landscaping along Lancaster Road will also be reconsidered to ensure clear views of the listed building.

There is an existing laurel hedge to the rear of properties on Granville Road, which is annotated on the landscape masterplan, and it is anticipated that this will be retained as it offers value both for existing residents and will serve as an instant landscaped buffer for future occupiers.

Individual standard trees are provided, along with extension of the existing woodland to strengthen this feature for improved biodiversity. It is expected that native planting will be provided with grassland areas over seeded with a "mown" path through the centre of the greenspace.

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It is also anticipated that the long-term management of the landscaping, associated open areas and conservation planting will be secured through the scheme and delivered by a management company acting on behalf of the end user. It is proposed that a 30 year Management Plan will be put forward to formulate the management objectives and this could also ensure ecological management over that longer term.

The information supplied with the application is more than sufficient for the ultimate intention to be understood.

## Bins and refuse

Bin stores are designed into the scheme throughout, and the strategy for waste management would involve a total of 36 across the whole application site – 11 more than the 2018 permission. The stores are provided within the respective car parks for each of the new build blocks. It is anticipated that refuse is collected from the individual apartments and stored centrally.

The plans demonstrate that larger refuse vehicles can get into the site from both the Lancaster Road and Granville Road entrances but the collections from Block E would take place from Lancaster Road.

## Parking and access

There are three main points of vehicular access to the development:

- At the south eastern end of Lancaster Road, adjacent to the public footpath linking with Granville Road and Selworthy Road, this would be a new entrance serving Blocks A-D,
- The existing historic access to the north eastern end of Lancaster Road, serving two newly created parking courts for occupiers, and
- The existing access to Granville Road, broadly opposite no. 4, which would accommodate a smaller parking layout but serve as the main communal entrance to the facility for all occupiers.

Pedestrian access is already achievable from the first and last of these three accesses but could not be achieved at the historic access without widening and causing heritage harm. As such a separate opening is provided adjacent to the point where the end elevation of Block E sits nearest to Lancaster Road, which is effective in separating pedestrian and vehicular traffic.

All of the parking as proposed would be positioned such that, save for a handful of spaces to the front of Blocks A-D off the new access point from Lancaster Road, there would be no interference with the key vista from the south west of Lancaster Road looking towards the southern elevation of the listed building. Parking is generally positioned appropriately to ensure it is discreet from key public viewpoints.

A new court of 16 spaces is proposed to the rear of 38 Lancaster Road which is also largely out of public view on hitherto undeveloped land, and this is commented on separately having regard to impact on neighbouring properties.

## Conclusions on design, layout and landscaping

The proposed conversion of the listed building is accepted to strike a suitable balance between restoring to its former condition and ensuring that it can be put to a beneficial long term use. The conversion is supported by Historic England. The new blocks complement rather than compete with the listed building, for all the reasons described above, and the open space is expected to bring combined benefits in relation to informal recreation, retention of important views, and sustaining of ecological value.

The framework for landscaping of the site is in place, and hardstanding is kept to the minimum with parking requirements well considered and consistent with the requirements of the use proposed and presented consistently throughout the scheme in small courts interspersed with either new or retained landscaping. The applicant is also committed to energy efficiency measures and sustainable construction techniques. Taken together, the proposals therefore comply with Local Plan Policies EQ1 (Healthy Sefton), EQ2 (Design), EQ3 (Accessibility), EQ7 (Energy efficient and low carbon design), and EQ9 (Provision of public open space, strategic paths and trees).

## **LIVING CONDITIONS OF ADJACENT OCCUPIERS**

The proposal has been subject to some amendment during its processing, in response to a variety of concerns relating to the impact of development on adjoining occupiers. A number of adjoining neighbours were visited by the case officer during the processing of the application, and the applicants were also invited to reconsider their proposals following meetings on site.

### No. 21 Granville Road

No. 21 is the nearest residential dwelling adjacent to Block F which links to the western elevation of the listed building. The drawing shows the relationship of this block as proposed (Figure 1):

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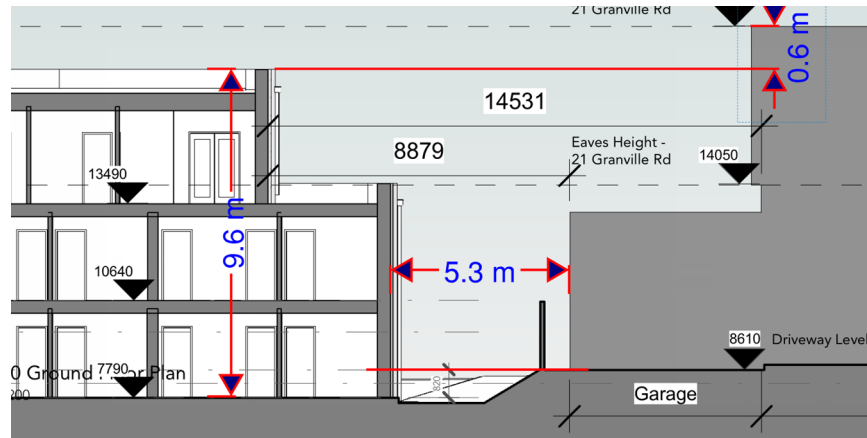


FIGURE 1

As can be discerned from the elevations above, which outlines the garage and left hand side of no. 21, Block F is set below the ridge of that neighbouring property, and the height of the block is now set 820mm below the floor level of the garage to no. 21 (indicating the land would be built up by around 1 metre from the 2018 permission, but with the building set 0.3 metres further from the side garage elevation of that dwelling when compared with the 2018 permission (Figure 2).

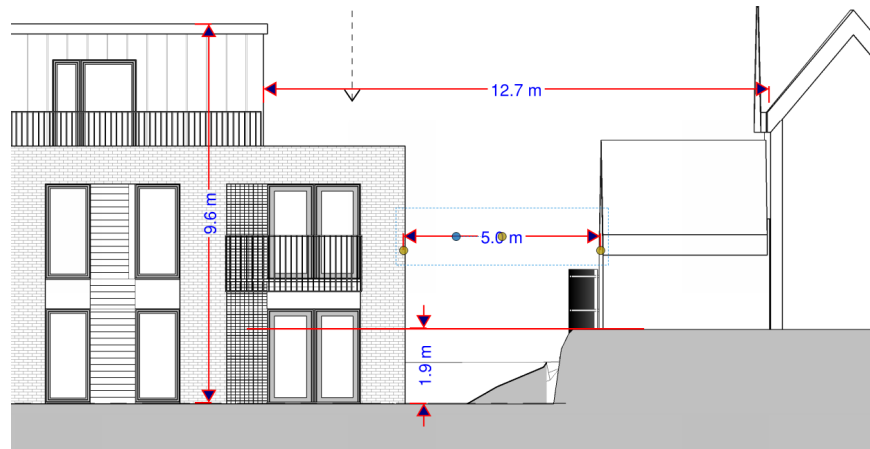


FIGURE 2

Though the building projects beyond the rear elevation of no. 21, the rear windows to that dwelling are set further away from the boundary due to the presence of the garage and with it being set low as shown on the elevations, there will be no adverse impact.

There would be no external outdoor terraces that give rise to any adverse privacy impacts, due to their reduced elevation and their positioning away from the end of the block.



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FIGURE 4

## 38 Lancaster Road, The Garden Residence, The Villa

The Villa and The Garden Residence sit to the rear of no. 38 and are positioned to the north and east of the application site. These dwellings back onto the proposed 16 bay car park and no. 38 entirely comprises a side facing aspect towards the application site.

The main implications for these properties relate to the provision of freestanding Block E, the impact from parking and access to the development from Lancaster Road, and the reconstruction and extension of the demolished listed building.

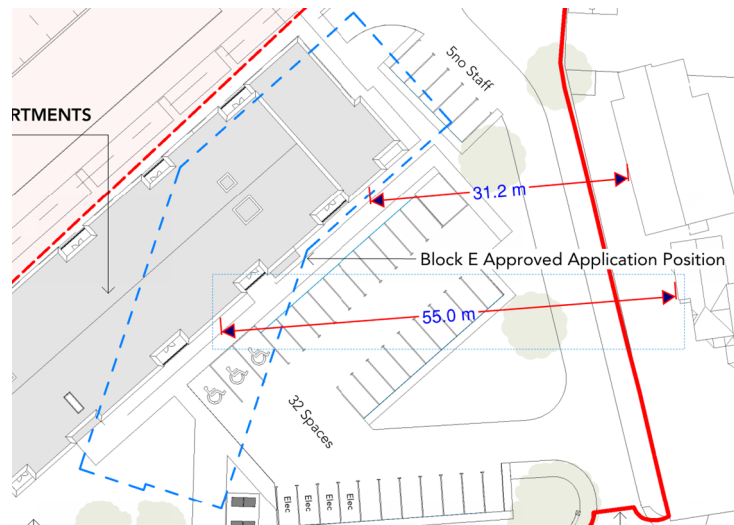


FIGURE 5

As Figure 5 demonstrates, Block E is now rotated to run at a right angle to the listed building with the 2018 permission in dotted line. The effect of this difference is to move the built form

even further from these properties than was previously found to be acceptable. As such there should be no harm to adjoining residents, either from the new block or from the listed building as extended, by way of the development being overbearing, or causing loss of light and privacy.

Block E in its revised position is over 50 metres from the side windows to 38 Lancaster Road, with windows are offset from that property.

The parking court to the rear of Block E is nearly 46 metres from The Villa, and over 22 metres from the Garden Residence, a property constructed to the rear following the subdivision of the original 38 Lancaster Road into two dwellings.

At these distances, it is considered reasonable to conclude that a proposed lighting scheme for the car park can not only be covered by condition, but also designed specifically to avoid overspill into those adjoining properties. Significantly, there should be no instance of car headlights glaring into these properties due to the established boundary treatments.

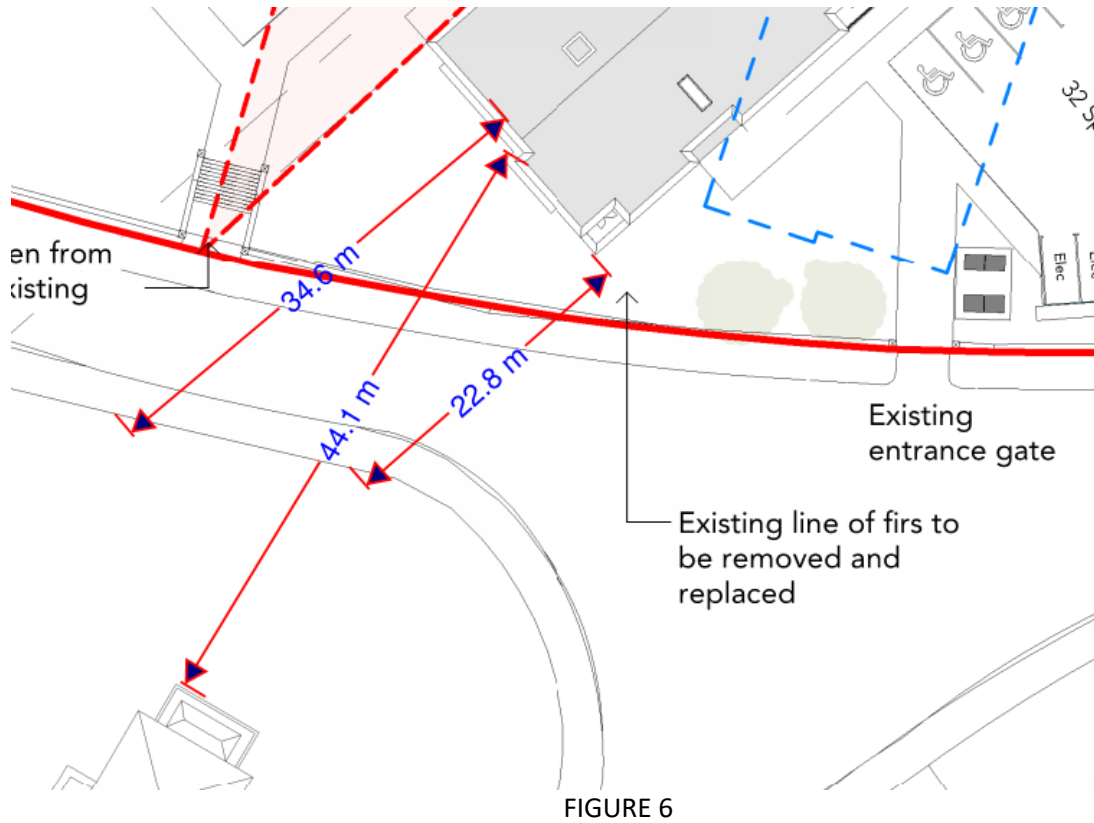
There are some second floor windows proposed to the eastern flank elevation of the listed building as envisaged to be reconstructed, but these are now reduced to two and the nearest of these is over 16 metres from the garden boundary, with an outbuilding to the rear of the garden residence intervening between the listed building and longer views of the rear elevation of that property. There is also extensive tree cover to the rear of the Garden Residence, which also filters the impact of any windows facing toward that property.

On a final point, concern has been raised over the impact of vehicles using both of the car parks. The car parks are intended solely to be for occupiers and not their visitors, but the access is longstanding and previously served a school building. The nature of movements associated with a school are likely to have been considerably greater albeit more contained toward pick up and drop off times. It is not considered that substantial harm would result to the nearest residents as a result of use of the parking areas or the access from Lancaster Road but as the rear car park and access to it directly abuts residential property, a condition is attached as per the 2018 permission for acoustic fencing.

As such it is considered that no unacceptable harm results to these adjoining properties.

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## 2 Sandringham Road



2 Sandringham Road is the nearest property to the south and east of Block E. The distances between the side elevation of Block E facing east, and the respective site boundary and side elevation to 2 Sandringham Road, measured from the small side projection is over 44 metres, with the end elevation of Block E which is slightly offset from the boundary to that property. As explained, the relationship is slightly different from the 2018 permission, with Block E being further to the west, as dotted, but the change does not bring about any more significant impact than was previously identified given the relative separation distances.

As can be discerned, there will be no adverse impact on the occupier of this property through overlooking or through the visual impact of the building. The diagram demonstrates that the end elevation, though containing habitable windows, is offset to a large degree from this property but in a different direction from previous, more away from the intersection of Lancaster Road and Sandringham Road.



## **HIGHWAY SAFETY AND ACCESSIBILITY**

The Highways Manager has no objections to the proposal in principle as there are no highway safety implications.

### Vehicular / Cycling/ Pedestrian Access

The submitted Transport Statement (TS) and Masterplan details that the site is to be accessed by vehicles at three locations, two off Lancaster Road and one from Granville Road. The southernmost access off Lancaster Road will be a new access and will consist of a 6 metre wide carriageway and 2 metre wide footways on both sides. This access will serve four blocks consisting of a total of 75 units. Dropped kerbs and tactile paving will be required across the proposed junction.

The northernmost access to the site on Lancaster Road is via an existing access with a width of 5 metres and separate pedestrian facilities and will serve 25 units. The Highways Manager accepts that whilst this would be used by 3 no. 'village' vehicles, given the historic use of this access, the impact of its widening including removal of existing gateposts and the relatively modest movements generated at this point, this is considered acceptable. The introduction of dropped kerbs and tactile paving at the access will however be required.

The third access is via an existing access on Granville Road - the masterplan details an improved access of approximately 8m wide with footway provisions leading into the site on either side. This access will also require alterations to the kerb line and radius to correspond with the access and the introduction of dropped kerbs and tactile paving.

The plans include two additional pedestrian accesses into the site from Lancaster Road that lead to segregated pedestrian facilities throughout the site and to and from the areas of car parking. These pedestrian accesses will be located where there are existing vehicle accesses into the site, which are served by footway crossings. Given that the accesses will be for pedestrians and no longer in use for vehicles and to ensure pedestrian safety, the redundant footway crossings must be reconstructed as footway.

### Site Layout

The submitted layout plan 8921-BA-S-00-DR-A- (04)007, shows the proposed layout of the site and the details provided within the TS show that the access road within the site serving blocks A-D will be 6m wide with a 2m wide footway on the western side, which is acceptable.

Block E is shown to be served by a 5m wide access road and segregated pedestrian facilities, while Blocks F & the listed building will have a short access road of approximately 6.5m width that leads direct to two areas of car parking. There will be 2m wide footways on both sides of the access road that lead to both buildings.

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A swept path analysis (tracking) has been carried as part of the TS for most part of the site and it shows that a large refuse vehicle can safely turn within the site. No details were provided for the Lancaster Road access as the developer has indicated that this access will not be used for service vehicles.

## Parking

The proposed parking is spread across the site with car parking areas adjacent to each of the seven buildings. The total amount of car parking to be provided is detailed at 151 spaces plus 3 spaces for mini buses. There will be 5 motorcycle parking bays and 31 cycle parking bays.

The proposed level of car parking exceeds both the amount expected by the standards detailed in Sefton's 'Sustainable Travel and Development' SPD and the number of proposed units. The level of motorcycle spaces is in line with the SPD and the number of bicycle spaces exceeds the requirements.

10% of the total number of parking spaces will be accessible and the applicant has confirmed that the number of spaces with electric vehicle charging facilities will be in line with the SPD and therefore the proposed parking facilities are considered appropriate.

## Accident Analysis

Accident data has been submitted by the applicant for the study area for the five year period up to September 2020. Six incidents of 'slight' classification were recorded in the vicinity of the development site on Grosvenor Road and Waterloo Road. The applicant has suggested that there are no existing notable accident patterns to indicate any specific safety issues and considering the likely impact of the additional traffic due to the development, there are no concerns about the potential for additional accidents.

It is accepted that from the details provided and information associated with the accidents, it does not indicate a particular highway safety issue in the area that would be exacerbated by the proposed development.

## Accessibility

In addition to assessing the implications of the vehicular traffic, the TS also considered the level of accessibility for other modes of travel including walking, cycling and public transport.

The site is within 2 km of a local centre at Birkdale, with bus stops on Grosvenor Road and Waterloo Road. A Minimum Accessibility Standard Assessment has been submitted by the applicant that indicates the site is fairly accessible and that there are no significant barriers to sustainable modes of transport.

It is accepted that the site is reasonably accessible, however there are existing barriers to pedestrian movement and access to local amenities and bus stops. In order to improve the level of accessibility and accommodate the proposed development a package of works has been identified. The developer will be expected to wholly fund a scheme of highway works, which will include the following improvements:-

- new dropped kerbs and tactile paving at the junction of Lancaster Road and Grosvenor Road;
- new dropped kerbs and tactile paving at the junction of Granville Road and Grosvenor Road;
- new dropped kerbs and tactile paving on Lancaster Road close to its junction with Selworthy Road

### Trip Generation and Impact on the Highway Network

The TS submitted with the application looked at the forecast impact on the local highway network of the proposed development. The TRICS database has been used to obtain the estimated trip rates for the proposed development, which is the industry standard and accepted method. Trip rates for previous lawful use of the site were also obtained in order to establish the extent of net traffic that is generated by the proposals, which is an accepted method.

A comparison of the existing site use and the proposed use of the site has been carried out for the proposed development on the basis of 147 extra care units and on 5,347m<sup>2</sup> for the lawful educational use. This shows that the proposed use will generate 151 fewer two way vehicle trips in the AM peak and 20 fewer two way vehicle trips in the PM peak hour, which indicates that there will be a positive impact on the surrounding network.

It is considered that the TRICS calculations represent the traffic flows from the proposed development and that there would be minimal impact on the highway network.

### Travel Plan

A Framework Travel Plan (FTP) for the site has been submitted, which is generally acceptable.

The FTP includes a preliminary action plan, in order to promote sustainable modes of transport. The Plan has been provided for indicative purposes, and a more detailed Travel Plan with a full Action Plan must be provided and implemented. The Full Travel Plan must have detailed measures with clear targets aimed at reducing the reliance on vehicles and methods of assessing and monitoring the outcomes. Baseline surveys will need to be carried out to help inform the Travel Plan Co-ordinator and set suitable targets.

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Welcome packs will be produced for all residents of the development to inform them about the sustainable transport modes available to them. There must also be details included with the packs, action plans and targets for the staff in order to reduce their reliance on cars.

A web-based approach is recommended as part of the Full Travel Plan, so potential residents and staff can view the information online before making any decisions. Moving forward this can be the platform for the travel plan – this makes it easier to update and available to all residents. This would complement paper versions of maps etc.

## Construction Traffic Management Plan

A Construction Traffic Management Plan has been submitted as part of the application and provides details of how, where and when the site will be accessed. It also provides details of measures to tackle debris on the highway. The details within the plan are considered acceptable.

## Conclusion on Highway Matters

The proposal does not give rise to any adverse impacts relating to highway safety, traffic flows or pedestrian accessibility. There are no conflicts with Local Plan policies IN2, EQ2 and EQ3, nor any conflict with the provisions of Framework paragraph 111, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

## **HABITATS REGULATIONS ASSESSMENT AND OTHER ECOLOGICAL/ENVIRONMENTAL MATTERS**

### Habitats Regulations Assessment

The development site is adjacent and near to the following national and international sites. These sites are protected under the Conservation of Habitats & Species Regulations 2017 (as amended) and Local Plan policy NH2 applies:

- Sefton Coast SAC and SSSI (adjacent);
- Ribble and Alt Estuaries Ramsar (215m west); and
- Ribble and Alt Estuaries SPA (330m west).

Due to the development's potential pathways and impacts on the above sites, this proposal requires Habitats Regulations Assessment for likely significant effects. In line with the recent Court of Justice of the European Union judgement of 12 April 2018 (known as *People Over*

*Wind*<sup>1</sup>), MEAS have undertaken an assessment of likely significant effects (Appendix 1) which is based upon the essential features and characteristics of the project only. This concludes that, without mitigation/preventative measures, that there will be likely significant effects on the following sites:

- Sefton Coast SAC and SSSI;
- Ribble and Alt Estuaries Ramsar; and
- Ribble and Alt Estuaries SPA.

An Appropriate Assessment has therefore been produced which is attached to the Committee report which concludes that, with mitigation/preventative measures, there will be no adverse effect upon the integrity of the national site network and Ramsar sites. Natural England have been consulted on the outcome of the Appropriate Assessment and their views, together with the outcome of the Appropriate Assessment, will be incorporated into late representations.

The Appropriate Assessment concludes that additional mitigation is required to avoid adverse effects on the integrity of the national sites network and Ramsar sites. A Construction Environmental Management Plan (CEMP) condition is recommended in addition to an information leaflet for residents which is also to be secured by suitably worded planning condition.

### Ecology/Landscape Management

The applicant has submitted an Updated Ecological Survey and Assessment report in accordance with Local Plan policy NH2 (ERAP Ltd (April 2020) Updated Ecological Survey and Assessment) which meets the relevant British Standards and is accepted. Following review of the updated report (2020) habitats remain largely unchanged and MEAS advise that previous recommendations for breeding birds, red squirrel, barn owl, reptile, invasive species and bats remain valid. Habitat on site is also suitable for hedgehog therefore Reasonable Avoidance Measures (RAMs) are required.

To reduce the number of planning conditions, the following ecological mitigation is recommended for addition to the CEMP condition:

- Breeding bird RAMs;
- Barn owl method statement (section 9) of the Updated Ecological Survey and Assessment report;
- Reptile RAMs
- Hedgehog RAMs;

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<sup>1</sup> PINS Note 05/2018 Consideration of avoidance and reduction measures in Habitats Regulations Assessment: *People over Wind, Peter Sweetman v Coillte Teoranta*

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- Demarcation, grubbing up and disposal of wall cotoneaster to avoid spread of invasive species; and
- A sensitive lighting strategy avoiding retained habitats e.g. mature trees.

Section 5 of Landscape Management Plan sets out native tree, orchard and wildflower grassland planting as well as bat and bird box installation as compensation, mitigation and enhancement measures. Habitat creation is shown on the landscape masterplan (TEP, 23/09/2021) and is accepted.

Given the scale of the proposal, it is recommended that a Landscape and Ecological Management Plan (LEMP) is required to implement and maintain areas of habitat creation and landscaping on site. The production of a full and detailed LEMP, which covers management of the site for at least 30 years is required and can be secured by planning condition. The Plan should include detail of creation and management of the compensation, mitigation and enhancement measures set out in section 5 of the report.

Taking the above into account and having regard to the precise wording of appropriate planning conditions, and the required response of Natural England to the HRA, there are no outstanding concerns that would point to a refusal of planning permission and no conflicts with Sefton Local Plan Policies NH2 or NH3.

## **APPLICATION FOR LISTED BUILDING CONSENT (DC/2021/02487)**

The alterations enable the conversion of the listed building into 28 assisted living units, with most of the ground floor given over to communal facilities. From review of a series of amended plans, the building will be restored in a manner sympathetic to the existing fabric and at the same time practical for an operator.

All main ground floor rooms will maintain their original functions. Though some works are proposed to these areas, these are largely minimal, and broadly comprise the following:

- Installation of new floor coverings;
- Any required maintenance works to feature panelling and ceilings;
- Upgrades to existing mechanical and electrical services;
- Appropriate re-decoration;
- Upgrading where possible of existing doors for re-use; and
- New timber windows throughout, replacing long-standing uPVC installations.

Careful demolition work is proposed to the rear of the building, removing the invasive accretions and lean-to's added over time to reveal the original main body of the building. A two-storey block, set at a half-level difference and situated to the rear of the vaulted hall at ground floor, is to be removed to reveal the existing large arched internal window to the hall, which will become a new window allowing light into that space.

The existing hall will be recovered and will be afforded a direct connection to outside, as noted and could be used for a variety of purposes, including a community hall, dining room overflow or a flexible space for events.

The pool hall will be converted to two duplex apartments, using the double height, the room trusses and volume to full effect. The existing courtyard overlooking the hall, which was destroyed in the 2010 fire, would be recovered to serve as sheltered communal outdoor space.

The upper floors have been reorganized and at this point the level of demolition required is minimal, as is the further internal partitioning. The proposal seeks to enhance value to the existing terrace through the integration of soft landscaping and formal terraced gardens on the slope that defines its southern edge.

The proposals for the Listed Building are not significantly different from the previous 2018 proposals which received approval. The proposals have been designed to minimise harm and have been carried out to the less important and prominent elevations that have already been significantly damaged either through inappropriate development or fire damage.

Indeed, the proposals seek to retain the remaining original features of note and reinstate the listed building. The listed building would be reinstated to its previous design and re-introduce a number of original features. These include the removal of Upvc windows, reinstatement of timber sliding sash windows and architectural detail such as decorated gable bargeboard design. The proposals also seek to enhance its formal setting with improved landscape design fronting the building.

Whilst there are changes to the rear elevation and some internal spaces, these would be at the least sensitive ends of the scale. However harm is inevitably caused but this harm would be categorised as 'less than substantial' and it should be weighed against the public benefits of the proposals.

A condition is also attached to ensure the timely repair of the clock tower. In essence, this largely what was accepted by the 2018 consent. It is considered that there is no conflict with Local Plan Policy NH11 insofar as it relates to the impact on the listed building.

## **OTHER MATTERS**

### Contaminated Land

The contaminated land conditions placed on the 2018 permission have been agreed, and the latest set of reports do not identify any risks to sensitive receptors and no further remediation works are required.

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## Flooding and Drainage

The previous proposals gave rise to no substantive flooding and drainage issues have been raised following consultation with the Lead Local Flood Authority (LLFA), following submission of a comprehensive Flood Risk Assessment and Drainage Management Strategy. This would ensure that the scheme complies with Policy EQ8 of the Local Plan. A similar strategy is presented with this proposal and comments are awaited on the final set of proposals, which will be reported by late representation.

## Environmental Health

Comments were made in relation to the possibility of disturbance resulting from the car parks relative to the occupants of the properties on Granville Road. It was noted that the rear of the residential properties will benefit from very low background noise levels at present, making car movements, engine start-ups and door/boot closing very noticeable.

Whilst this point is noted, the applicant has provided evidence of a relatively low practical use of the parking, and it is not considered that the acoustic fencing of the parking spaces would offer a practical or visually amenable solution, the more so given that vehicle parking and turning in the individual courts is likely to be little different in nature or substance from that which may be anticipated in any conventional residential setting. Comments are provided in relation to the need for a Construction Environment Management Plan and this is addressed by planning condition.

## Pre-consultation with community

There has been some criticism of the pre-consultation process. The engagement process has not been helped by the ongoing pandemic, and it has been expressed by one resident that in combination, the consultation leaflet referred to 2020 rather than 2021, and a submission date of May, some five months prior to the actual submission. The leaflet does also give rise to the impression of grey brick in some of the new build elevations.

They have also commented that a press release in November has given rise to a misleading impression of the development. It has been noted that the picture accompanying the release, which appeared on the front page of the Southport Champion, offered a visual of the 2018 scheme rather than the current scheme.

It is clearly not helpful that such issues arise, as it can give rise to a combination of anxiety and confusion, in addition to forceful objection, but the applicant has indicated that he did accept the error in the dates and apologised for this, and in practice, the statutory requirements of the local planning authority to notify those properties of the application have been fully followed. As the report demonstrates the local community and ward members have commented extensively on the proposals.



As such, it is concluded that whilst some of the pre-consultation has not been helpful, it has drawn local attention to the general thrust of what has been proposed, and the applicant has openly commented in their planning submission that adverse representations did emerge.

## Response to representations where not addressed elsewhere

The report fully explains how most issues are addressed, but some specific points and queries have been raised.

It has been suggested that two storey blocks in a more central location be provided, but this would likely impact on key views of the listed building, with consequent effects on the wider layout, parking etc. It is also likely that two storey blocks would require increased footprints to secure the quantum of development required for a viable scheme (as set out by the viability report).

The proposals for new build using traditional red brick and traditional windows would be considered to overly detract from and compete with the listed building; the choice of buff bricks and a contemporary approach is critical to ensuring the listed building remains the key prominent building on the site and the blocks as proposed will ensure that the eye is repeatedly drawn to the listed building.

A representation suggests that Block E was a two storey building on the 2018 permission, but this is not correct. Additionally, the extra units are generally resulting from the enlargements of Blocks A, B and C respectively, with a marginal increase in the assisted living units provided within the listed building.

It is correct to comment that the plans depict an increase in the height of the blocks from those previously approved. However, this is due to a misunderstanding over the parapet roof to the current proposals. The accompanying statements do not refer to such an increase, but the height difference amounts to less than 300mm, and is not felt to be material in respect of consequent impacts.

It has been understood that the existing hedgerow to the rear of properties on Granville Road would be maintained, and it is a point that will be confirmed by late representation. It is also accepted that in the event of the hedgerow being maintained it will be brought within the eventual long-term Landscape Management Plan to allow for its keeping at an appropriate height.

As care is provided onsite for end users, and is paid for as per the above, it is not considered that the proposals would give rise to unacceptable impacts on current medical and health care

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facilities. If anything, it is more likely that the development will offer the opportunity for end users to secure their needs without further burdens on the wider public.

The progress of the development at 'Sunshine House', 2 Oxford Road, is not a relevant material planning consideration. The progress or otherwise of other independent developments is not of relevance to this proposal. The phasing of the development would set out the sequence of works, which prioritise the safeguarding of the listed building above the new build components.

The representations also suggest that the Conservation Officer's comments do not have appropriate regard to impacts on the West Birkdale Conservation Area. This is incorrect and the report clearly sets out the relevant impacts arising from the proposals.

An objection has raised concern over the process and regard to Article 6 of the European Convention on Human Rights Act 1998. This relates to the right to a fair hearing and as the relevant publicity has been conducted prior to this report (with renotification of amended plans), there is no evidence that the process has prevented such rights occurring. The same objection refers to Article 8, which deals with the right to respect for privacy and family life. The report explains in detail that acceptable separation distances are achieved to neighbouring properties and no such harm arises in planning policy terms. It is not therefore considered there is any breach of this Convention.

## **PLANNING BALANCE AND CONCLUSION**

The scheme is acceptable when looking at all statutory tests, national and local plan policies, and all other material planning considerations. The proposals do not strictly comply with certain policies contained within the Local Plan, and on the basis of the heritage related policies of the Framework, the proposal will give rise to 'less than substantial harm'. However, this harm is outweighed by the public benefits brought by the proposal.

If no development of the grounds can be agreed, or a lesser amount, it reduces and possibly even eliminates the landowner's incentive to proactively secure the heritage asset in the longer term.

Given the Council have successfully defended a previously far more intrusive attempt to develop a larger part of the site for residential purposes at appeal, it potentially results in the Council being adversely positioned to secure the future of the asset, unless it reverts to regulatory pressures of Urgent Works, Repairs Notices or Compulsory Purchase Orders, which have even since the previous appeal represented potential scenarios for Birkdale School.

This doesn't mean any form of development is acceptable. It also does not endorse the deleterious condition of the asset, nor does it aim to reward lack of site and building management. The landowner's long-standing inactivity and lack of attention to the asset will

doubtless result in his realising a lesser receipt than may have been the case had this scheme been considered within the context of a properly looked after listed building.

The Council's previous criticisms of poor stewardship, design and layout of other schemes have already been supported on appeal. However, the use proposed is ideal for the site, given its former institutional use and the space surrounding the buildings, and can exist with a relatively minimal degree of harm to the amenity of adjoining occupiers, many of whom will recall certain impacts associated with an on-going school use.

The great weight to be given to the long-term future of the heritage asset is critical, and members will note that Historic England have offered full support. The site layout presented achieves the right balance in securing this whilst bringing a high standard of design which will be seen to enhance the setting of the West Birkdale Conservation Area and affording deserved and long needed prominence to the listed building, despite the acknowledged 'less than substantial' harm.

The scheme is therefore considered acceptable when regard is had to Sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990, the Local Plan and the material considerations brought by the heritage paragraphs contained within the Framework.

It is therefore recommended that subject to the conditions and the completion of a Section 106 Legal Agreement that planning permission and listed building consent be granted.

## **RECOMMENDATION:**

**DC/2021/02486 - Approve with conditions subject to:**

- a) completion of a Section 106 Legal Agreement, and**
- b) agreement of Natural England to the final Habitats Regulations Assessment**

**DC/2021/02487 – Grant listed building consent with conditions.**

Members are advised that the following schedule of conditions may, following completion of late representations, be subject to some reordering or minor editorial change, but the substance of the requests is anticipated to largely remain unaltered.

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## CONDITIONS

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

Reason: To comply with Section 91 (as amended) of the Town and Country Planning Act 1990.

- 2) The development hereby granted shall be carried out strictly in accordance with the details and plans contained within the Appendix to this decision notice.

Reason: To ensure a satisfactory development.

- 3) The provisions of the approved Construction Traffic Management Plan shall be followed throughout the course of the development. This shall include on-site measures for the prevention of mud spreading onto the public highway.

Reason: In the interests of highway safety.

- 4) A 1 metre high fence or other barrier as approved in writing by the Local Planning Authority shall be erected around the outer limit of the crown spread of all trees, hedges or woodlands shown to be retained on the approved plan prior to the commencement of development of Blocks A-E inclusive. The barrier/fencing as approved shall be maintained in a satisfactory manner until the development is completed. During the period of construction, no material shall be stored, fires started or trenches dug within these enclosed areas.

Reason: To prevent damage to the trees/ hedges in the interests of visual amenity.

- 5) No development shall take place above slab level until samples of all materials to be used in the external construction of this development have been placed on site for inspection, with written details to be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be used in the external construction.

Reason: To ensure a satisfactory appearance to the development.

- 6) Notwithstanding the submitted landscaping details, no development shall take place above slab level until a landscaping scheme covering the land subject of this application shall be submitted to and approved in writing by the Local Planning Authority, including:

- i) Existing and proposed levels or contours,

- ii) Proposed and existing services above and below ground,
- iii) Details of all boundary treatments and hard surfaces,
- iv) the location, size and species of all trees to be planted,
- v) A scheme for the retention and removal of tree cover to Lancaster Road,
- vii) The location, size, species and density of all shrub and ground cover planting, including box hedging to the car parking for Blocks A-D and the retention of laurel hedge to the rear of Lancaster Road, and;
- viii) A timetable for implementation.

Reason: In the interests of visual appearance and in recognition of the heritage asset and identified species / habitats.

- 7) No construction shall take place above slab level in relation to Blocks A-F until full details of a scheme for a sustainable drainage system to serve the site, and method of implementation, including arrangements to secure funding and maintenance for the lifetime of the development have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved details and timetable. Thereafter the sustainable drainage system shall be managed and maintained in accordance with the approved scheme.

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

- 8) No construction shall take place in relation to blocks A-F until a method statement, including details of all works within Root Protection Areas or crown spread [whichever is greater], of any retained tree, and details of all foundation construction incorporating measures to protect tree roots, that seeks to ensure the protection and retention of those roots within the Root Protection Areas has been submitted to and approved in writing by the Local Planning Authority. Thereafter, all works shall be carried out and constructed in accordance with the approved details.

Reason: To prevent damage to the trees in the interests of visual amenity.

- 9) No development other than works associated with the principal listed building shall take place until a detailed survey of existing and proposed ground levels, sections across the site and details of the finished slab level for each of Blocks A to F has been submitted to and approved in writing by the Local Planning Authority. The ground levels across the site and finished slab levels for each property shall be as per the approved details.

Reason: To safeguard the living conditions of nearby residents.

- 10) No development other than works associated with the principal listed building shall take place until a detailed survey of existing and proposed ground levels (referred to as Ordnance Datum), sections across the site and details of the finished slab level for

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each of Blocks A to F has been submitted to and approved in writing by the Local Planning Authority. The ground levels across the site and finished slab levels for each property shall be as per the approved details with the specific requirement that the finished floor level (FFL) of Block F is set at 0.81 metres below that of the FFL to 21 Granville Road.

Reason: To ensure a satisfactory development and to safeguard the living conditions of nearby residents.

- 11) Prior to the construction of all external elevations above finished floor level (FFL) of Blocks A-F, the finished levels shall be subject to a topographical survey to be submitted to and approved in writing by the Local Planning Authority. The results of these surveys shall confirm that the FFL of those plots are constructed to the levels agreed by condition 9 and no further construction above FFL of external elevations of dwellings on those plots shall take place until approval is given as required above. In the event that the submitted surveys fail to confirm the FFL correspond to the levels as approved, or are not within 100mm of those levels, a new planning application(s) shall be submitted for those buildings to which the variation relates.

Reason: This matter is fundamental in order to safeguard the living conditions of nearby occupiers, to safeguard the character and appearance of the area and ensure satisfactory drainage.

- 12) Prior to the first occupation of Blocks A-F, or in accordance with a timetable to be submitted to and agreed in writing with the Local Planning Authority, the levels of all external areas and adjacent highways shall be subject to a topographical survey to be submitted to and approved in writing by the Local Planning Authority. The results of these surveys shall confirm that the levels of those plots and adjacent areas are constructed to the levels approved under condition 9. In the event that the submitted surveys fail to confirm the levels correspond to the levels as approved, or are not within 100mm of those levels, a new planning application(s) shall be submitted for those plots to which the variation relates.

Reason: This matter is fundamental in order to safeguard the living conditions of nearby occupiers, to safeguard the character and appearance of the area and ensure satisfactory drainage.

- 13) A scheme of works for each of the proposed vehicular and/or pedestrian accesses shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate the following highway improvement measures:
- alterations to the existing access on Granville Road to provide a carriageway width of no less than 8m, footways of 2m and to the kerblines and radius, including dropped kerbs and tactile paving at the site access,

- provision of a pedestrian refuge on Lancaster Road at the junction of Lancaster Road, Sandringham Road, including flush kerbs and tactile paving;
- reconstruction of the footway along north west side of Lancaster Road at the two redundant vehicle accesses;
- new dropped kerbs and tactile paving at the junction of Lancaster Road and Grosvenor Road;
- new dropped kerbs and tactile paving at the junction of Granville Road and Grosvenor Road;
- new dropped kerbs and tactile paving on Lancaster Road close to its junction with Selworthy Road, and
- removal of existing School Keep Clear road markings along Granville Road.

No part of the development to which each access relates shall be occupied until a means of vehicular and/or pedestrian access to the site/development has been constructed in accordance with the approved details.

Reason: In the interests of highway safety and to allow for the final finish of the tactile paving to be considered having regard to the setting of heritage assets.

- 14) All areas detailed on the approved plans for vehicle parking, turning and manoeuvring shall be laid out, demarcated, levelled, surfaced and drained prior to any part of development to which the area relates being occupied or brought into use and these areas shall be retained thereafter for that specific use.

Reason: In the interests of highway safety.

- 15) Cycle parking shall be provided in accordance with the approved plans prior to any part of the development to which the cycle parking relates being occupied or brought into use and these facilities shall be retained thereafter for cycle parking.

Reason: In the interests of highway safety.

- 16) The hard and soft landscaping scheme shall be carried out in accordance with the timetable in condition 6 (viii) above. 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.

Reason: In the interests of visual amenity.

- 17) Prior to first occupation of the development hereby permitted, a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, to cover a minimum period of 30 years. The landscape management plan shall be carried out in accordance with the approved details.

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Reason: In the interests of visual amenity and conservation.

- 18) The agreed Framework Travel Plan shall be implemented in full in accordance with a timetable to be submitted to and agreed in writing with the Local Planning Authority. The approved Travel Plan shall continue to be implemented as long as any part of the development is occupied.

Reason: In the interests of highway safety.

- 19) All reasonable avoidance measures (RAMs) and mitigation measures as identified by sections 5.3, 5.4, 5.5, 5.6 and 9.1 of the Ecological Survey and Assessment dated April 2020 (ref: 2020-106) shall be implemented in full during the construction period and the mitigation measures identified in that paragraph retained thereafter within the completed development.

Reason: To safeguard the conservation of species/habitats whilst ensuring that the development accommodates breeding birds, barn owls, red squirrels and foraging / commuting bats and ensuring the removal of invasive species.

- 20) Prior to the occupation of the first unit full details of an information pack to be provided informing residents of the presence and importance of the designated nature sites, and how residents can help protect them shall be submitted to and approved in writing by the Local Planning Authority. The pack shall include a responsible user code and a list of alternative greenspaces. The agreed information must be supplied to occupiers on first occupation of each dwelling.

Reason: To mitigate recreational pressure on the designated coast.

- 21) No development shall take place in respect of Blocks A-F, until a Construction Environment Management Plan (CEMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CEMP shall be carried out as approved and adhered to throughout the construction period. The CEMP shall provide for:
- i) Measures to control the emission of dust and dirt during demolition, construction and any piling works.
  - ii) Measures to control light pollution during construction and any piling works.
  - iii) A scheme for recycling/disposing of waste resulting from demolition and construction works.
  - iv) Noise reduction measures;
  - v) A scheme of piling methodology, which provides justification for the method chosen and details the noise and vibration suppression methods proposed
  - vi) Dust suppression measures;
  - vii) Demarcation, grubbing up and disposal of wall cotoneaster to avoid spread of invasive species (cotoneaster plant); and



- viii) Measures to contain construction materials and avoid pollution transfer i.e. a buffer zone to the Sefton Coast SAC boundary.

The agreed measures shall be retained thereafter during the construction period.

Reason: This is required prior to the commencement of development to safeguard the living conditions of neighbouring/adjacent occupiers and land users during both the demolition and construction phase of the development.

- 22) Prior to first occupation of the development, or the use of any external car park, a scheme to include any and all sources of external illumination through the site, including car parking areas, must be submitted to and approved in writing by the Local Planning Authority. The scheme shall then be implemented and maintained as such thereafter. The lighting scheme shall make provision for a maximum level of 20 lux when measured at any nearby property boundary unless a reduced requirement is deemed necessary to protect foraging/commuting bat population.

Reason: To protect the living conditions of nearby residents whilst also safeguard conservation of species/ habitats.

- 23) No tree felling, scrub clearance or hedgerow removal shall take place during the period 1 March to 31 August inclusive. If it is necessary to undertake works during the bird breeding season then trees, scrub, and hedgerow 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 shall be submitted to and approved in writing by the Local Planning Authority prior to works continuing.

Reason: To protect birds during their breeding season.

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

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

- 25) A minimum of 17 no. electric vehicle charging points shall be provided in accordance with a scheme to be approved in writing by the local planning authority, with a minimum of 9 no. to Blocks A-D, 4 no. to Block E, and 4 no. to Block F and the listed building. The charging points shall be installed and made fully operational prior to first occupation of the development, and the equipment shall be retained in working order thereafter.

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

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- 26) A scheme of acoustic treatment for the protection of residents at 38 Lancaster Road from noise from the parking area to the rear of the property shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the car parking area first being brought into use and thereafter retained.

Reason: To safeguard the living conditions of nearby residents.

## INFORMATIVES

### Breeding Birds

- 1) Built features or vegetation on site may provide nesting opportunities for breeding birds, which are protected. No tree felling, scrub clearance, hedgerow removal, vegetation management, ground clearance or building work is 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 and hedgerows are to be checked first by an appropriately experienced ecologist to ensure no breeding birds are present.

### Addresses

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

### Highway Works

- 3) The applicant is advised that 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 Control Team on 0151 934 4175 for further information.

### Highway Agreements

- 4) The applicant/developer is advised that agreements under Section 38 (if necessary) and Section 278 of the Highways Act 1980 will be required and to contact the Highways Development Control Team on 0151 934 4175 in this regard.

### Piling Works

- 5) The developer is advised to contact Sefton Council's Pollution Control Team for suitable guidance if piling works are proposed.

## CONDITIONS FOR LISTED BUILDING APPLICATION DC/2021/02487:

- 1) The works hereby permitted shall be commenced before the expiration of three years from the date of this consent.

Reason: To comply with Sections 18 (as amended) and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 2) The clock shall be repaired and brought back into use prior to the first occupation of any apartment and shall utilise the original mechanism in the clock tower unless the Local Planning Authority gives its consent to any variation.

Reason: In order to preserve the special architectural or historic interest of the building.

- 3) The clock tower shall be preserved in situ at all times during the period of works hereby permitted.

Reason: In order to preserve the special architectural or historic interest of the building.

- 4) Details of the proposed cast iron spiral staircase to the clock tower shall be submitted to and approved in writing by the Local Planning Authority prior to its installation.

Reason: In order to preserve the special architectural or historic interest of the building.

- 5) All windows in the reconstructed part of the building shall be recessed by a bricks width in order to accord with existing windows.

Reason: In order to preserve the special architectural or historic interest of the building.

- 6) All covings, roses, picture rails, dado and skirting boards shall be kept, reinstated where lost, or if required to be replaced shall be thus replaced in accordance with details to be submitted to and agreed in writing with the Local Planning Authority

Reason: In order to preserve the special architectural or historic interest of the building.

- 7) Ornate fascias and verge boards shall be accurately repaired/renewed to the original form both in material and section.

Reason: In order to preserve the special architectural or historic interest of the building.

- 8) Notwithstanding the details shown on the approved plans and heritage statements, detailed plans showing sectional details of proposed windows and doors at scale 1:5 including both vertical and horizontal sections shall be submitted to and approved in writing by the Local Planning Authority prior to their installation.

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Reason: In order to preserve the special architectural or historic interest of the building.

- 9) Gutters must be accurately repaired/renewed to the original form both in material and section. All new rainwater pipes must be cast iron.

Reason: In order to preserve the special architectural or historic interest of the building.

- 10) After any works granted under this consent are completed any damage caused to the building by the works shall be made good.

Reason: In order to preserve the special architectural or historic interest of the building.

- 11) In the event of amendment being required as a result of the need for Building Regulations revised plans of the interior shall be submitted to and agreed in writing with the Local Planning Authority and works shall proceed only on the basis of the revisions.

Reason: In order to preserve the special architectural or historic interest of the building.

- 12) Reasonable facilities for internal investigation of the building during the period of works shall be given to the Local Planning Authority including rights to access to a person or persons authorised by that Authority during the course of all works to the interior.

Reason: In order to preserve the special architectural or historic interest of the building.

- 13) Within three months of the date of this consent, a detailed timetable for the completion and restoration of all decorative features, including barge boarding, stonework and all other works barring external brick, roof tiles and window details, shall be submitted to and approved in writing by the Local Planning Authority. Works shall proceed in accordance with the approved details.

Reason: In order to preserve the special architectural or historic interest of the building.

## LIST OF APPROVED DETAILS FOR PLANNING APPLICATION DC/2021/02486

8921	(01)001	Existing Site Plan	A
8921	(01)002	Post Fire Demolition Plan	A
8921	(01)003	Site Location Plan	-
8921	(04)002	Proposed Site Plan	-
8921	(04)005	Proposed Site Master Plan (Colour)	-
8921	(04)006	Existing Consented Scheme Overlay	-
8921	(04)007	Refuse & Access - Proposed Site Masterplan	A
8921	(04)008	Proposed Masterplan - Boundary Treatments	A
8921	(04)009	Block E to 38 Lancaster Road	A
8921	(04)010	Block F to 21 Granville Road	A
8921	(04)101	(BLOCK A) - Proposed GF & 1F Plan	C
8921	(04)102	(BLOCK A) - Proposed 2F & Roof Plan	C
8921	(04)201	(BLOCK B) - Proposed GF and 1F Plan	E
8921	(04)202	(BLOCK B) - Proposed 2F and Roof Plan	E
8921	(04)301	(BLOCK C) - Proposed GF & 1F Plan	D
8921	(04)302	(BLOCK C) - Proposed 2F & Roof Plan	D
8921	(04)401	(BLOCK D) - Proposed GF & 1F Plans	D
8921	(04)402	(BLOCK D) - Proposed 2F & 3F Plans	D
8921	(04)501	(BLOCK E) - Proposed GF & 1F Plan	B
8921	(04)502	(BLOCK E) - Proposed 2F & 3F Plan	B
8921	(04)701	(BLOCK F) - Proposed Plans	D
8921	(05)001	1.500 Site Elevations	-
8921	(05)002	1.200 Site Elevations	-
8921	(05)100	(BLOCK A) - Proposed Elevations	B
8921	(05)200	(BLOCK B) - Proposed Elevations	B
8921	(05)300	(BLOCK C) - Proposed Elevations	C
8921	(05)400	(BLOCK D) - Proposed Elevations	B
8921	(05)500	(BLOCK E) - Proposed Elevations	A
8921	(05)701	(BLOCK F) - Proposed Elevations	A
8921	(06)100	(BLOCK A) - Proposed Sections	A
8921	(06)200	(BLOCK B) - Proposed Sections	-
8921	(06)300	(BLOCK C) - Proposed Sections	A
8921	(06)400	(BLOCK D) - Proposed Sections	-
8921	(06)500	(BLOCK E) - Proposed Sections	A
8921	(06)701	(BLOCK F) - Proposed Sections	B
	8921DAS	Design and Access Statement	1
	D9023.001	Landscape Masterplan	A
	D9023.002	Tree Survey Impact Study	1
	D9023.006	Boundary Treatment Plan	A
	V3	Construction Traffic Management Plan	-

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## LIST OF APPROVED DRAWINGS FOR DC/2021/02487 – LISTED BUILDING CONSENT

8921	(01)600	(LB) Pre Fire Plans	A
8921	(01)601	(LB) Post Fire Plans	C
8921	(02)600	(LB) Pre Fire Elevations	A
8921	(02)601	(LB) Post Fire Elevations	A
8921	(03)600	(LB) Pre Fire Sections	A
8921	(03)601	(LB) Post Fire Sections	A
8921	(04)601	(LB) Proposed GF Plan	F
8921	(04)602	(LB) Proposed 1F Plan	E
8921	(04)603	(LB) Proposed 2F Plan	F
8921	(04)604	(LB) Proposed Roof Plan	C
8921	(05)600	(LB) Prop Elevations North & East	A
8921	(05)601	(LB) Prop Elevations South & West	B
8921	(06)600	(LB) Proposed Sections A&B	A
8921	(06)601	(LB) Proposed Section C	A
8921	(06)602	(LB) Proposed Sections D&E	A
8921	(06)603	(LB) Proposed Section F	A
8921	(10)600	LB Conservation Strategy 00 Plan	A
8921	(10)601	LB Conservation Strategy 01 Plan	A
8921	(10)602	LB Conservation Strategy 02-03 Plan	A
8921	(20)600	LB Demolition 00 Plan	B
8921	(20)601	LB Demolition 01 Plan	B
8921	(20)602	LB Demolition 02 & 03 Plan	B
8921	(20)603	LB Demolition RF Plan	B
8921	(20)610	LB Demo Elevations - North & East	A
8921	(20)611	LB Demo Elevations - South & West	A
8921	(20)612	LB Demo Elevations - East & West Inner	A
8921	(20)620	LB Fabric Repairs RF Plan	A
8921	(20)621	LB Fabric Repair Elevations North & East	A
8921	(20)622	LB Fabric Repair Elevations South & West	A
8921	(20)623	LB Fabric Repair Elevations - East & West Inner	A
8921	(30)600	Typical Details	-
8921	(31)601	LB Typical Window Elevations	A
8921	(32)600	LB Typical Door Elevations	A
	8921CS	Conservation Strategy	3

**Report to:** PLANNING COMMITTEE      **Date of Meeting:** 19th January 2022

**Subject:** [DC/2020/02629](#)  
[30 Liverpool Road Formby Liverpool L37 4BW](#)

**Proposal:** 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.

**Applicant:** Mrs Birchall      **Agent:** Mr Jonathan Storey  
Pegasus Planning

**Ward:** Ravenmeols Ward      **Type:** Full Application

**Reason for Committee Determination:** Petition and call in by Councillor Bennett

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## Summary

The application proposes the erection of an additional house within the rear garden area of no.30 Liverpool Road, and a detached garage adjacent to the existing house along with a new access off Liverpool Road.

The main issues to consider in respect of this proposal are the principle of development, the impact on the character of the area (including the setting of a non-designated heritage asset), living conditions, highway movement/safety, drainage, and ecology and trees.

Having regard to all matters, it is considered that the proposal is in accordance with the relevant policies in the adopted Sefton Local Plan and the Formby and Little Altcar Neighbourhood Plan. It is therefore recommended that planning permission be granted, subject to appropriate conditions.

## Recommendation: Approve with Conditions

**Case Officer**      Kevin Baker

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

**Telephone**      0345 140 0845

Application documents and plans are available at:

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<http://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QLP8Q0NWGDN00>



Site Location Plan



Reference: Map reference  
Date: 10/01/2022  
Scale: Scale: 1:1250  
Created by: Initials

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## The Site

The application site comprises a late 19<sup>th</sup> century detached Victorian villa standing in extensive grounds on the western side of Liverpool Road, Formby. The site is bound on all sides by existing residential development.

## History

There are no relevant historic planning applications to acknowledge on the site. However, the scheme originally submitted proposed the erection of four houses following the demolition of No.30 Liverpool Road. This included three properties to the front of the site, facing Liverpool Road and a single house in the rear garden area.

Following concerns regarding the loss of the existing property, which was recognised as a non-designated heritage asset, the scheme was significantly amended to that which is now under consideration i.e. retaining the existing property and the erection of a single detached property in the rear garden area, with a detached garage adjacent to the existing property.

## Consultations

### Building Control

Originally confirmed that a building regulations application would be required for the scheme. No further comments were received on the amended scheme.

### Tree Officer

No objection subject to a condition requiring the submission of an Arboricultural Method Statement.

### Conservation

Object to the loss of the existing building due to its historic importance as a non-designated heritage asset. However, following amendments to the scheme to retain the existing building raised no objection subject to conditions relating to materials, improvement works to the existing property, landscaping, and boundary treatments.

### Highways Manager

No objections subject to conditions.

### Environmental Health Manager

No objection, subject to conditions regarding sound insulated fencing to the boundary, construction environmental management plan, and piling.

## **Flooding & Drainage Manager**

No objection.

## **Local Plans**

Consider the principle acceptable subject to detailed policy requirements of Neighbourhood Plan and Local Plan being met.

## **Merseyside and West Lancashire Bat Group**

Originally objected as the recommended bat activity surveys contained within the Preliminary Bat Roost Assessment report had not been conducted and thus insufficient information to determine the impacts of the application. No further comments received on the amended scheme.

## **United Utilities**

Originally requested conditions relating to surface and foul water and management/maintenance of Sustainable Drainage Systems. No further comments received on the amended scheme.

## **Merseyside Fire and Rescue Service**

Make observations regarding access to fire appliance and water supplies for fire fighting purposes.

## **Formby Parish Council**

Object to the proposal. Believe the applicant has tried to bypass the planning system by conducting extensive site clearance prior to the validation of the application. Consider the application fails to comply with the Neighbourhood Plan due to the loss of trees and lack of tree replacement, density and flood risk.

## **Formby Civic Society**

Not opposed in principle to the original proposal but felt that the proposals were not formulated on the true facts of the site and that the economic value of four houses on the site has been placed high above the loss of the valuable trees to nature and climate change. No further comments received on the amended proposal.

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## Neighbour Representations

Neighbouring residents were notified of the original development and on the amended development. Correspondence was received from residents in Ravenmeols Lane, Duke Street, Liverpool Road, Elbow Lane, Alexandra Road, Harebell Close, Lonsdale Road, Park Way, Castle Drive, Ashcroft Road, Birkley Lane, Phillips Lane on the original scheme and from Ravenmeols Lane, Liverpool Road and Phillips Lane on the amended scheme. A number of residents who commented on the original scheme also commented on the amended scheme and suggested that a number of comments originally raised were still pertinent to the amended scheme. In addition, a petition containing 36 signatures from residents was received on the original scheme, with a further petition containing 31 signatures received on the amended scheme. Both petitions have been endorsed by Cllr Bennett. Cllr Bennett has also called in the application for the following reasons:

- Overdevelopment
- Too high a density, conflicting with Neighbourhood Plan
- Removal of trees with no replacement conflicts with Neighbourhood Plan
- Included a previous outline permission from 1970 which was conditional on the trees being retained
- Surface water a problem in the area, development would add to this.
- Design not in keeping with surrounding area

In relation to the correspondence received from residents, these are summarised below for both the original and amended scheme:

### ***Original Scheme***

#### Living Conditions

Overshadowing; overlooking and loss of privacy both from the development and wider area; disruption; loss of security to properties due to service road opening up access to rear gardens; increased noise and disturbance from traffic, visitors, etc; impact of artificial light; increase pollution; impact on right to natural light.

#### Trees and Wildlife

Loss of trees and associated habitat; trees removed without permission; habitat survey carried out after trees removed making it worthless and meaning that wildlife had already been destroyed.

## Design and Character

Layout and density; scheme is excessive and out of keeping in terms of design and size; need to hold on to historical properties like this; building could be split into flats or kept as one house rather than bulldozing it to be lost forever; would spoil the aesthetics of the road; scale of development does not allow adequate garden space or space for landscaping commensurate with the local area; loss of existing building which is a long established part of the streetscape of Liverpool Road and a significant part of the Victorian heritage of the Town; graphic example of 'garden grabbing' and would set a precedence; over development; adjacent properties to the north are all similar age and design which has not been taken into account.

## Highway Safety

Traffic generation; impact on parking along Liverpool Road; access road would cause a hazard and a danger to pedestrians.

## Flooding and Drainage

No mention of sustainable drainage to avoid run off and flooding; inevitable increase in surface water run-off and more strain on the existing sewer system.

## Other Matters

Part of the site is not in the legal ownership of the applicant; will cause structural issues to neighbouring property; application does nothing for Formby or the housing crisis; impact on existing services; doesn't adhere to current development plan; concern for local pets who visit and travel through the site; loss of view; impact on carbon footprint; need for affordable housing.

## **Amended Scheme**

### Principle of the development

Unacceptable in principle as it fails to respond positively to the character, local distinctiveness and form of its surroundings.

### Living Conditions

Loss of light; overlooking and loss of privacy; increase noise and disturbance; one additional house will not outweigh harm to living conditions of neighbouring residents; too close to boundary; no other development of this type in the area; increase risk to security; impact of artificial light; overbearing impact on neighbouring properties; building is of a considerable height and mass; new access will provide opportunities for criminals to access properties not currently available; fear of crime.

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## Trees and Wildlife

Land owner had already felled a large number of existing trees from the back garden before the application was submitted; loss of wildlife as a result of the removal of the trees; existing trees could have provided cover between properties; does not take into consideration the retention or replacement of habitats and local ecological issues; original scheme incorporated a condition which required no tree removal; removal impacted upon setting of existing house, replacement trees do not compensate for that lost; new house will destroy important habitats for wildlife and interrupt the connectivity of habitats for wildlife; the proximity of the house to the boundary limits the potential for satisfactory landscaping.

## Design and Character

Out of character; 'garden grabbing' and would set a precedence for other similar developments to the further detriment of the character of the area; affects a property identified as a Non-Designated Heritage Asset; tandem development falls outside of the principles and objectives of Local Plan; access to proposed garage would further detract from integrity of the existing property; new build is out of character with the existing house and those surrounding; area is already saturated with housing development; no pattern of backland development in this urban block; incongruous addition to the secluded and tranquil rear garden area; number of floors exceeds that of the frontage property; house will appear cramped on the site.

## Flooding and Drainage

Impact and pressure on existing drains; increased risk of flooding.

## Other Matters

Application boundary is incorrect; disregard for planning rules and guidance; concern that the existing building will be lost at a later date; will cause structural issues to neighbouring property; boundary disputes unresolved; application should be refused due to lack of transparency by the developer.

## **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.

The Formby and Little Altcar Neighbourhood Plan was 'made' (i.e. adopted) on 21st November 2019 and carries full weight in decision making.

## **Assessment of the Proposal**

The application proposes the erection of an additional house within the rear garden area of no.30 Liverpool Road, and a detached garage adjacent to the existing house along with a new access off Liverpool Road.

The main issues to consider in respect of this proposal are the principle of development, the impact on the character of the area (including the setting of a non-designated heritage asset), living conditions, highway movement/safety, drainage, and ecology and trees.

## Principle

The site lies within a 'primarily residential area' as defined in the adopted Sefton Local Plan 2017 and sits within the Formby Settlement as identified in the Neighbourhood Plan. Subject to compliance with other policies within both plans covering relevant material considerations, the principle for both residential development at the site and ancillary development to the existing property is acceptable.

## Character of the area

Policy EQ2 (Design) of the Local Plan requires amongst other matters that development should respond positively to the character, local distinctiveness and form of its surroundings; the arrangement of buildings and associated spaces should integrate well with existing street patterns; and proposals should make a positive contribution to surroundings by virtue of factors including scale, height, form, massing, styling and use of materials. Policy ESD2 (High Quality Design) of the Neighbourhood Plan is consistent with this and states that development 'should make a positive contribution to local character' while policy H1 (Density) states that the density of any proposed development should maintain the prevailing character of the area.

The site is located within an area containing a varied range of detached, semi-detached and bungalow type housing. Despite the diversity in architectural styles and age of properties, the majority are good sized family homes fronting on to the street to reflect the traditional form of a suburban area. The application site is a large Victorian property, recognised as a non-designated heritage asset, and which benefits from a spacious rear garden. Large spacious gardens are, to an extent, reflected in properties to the north, although there is significant variation with plots in the same residential block benefiting from long and narrow gardens, to a number of plots immediately south of the application site having much smaller gardens than that enjoyed elsewhere. The variation continues in the wider area.

The proposed development would see the new house sited towards the rear of the existing garden, set back from the main road frontage. Whilst the house would be visible from the road, due to the relatively narrow spacing between surrounding properties and its positioning, the building would not appear visually prominent or intrusive within the streetscene. Similar can be said for the detached garage, which would also be set back from the main house. The wide spacing between No.30 and the neighbouring properties would be maintained when viewed as part of the wider streetscene.

Although the density of the site would increase and the garden area would be smaller than existing for both the new house and existing, this would not be out of character with the area, particularly

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when having regard to the smaller garden areas immediately south of the application site. Policy H1 of the neighbourhood plan suggests that Formby is characterised by low density housing (i.e. between 25-30 dwellings per hectare). The density of the development would be 11.8 dwellings per hectare which would be less than that identified in the Neighbourhood Plan.

The introduction of a new house in the garden area would impact on the spatial quality of the non-designated heritage asset. However, due to the large size of the garden and positioning of the proposed house the harm would be limited. The existing building would be retained as would its significance within the street scene. The Conservation Officer has sought improvements to the main building to help enhance the significance of the building. However, the building appears to be in relatively good order with no obvious signs of neglect to the external appearance of the building making such a request unreasonable.

The design of the proposed house would be acceptable and would complement the diverse architecture in the local area. Similarly, the scale and massing of the proposed house would complement surrounding buildings. The detached garage would also be acceptable both in terms of design and massing. It is acknowledged that the garden areas on this residential block are relatively free from development, with the exception of small sheds, garages etc, but this does not in itself suggest that the introduction of a house in the rear garden is harmful. Backland development has occurred elsewhere in the area and, as recognised above, the scale, massing, garden sizes and density of the proposed development complements the area.

It is considered that the proposal would make effective use of the site without eroding the pattern of development nearby, detracting meaningfully from the character or appearance of the area or to the setting of no.30 Liverpool Road.

## Living Conditions

Policy ESD2 of the Neighbourhood Plan requires development to have regard to residential amenity. Policy H3 (Primarily Residential Areas) of the Local Plan allows for residential development in Primarily Residential Areas with a key consideration given to assessing the potential impact on the residential amenity of both existing and future residents. The Council's guidelines for new housing sets out guidance on garden spaces and interface distances to neighbouring properties to protect against negative impacts relating to overlooking and loss of privacy, outlook or overshadowing.

In terms of the detached garage, this would not give rise to concerns associated with overlooking, overshadowing or overbearing outlook. The main impacts on living conditions, therefore, are associated with the proposed house.

The proposed garden area would exceed the minimum amount recommended for a four-bedroom property, whilst the existing property would significantly exceed the recommended standard even with the addition of the detached garage.



The Council's guidelines suggest that, in order to preserve the privacy of nearby residential gardens, new build houses should be located at least 10.5 metres away from the rear gardens of properties opposite. While the proposal falls short in that regard in relation to the rear garden area of No's 139 and 141 Ravenmeols Lane, the context is different in that the side of the proposed house faces the neighbours' rear gardens, with a small secondary kitchen window at ground floor and walk in dressing room window at first floor. The windows to the front and rear of the proposed house would not have a direct view into the rear garden areas of these properties. Consequently, subject to the side windows being obscured and fixed shut, it is considered that the proposal would not result in a loss of privacy to these properties. There would, however, be direct views towards the rear garden areas of No's 143-145 Ravenmeols Lane and 30a Liverpool Road. However, the front and rear windows of the proposed house would meet the Council's recommended distance to the boundaries of these properties, and thus would not cause a loss of privacy beyond that normally expected in a built up area.

Permitted development rights could be removed for extensions and roof alterations (dormers, additional windows, etc) to ensure the living conditions of neighbouring residents is maintained in the future.

From an outlook perspective, the proposed house would exceed the recommended interface distances to all surrounding houses, including the existing house at No.30 Liverpool Road. The property would be very visible, particularly from the rear garden area of No. 141 Ravenmeols Lane, caused by the open aspect of the site (made worse by the removal of the trees that once stood on site). However, No.141 benefits from a spacious rear garden whilst the proposed house would be set away from the shared boundary with properties on Ravenmeols Lane, separated by what appears to be a wedge of land outside of the applicant's control (as suggested by neighbouring properties and illustrated on land registry plans). Furthermore, the house would incorporate a hipped roof, reducing the overall bulk and massing of the development when viewed from the neighbour's rear garden.

In terms of overshadowing, the proposed house would be sufficiently distanced from neighbouring houses as to not cause significant loss of light. The property is close to the shared boundary with No's 139 and 141 Ravenmeols Lane, but as it would be located north of these properties it is unlikely to cause significant overshadowing of the rear garden areas. The proposed house would cause overshadowing of part of the rear garden of No.30 Liverpool Road but this would not significantly restrict the applicant's or any future occupiers' enjoyment of the garden.

Residents have expressed concern with regards to noise and disturbance associated with additional vehicular and pedestrian movement into the rear garden area. This is acknowledged, however, it is unlikely that one additional house in this built up area would create a level of noise and disturbance that would cause significant harm to the living conditions of neighbouring residents. Furthermore, the Environmental Health Manager has recommended that the boundary fence adjacent to the new access drive be an acoustic fence. This would ensure that potential noise associated with vehicular movement is mitigated. Residents have also expressed concern regarding natural light from the proposed house and vehicular movement. As this is a built up

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area, it is unlikely that the proposal would present a level of artificial light above that already experienced in the area, whilst any vehicle lights leading into the site would be screened by existing and new boundary treatment.

Security concerns to existing properties and fear of crime is noted and whilst crime and fear of crime are material considerations, there is no evidence to suggest that the proposal would give rise to increased crime. The properties would still benefit from high boundary fences to the rear boundaries to deter intruders from accessing properties.

Considering the above assessment, the proposed development would provide appropriate living conditions for future occupiers and would not diminish the levels of amenity of existing residents in the immediate area to any significant degree.

## Highways

The proposed new house would utilise the existing access to No.30 Liverpool Road to provide both vehicular and pedestrian access to the new property. The proposal would see an additional vehicular access created at the site to serve the new detached garage in association with the existing property.

The amount of off-street parking provided for the new house would accord with Neighbourhood Plan Policy H6 (Off-Road Parking) and H7 (Design of Car Parking) and Council guidance for new housing development. The additional access point would provide appropriate access for both vehicular and non-vehicular users and would ensure that the existing property maintains an acceptable level of off road parking provision. In addition, the application site is close to existing bus routes along Liverpool Road consistent with policy H2 (New Housing) of the Neighbourhood Plan and ensuring other more sustainable forms of travel are available to help reduce carbon footprint.

The Highways Manager raises no objection to the development. It would not raise any issues relating to highway safety or movement and along with policies H2, H6 and H7 of the Neighbourhood Plan, accords with policy EQ3 (Accessibility) of the Local Plan.

## Drainage

While the site is within Flood Zone 1, it is within a Critical Drainage Area whereby multiple and interlinked sources of flood risk (surface water, groundwater, sewer, etc) can cause local flooding during severe periods of weather.

The proposed development is for the erection of a single house within the rear garden area of an existing house, within a Primarily Residential Area. It is reasonable to conclude that it would be possible to develop the site at this location without increasing flood risk at the site or elsewhere and manage surface water run-off. This is supported by the Council's Flooding and Drainage Manager who has raised no objections to the proposal.

Concerns have been expressed regarding the risk of increasing surface water flooding on site and additional pressure on existing sewer systems. However, these can be addressed by way of condition to ensure an acceptable drainage system is implemented.

The proposal would accord with policy EQ8 (Flood Risk and Surface Water) of the Local Plan and policies F1 (Avoiding Increased Flooding and Flood Risk) and F3 (Reduced Surface Water Discharge) of the Neighbourhood Plan.

## Ecology and Trees

The application was supported by a Preliminary Ecological Appraisal pursuant to policy NH2 (Nature) of the Local Plan. The report concluded that the site was relatively low in ecological value with the main features of interest being nesting birds (in boundary hedges) and the potential for the existing building to support bat roosts, for which a further survey would have been required should the building be demolished. The impact of the development was concluded to be minimal.

As recognised above, the proposal has been amended to retain the existing house. Consequently, it is not necessary to seek further surveys regarding the potential roosting of bats in the existing property. The proposal includes the demolition of an existing detached building, but this building was found to have low potential for bat roosts. Some existing hedgerow would be removed to accommodate the new access, but this would be compensated for by supplementary and new hedging.

Several residents have raised concern regarding the loss of existing trees on site prior to the submission of the application. They have also raised concern that the ecological assessment was carried out after the removal of the trees and as such existing wildlife and habitat on the site has already been lost, without being recorded. It has been suggested that the replacement tree planting does not compensate sufficiently for that lost and that this is contrary to the Neighbourhood Plan.

Trees either on the site or immediately surrounding it are not protected either as part of a tree preservation order or by virtue of being within a conservation area. As such, the Council had no powers to control the removal of the trees or any subsequent loss of wildlife. Policy ESD7 (Trees and Landscape) of the Neighbourhood Plan seeks a replacement of 1 for 1 for trees lost because of a development. However, as the trees were removed prior to the submission of the application it would be unreasonable to require the proposed development complies with this. The proposal does include tree planting along with new and supplementary hedging and, whilst significantly less than the number of trees lost, would offer an appropriate landscape for the new house. It will be important to protect any existing trees which bound the site, and this could be achieved by condition.

To promote biodiversity on the site, a condition could be attached seeking a full landscaping scheme to ensure the species of the new trees are red squirrel friendly (such as Ash and Pine)

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whilst a further condition requiring bat boxes in the new property and bird boxes on site could also be attached.

## Other matters

Concern associated with land ownership and structural integrity of existing buildings are civil matters and sit outside of planning legislation. The applicant has updated the site location plan, to ensure this is consistent with the ownership identified on the land registry plan.

Impact on views is not a material consideration, whilst the scale of development does not trigger a need for the provision of affordable housing.

## Conclusion

The application site lies within a Primarily Residential Area where the principle of the development is considered acceptable. Subject to conditions, the proposal would not cause any significant harm to the living conditions of future occupiers or neighbouring properties. The proposal is of an appropriate size, scale, massing and siting to ensure no significant harm to the character of the area or the setting a non-designated heritage asset. The proposal would not be detrimental to highway safety and movement, whilst any drainage concerns can be addressed by condition. It is acknowledged that several trees had been felled on site prior to the application being submitted, but as the trees are not protected, the Council did not have control over this. The proposal provides an acceptable level of landscaping. The proposal is in accordance with the relevant policies in the adopted Sefton Local Plan and the Formby and Little Altcar Neighbourhood Plan. It is therefore recommended for approval, subject to appropriate 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:
  - L01 Rev.A
  - LS01 Rev.A

- PR04
- EX001

Reason: For the avoidance of doubt.

## Before the Development is Commenced

- 3) No part of the development hereby approved shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall set out, as a minimum, site specific measures to control and monitor impact arising in relation to construction traffic, noise and vibration, dust and air pollutants, land contamination and ecology.

It shall also set out arrangements by which the developer shall maintain communication with residents in the vicinity of the site, and by which the developer shall monitor and document compliance with the measures set out in the CEMP. The development shall be carried out in full accordance with the approved CEMP at all times.

Reason: To safeguard the living conditions of neighbouring/adjacent occupiers and land users during both the demolition and construction phase of the development.

## During Building Works

- 4) No development shall commence above slab level until details of the materials to be used in the construction of the external surfaces of the new house and the separate detached garage associated with no.30 Liverpool Road are submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: These details are required prior to external construction to ensure an acceptable visual appearance to the development.

## Before the Development is Occupied

- 5) The new dwelling shall not be occupied until the access roads (for both the new house and detached garage linked to no.30 Liverpool Road) shown on plan LS01 Rev.A have been constructed to the base course level to enable access to the dwellings.

Reason: To ensure that acceptable access is achieved to the development and to safeguard other highway users at all times.

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- 6) The new dwelling shall not be occupied until space has been laid out within the site (in accordance with drawing no LS01 Rev.A) for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available for the such purposes in perpetuity thereafter.

Reason: To ensure that enough car parking is provided for the development and to ensure the safety of highway users.

- 7) The development shall not be occupied until a detailed scheme of highway works together with a programme for their completion has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the introduction of a footway crossing for the new proposed access onto Liverpool Road. No part of the development shall be brought into use until the required highway works have been constructed in accordance with the approved details.

Reason: To ensure that enough car parking is provided for the development and to ensure the safety of highway users.

- 8) Notwithstanding the details identified on drawing no.LS01 Rev.A, the proposed house shall be occupied until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained, set out measures for their protection throughout the course of development (supported by an arboricultural method statement) and provide details (including size and species) of all new tree, hedge and shrub planting.

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

- 9) No part of the development shall be brought into use until an electric vehicle charging point has been provided. The facility shall be retained thereafter for that specific use.

Reason: To encourage the use of energy efficient vehicles.

- 10) Prior to the occupation of the approved dwelling, full fibre broadband connections shall be installed and made available for immediate use.

Reason: To ensure appropriate broadband infrastructure for the new dwellings

- 11) Prior to the occupation of the development hereby approved a plan indicating the positions, height, design, materials and type of boundary treatment (including an acoustic boundary to the southern boundary) to be erected shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed as approved before the use of the new house.

Reason: To ensure an acceptable visual appearance to the development and to ensure that the privacy of neighbouring occupiers is retained at all times.

- 12) Before the development hereby permitted is first occupied, the windows at ground and first floor in the side elevation facing no.141 Ravenmeols Lane shall be fitted with obscured glazing and permanently fixed shut. The windows shall be permanently retained in that condition thereafter.

Reason: To ensure that the privacy of neighbouring occupiers/land users is retained at all times.

## Ongoing Conditions

- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no garages, outbuildings, extensions or dormer windows shall be erected and/or added to the hereby approved dwelling unless planning permission for such development has been granted by the Local Planning Authority.

Reason: to protect the residential amenity of neighbouring occupiers and maintain appropriate private amenity space for occupiers of the approved dwelling.

- 14) Foul and surface water shall be drained on separate systems. Surface water shall be drained in accordance with the hierarchy of drainage options in national planning practice guidance. In the event of surface water discharging to public sewer, the rate of discharge shall be restricted to the lowest possible rate which shall be agreed with the statutory undertaker prior to connection to the public sewer.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

- 15) The house hereby approved shall not be occupied until a scheme and appropriate scaled plan identifying suitable locations on the site for the erection of bird nesting boxes and bat boxes together with a timetable for implementation has been submitted to and approved in writing by the local planning authority. The approved scheme of nesting and bat boxes shall be installed in accordance with the approved details and timetable.

Reason: To promote biodiversity on site;.

## 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.

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- 2) The applicant is advised that 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 at [HDD.Enquiries@sefton.gov.uk](mailto:HDD.Enquiries@sefton.gov.uk) for further information.
  
- 3) There are a variety of piling methods available, some of which cause considerably greater noise and vibration than others. It is common for the prevailing ground conditions to influence the chosen method of piling. Where the prevailing ground conditions would permit more than one piling method, the Council would expect the contractor to choose the method which causes the least amount of noise and vibration, in accordance with the following hierarchy:
  - Pressed-in methods, e.g. Hydraulic jacking
  - Auger / bored piling
  - Diaphragm Walling
  - Vibratory piling or vibro-replacement
  - Driven piling or dynamic consolidationShould the contractor propose to use a method which is not the preferred lower impact option, then satisfactory justification will need to be provided in order to demonstrate the piling method that is utilised meets Best Practicable Means (BPM) . Please note vibration monitoring will be required for all piling projects. For further advice on what to include in your piling methodology scheme and current standards please contact Seftons Pollution Control Team.
  
- 4) The LLFA advises that sustainable drainage on a property level is considered by the applicant in order to retain surface water runoff from roofs and impermeable surfaces within the boundary of the development. This includes taking measures such as installing water butts, permeable paving and roof gardens.  
Policy EQ8 of Seftons 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.
  
- 5) For the purpose of condition 8, any new tree planting should be red squirrel friendly (such as Ash, Fir, Spruce, etc).



**Report to:** PLANNING COMMITTEE      **Date of Meeting:** 19 January 2022

**Subject:** [DC/2021/02138](#)  
[503-509 Hawthorne Road, Bootle, L20 6JJ](#)

**Proposal:** 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.

**Applicant:** Housing 21 And Onward Homes Limited      **Agent:** Mr Brad Wiseman Savills

**Ward:** Litherland Ward      **Type:** Full Application - Major

**Reason for Committee Determination:** Discretion of Chief Planning Officer

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## Summary

The proposal is for the erection of 67 dwellinghouses and an extra care facility comprising 91 units. The site is designated as a Regeneration Opportunity Site and it is considered that the proposal would meet the aims of this policy. The housing element of the proposal would be 100% affordable, while the Adult Social Care Manager has confirmed her support of the extra care element. In terms of residential amenity, the proposal provides a good standard of internal and external living for all future occupiers. The scheme is considered to be of a good design which would provide a significant enhancement to the Hawthorne Road corridor.

The two distinct phases of the development would be served by separate accesses, and the Highways Manager has raised no objection to the proposal on highway safety grounds. There are significant contamination issues associated with the site given historic industrial uses, however appropriate investigation and remediation can be secured by way of condition. Overall, the proposal would make a significant contribution to housing and extra care need in the borough and bring forward a vacant opportunity site as identified within the Local Plan. It is considered that the proposal complies with adopted local and national policy and is therefore recommended for approval.

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## **Recommendation: Approve with Conditions**

**Case Officer** Steve Faulkner

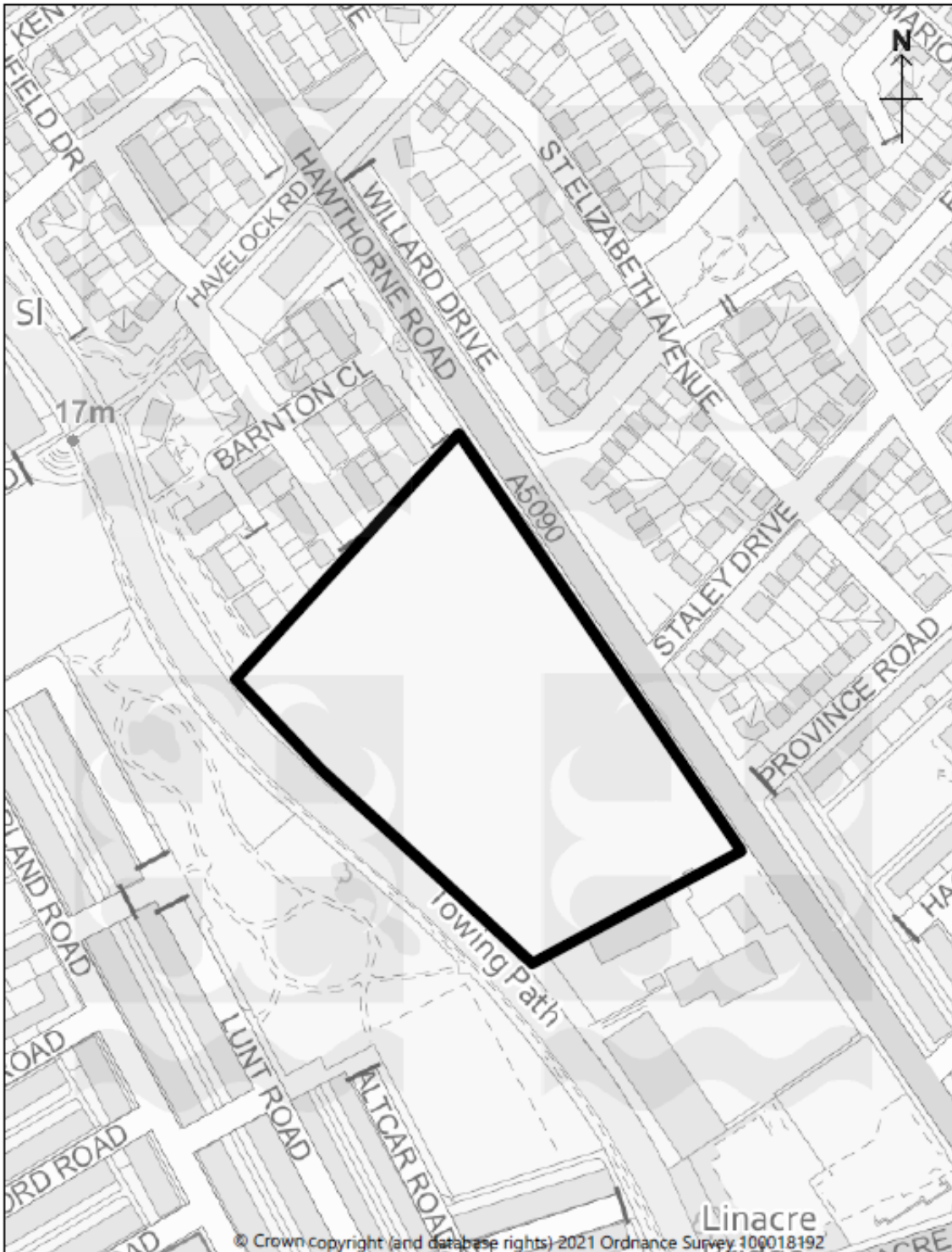
**Email** [planning.department@sefton.gov.uk](mailto:planning.department@sefton.gov.uk)

**Telephone** 0345 140 0845

Application documents and plans are available at:

<http://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QYGCEGNWLVN00>

Site Location Plan



Reference: Map reference  
Date: 29/11/2021  
Scale: Scale: 1:2500  
Created by: Initials

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## The Site

The site comprises 2.7 hectares of vacant land previously occupied by commercial and industrial buildings bounded by Hawthorne Road to the east, a salvage yard to the south, the Leeds and Liverpool Canal to the west and residential properties on Barnton Close to the north.

## History

The Council provided an Environmental Impact Assessment Screening Opinion in May 2021 concluding that the development of 62 dwellings and a 91-unit extra care facility would be unlikely to have 'significant effects on the environment' thus not warranting the preparation of an Environmental Statement (DC/2021/01025).

Outline planning permission was granted in July 2018 for the layout of a mixed-use development comprising a 2,300sqm retail unit, 119 dwellings and associated access, parking and landscaping (DC/2014/01312). An application to vary the trigger point of various pre-commencement conditions attached to the outline permission was submitted in June 2019, however this has not been determined (DC/2019/01121).

Two alternative outline residential schemes were granted permission in 2005 (S/2005/0004 and S/2005/0624). Various applications relating to the bus depot and commercial/ industrial uses which occupied the site were granted permission prior to this from the 1970s to 1990s.

## Consultations

### **Adult Social Care Manager**

No objection.

### **Cadent Gas**

No objection.

### **Canal and River Trust**

No objection subject to conditions.

### **Environment Agency**

No objection subject to conditions.

### **Environmental Health Manager**

No objection subject to conditions.

### **Highways Manager**

No objection subject to conditions.

## **Local Plans Manager**

No objection.

## **Merseyside Environmental Advisory Service**

No objection subject to conditions.

## **Merseyside Police Architectural Liaison Officer**

Requested information relating to boundary treatments (*to be conditioned*).

## **Natural England**

No objection subject to conditions.

## **Neighbour Representations**

Merseyside & West Lancashire Bat Group has requested that measures be implemented in order to limit light spill during construction and the lifetime of development.

## **Policy Context**

The application site lies within an area designated as a Regeneration Opportunity Site in the Sefton Local Plan which was adopted by the Council in April 2017.

## **Assessment of the Proposal**

The proposal is for the erection of 67 dwellinghouses, which would be 100% affordable, and a three-storey extra care facility containing 91 units. Both applicants have been successful in obtaining Brownfield Land Funding from the Liverpool City Region Combined Authority.

The site has been subject to previous applications for residential-led redevelopment over the last 15 years, all of which that have all been granted permission but have not been delivered due to the presence of very significant land contamination which has rendered all previous attempts at redevelopment unviable. The applicant has advised that the current proposal is only able to progress due to fact that Brownfield Land Funding from the Liverpool City Region Combined Authority has been secured, in addition to funding received from Homes England.

The main issues to consider are the principle of development, matters relating to housing provision, residential amenity and general environmental impacts.

## **Principle of Development**

The site is located within an area allocated as a Regeneration Opportunity Site. Policy ED6 of the Local Plan states that: - 'This site is suitable for housing development. Partial development for

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other uses will be permitted where this does not prevent the development of the remainder of the site for housing, and where the proposed uses are compatible with a residential environment.' It is therefore considered that the proposal is acceptable in principle.

## **Housing Provision**

The joint applicants (Housing 21 and Onward Homes) are a care provider and registered affordable housing provider. The proposal includes 67 dwellings which would be entirely affordable rent. This is considered acceptable with respect to the Local Plan policy HC1 and the affordable housing needed identified locally within the Council's most recent [Strategic Housing Market Assessment](#). In summary the SHMA identifies an oversupply of affordable homes, however much of these are older, energy inefficient and without adequate outdoor space, therefore the provision of new modern homes is deemed to be a positive intervention. This can be secured within a section 106 legal agreement. Given the proposal is wholly affordable, the housing mix policy set out under Local Plan policy HC2 does not apply.

In respect of the extra care facility, this is by definition Use Class C2 (care institutions) as opposed to C3 (dwellinghouses). The submitted plans indicate that the facility would also include communal areas and offices for staff members. The applicant has confirmed that the facility would be for persons of 55 years and older as required by the Supplementary Planning Document 'Affordable and Special Needs Housing'. This can also be secured within a section 106 legal agreement.

The Adult Social Care Manager has been consulted on the application and stated her support. The proposal would provide a significant step in meeting the need for extra care facilities in Bootle as highlighted within [Sefton's Extra Care Prospectus](#). Specifically, a requirement for 251 affordable extra care units up to the year 2036 within the Bootle/ Netherton area.

## **Living Conditions of Future Occupiers and Existing Neighbours**

### Future Occupiers

The proposal is subject to Local Plan policy HC3 and the guidance contained within the 'New Housing' Supplementary Planning Document. The submitted site plan indicates that there would be sufficient distance between dwellings to protect privacy, outlook and availability of light. All properties would meet the respective minimum garden standards set out under the SPD – 50sqm for one and two-bedroom dwellings and 60sqm for three plus bedroom dwellings. There are two blocks of six flats towards the northeast corner of the site which would each benefit from communal garden areas of around 200sqm which exceeds the Council's standard of 20sqm per flat. Internally the flats are all one-bedroom and exceed the Council's minimum floor space standard of 37sqm.

The applicant has submitted a Noise Report which has been reviewed to the satisfaction of the Environmental Health Manager. Measures to secure a good standard of internal soundproofing can be secured by condition. In terms of outdoor areas, during the course of the application the

applicant reorientated a number of dwellings closest to Hawthorne Road in order to ensure these are not subject to unacceptable traffic noise levels.

Further additional mitigation measures are required in respect of outdoor useable spaces, in particular in respect of the Extra Care facility, and a further condition is recommended to secure the control of plant and equipment for the extra care facility to prevent impacts on future occupiers.

There is no specific guidance relating to extra care facilities. However in applying the guidance contained within the 'Flats and Houses Multiple Occupancy' Supplementary Planning Document (SPD) as similar living arrangements, it is clear a good standard of amenity would be afforded. All one-bedroom units exceed 37sqm in floor area while all two-bedroom units exceed 61sqm, and therefore meet the Council's standards. In terms of outdoor space, the extra care facility sits amongst landscaped grounds over 5,000sqm in area which far exceeds the 20sqm standard required per flat within the above SPD.

## Existing Neighbours

The closest neighbouring properties are located to the north on Barnton Close. The development has been laid out so as to comply with the Council's minimum separation distances, including those recommending a minimum separation of 10.5sqm between the rear windows of dwellings and neighbouring boundaries.

## **Design and Character**

The site is currently vacant having been cleared of redundant commercial and industrial buildings. The surrounding land to the north and east has been redeveloped from the mid-2000s to present day by developers Bellway with a mix of detached, semi-detached, terraced dwellings and flats. Earlier terraces are located to the west across the adjacent canal and public open space while a corridor of industrial uses continues to the south.

Local Plan policy EQ2 requires that new development responds positively to local form, character and distinctiveness. The Council are also currently running a pilot scheme of the Government's National Model Design Code which specifically looks at canal-side sites in Bootle.

The proposal includes two distinct phases, A – the dwellings occupying the northern half of the site, and B – the extra care facility occupying the southern half. In respect of layout, the proposal is considered to be of an appropriate density, providing active frontages to both Hawthorne Road and the Leeds and Liverpool Canal. Enhanced landscaping is proposed to the canal frontage. It is considered that the extra care facility sits comfortably within its extensive grounds.

The layout plan proposes a link to the footpath adjacent to the canal in front of a number of properties to Barnton Close, to the north and west of the site. This would give rise to a 340 metre walk to the nearest bus stop (at Harris Drive) for the new property nearest the proposed

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connection (plot 27). This is compared with a 260 metre walk to the relocated bus stop if walking directly through the new housing development from that same property. The walk to the top of Pennington Road footbridge from the link would be 280 metres but double the length (560 metres) should the link be removed.

However, it is also clear that the existing path fronting Barnton Close serves little purpose at present. It is not only poorly surfaced, but is not lit either, and though the link to the footbridge becomes longer, it would be much safer with the key relevant issue being connectivity to public transport.

In the light of the above, it is considered that there is no reason for the proposed link to be sustained. An additional planning condition is therefore recommended enabling the link to be removed but the condition would not need to be added should members be minded to maintain the link as indicated on the submitted plans.

The dwellings comprise a mix of terrace and semi-detached dwellings of two storeys in height. The styles of dwellings are generally traditional with some modern interventions including floor to ceiling windows and flat canopies to entrances in various colour ranges. The use of a number of brick colours and roof styles, including prominent gables to terrace dwellings, is considered acceptable with respect to the other relatively modern developments which characterise this stretch of Hawthorne Road.

The extra care facility is the largest building within the proposal occupying an extensive footprint and comprising three storeys in height. The height is considered acceptable given a set back from the public highway and the presence of other three storey plus buildings nearby at Ken Mews. The building takes on a 'h'-shaped plan with a variety of facing materials which assist in softening its visual impact.

The applicant has submitted outline landscape proposals which are considered to be acceptable. Full details of planting can be secured by condition along with full details of boundary treatments to the extra care facility which were queried by the Police Architectural Liaison Officer. This includes specific provision for additional extra heavy standard trees to the Hawthorne Road boundary and to benefit the outlook of Extra Care occupiers facing the adjacent commercial premises to the south and east.

In terms of boundary treatments to Phase A, these have been clarified as primarily 1.8m fencing between properties, although fencing would reach a height of 2.4m to the boundary with the extra care facility which is supplemented by hedgerow planting. Railings would be introduced to Hawthorne Road in a manner similar to the adjacent development at Barnton Close.

There is no public open space provided, however this is not a policy requirement on schemes providing fewer than 150 dwellings. The explanatory text to policy EQ9 explains that this requirement only applies to Use Class C3 and not care institutions.



Overall, the proposal would utilise a vacant previously poor-quality area with modern attractive residential accommodation. The proposal would vastly improve the appearance of the Hawthorne Road corridor and is of an appropriate design with regard to local form, character and distinctiveness. Opportunities have been taken to improve the canal frontage and it is considered that the proposal complies with policy EQ2.

## **Environmental Matters**

### Ground Contamination

The application site has an extensive history of invasive uses which have or have had the potential to contaminate the site, including historic lead works and more recently a bus depot.

The submitted ground investigation report has identified widespread heavy metal contamination in soil and groundwater. The Environmental Health Manager considers that further investigation is necessary to delineate potential sources of contamination, while the Environment Agency has requested that the subsequent remediation strategy considers risks to controlled waters including the Principal Aquifer below the site. The submitted report also indicates the presence of tin slag within the layer of crushed material which covers the site following demolition of the previous buildings. Both the Environmental Health Manager and Environment Agency have requested a scheme of remediation which is necessary and can be secured by condition.

### Low Carbon Design and Sustainability

The site is situated within an accessible location on former industrial land and is considered to be a good example of urban renewal and sustainable development. The submitted Design and Access Statement details a number of sustainability measures to be incorporated including a fabric first approach, use of energy efficiency systems and power supply from low or zero carbon technologies. In addition to this each dwelling would be required to be served by an electric vehicle charging point. Waste minimisation during the construction phase can be secured within a Construction Environment Management Plan. Overall, it is considered that the proposal complies with policy EQ7 in relation to sustainability and low carbon design.

### Flood Risk and Drainage

The site lies within Flood Zone 1 indicating low risk of flooding. The applicant has submitted a detailed Flood Risk Assessment and Drainage Strategy which has been reviewed to the satisfaction of the Flooding and Drainage Manager. The applicant has initially ruled out infiltration due to unfavourable ground conditions, and discharge of surface water into the adjacent canal due to the gradient relative to the application site. Outline proposals are therefore to connect to the adjacent combined sewer beneath Hawthorne Road at an attenuated rate. Full details and evidence to conclusively rule out more sustainable methods of surface water drainage can therefore be secured by condition.

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## Ecology

The application site has limited ecological interest although the adjacent canal hosts habitat for various species. It is considered necessary to secure protective measures during the construction phase through a Construction Environment Management Plan, while it is also necessary to condition a scheme of external lighting to minimise glare onto the canal and associated habitat. Net biodiversity gain can be delivered in the form of bird and bat boxes throughout the development.

Given the scale of development, the application has been screened for Habitats Regulations Assessment and Likely Significant Effects on designated sites resulting from increased recreational pressure. In the circumstances, the Council's environmental advisors Merseyside Environmental Advisory Service consider that an advisory leaflet in house sales packs represents commensurate mitigation. Natural England agree with this approach.

## Archaeology

The application site contains two listings on the Historic Environment Record, the Linacre Brick and Tile Works dated the late 19<sup>th</sup> century and a canal-side building dated the early 19<sup>th</sup> century. Given the potential for below ground remains and the importance of the former in the development of Bootle it is considered reasonable to require archaeological investigation and recording. This can be secured by condition in line with the Council's archaeological advisor's request.

## Minerals

While the Site lies within a Mineral Safeguarding Area it is also an urban allocation in the Local Plan with extant (i.e. existing) permission in place. A full detailed Minerals Statement is therefore not considered necessary.

## **Other Matters**

### Developer Contributions

The application site lies within an area where there is sufficient capacity in local primary schools, therefore there is no requirement for education contributions to be made on this application. Similarly there are no site-specific development requirements contained within the Local Plan.

## **Transportation, Access and Highway Safety**

The applicant has submitted a Transport Assessment which has been reviewed to the satisfaction of the Highways Manager. The proposal involves separate accesses to the two distinct elements of the proposal, subject to the relocation of an existing bus stop which can be secured by condition. It is considered the accesses will benefit from adequate visibility splays. The two accesses will include footways while separate footway access is available to the development from both Hawthorne

Road and Barnton Close. Off-site works are necessary in order to improve accessibility for pedestrians which can be secured by condition and delivered through highways legislation. It is understood that the extant permission relating to the site was designed as a signalled junction as this was considered necessary for the anticipated number of vehicle movements associated with dwellings and a supermarket. However, a signalled junction is not considered necessary for this proposal.

In terms of traffic generated by the proposed development, the anticipated two way movements at weekday AM and PM peak are as follows:

	<b>Dwellings</b>	<b>Extra Care</b>	<b>Total</b>	<b>2018 permission</b>
<b>AM Peak</b>	26	9	35	67
<b>PM Peak</b>	25	11	36	174

The applicant has demonstrated through modelling that these movements would not result in an unacceptable impact on highway safety or severe residual cumulative impact. In terms of accessibility the site is well served by the local bus network with a cycle route along the Leeds and Liverpool Canal and good accessibility to local amenities.

Within the site, the access roads and footways accord with the Council's standards. It will be necessary to implement 20mph speed limits on access roads which can be secured by condition. In terms of parking, all dwellinghouses would benefit from 2 spaces whereas single bedroom flats would benefit from 1 space. The extra care facility will benefit from, 47 parking spaces. This is considered acceptable with respect to the 'Sustainable Travel and Development' Supplementary Planning Document. Cycle storage and electric vehicle charging points can be secured by condition in order to encourage low carbon means of transportation, while it is also reasonable to request separate Travel Plans for the residential and extra care aspects of the development.

Given the scale of the development it is reasonable and necessary to require the submission of a Construction Traffic Management Plan. Overall, however it is considered that the proposal is acceptable with regard to policy EQ3. There are no unacceptable impacts on highway safety and the scheme will provide suitable access to, from and within the development for all.

It is noted that members have requested consideration of a single access to the development. The applicant has advised that the development will come forward in two distinct phases. The joint applicants will each deliver a separate phase: Onward Homes will deliver the affordable homes, and Housing 21 will deliver the extra care scheme.

As the timing of each phase is not known, it is felt that the most appropriate way for the development to come forward is with two separate vehicular accesses, which can be accommodated given the levels of traffic anticipated for each.

In addition to those physical constraints, the applicant indicates that there are operational reasons for having two accesses from Hawthorne Road. Purpose built extra care schemes are carefully

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designed to provide safety and security to those residents with care needs. These developments are a place of calm for many residents (for example those with dementia) which benefit from an absence of through traffic. For those reasons they consider it to be highly preferable for the extra care scheme to be accessed separately from the proposed residential dwellings.

As such the provision of two separate accesses is informed by:

- The imminent expiry of Government funding preventing wholesale changes to the layout of the proposed development;
- The phasing of the two developments, being delivered by two separate developers; and
- The nature of extra care schemes requiring privacy and security for residents.

The applicant has advised that the requirement for Government funding is of great importance to this proposal, given that Homes England funding must be committed (i.e. permission granted) before the end of the current financial year; otherwise those funds may be reallocated. They have advised in those circumstances that the application must be determined at this Planning Committee so that, if approved, all commercial arrangements can be finalised ahead of this deadline.

## **Conclusion and Planning Balance**

The proposal would meet the aims of Local Plan policy ED6 in terms of bringing a vacant Regeneration Opportunity Site into use. There would be significant benefit associated with developing this prominent and extensive stretch of Hawthorne Road with modern accommodation comprising 100% affordable rent dwellings and extra care units for older residents.

The proposal is of a good design and provides a good standard of living for future occupiers. Matters relating to ground contamination can be addressed through appropriate investigation and remediation. Overall, it is considered that the proposal complies with adopted local and national policy and is thus recommended for approval.

## **Recommendation - Approve with Conditions**

### **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:

- Site Location Plan (20020-PJA-00-ZZ-DR-A-001-B)
- Proposed Site Plan (20020-PJA-00-ZZ-DR-A-100-H)
- Outline Landscape Proposals (MR21-065/101-A, 102-B and 103-A)
- House Type A1 Plans and Elevations (20020-PJA-A1-ZZ-DR-A-110 and 120-A)
- House Type B1 Plans and Elevations (20020-PJA-B1-ZZ-DR-A-110-A and 120-B)
- House Type C1 Plans and Elevations (20020-PJA-C1-ZZ-DR-A-110 and 120-A)
- House Type D1 Plans and Elevations (20020-PJA-D1-ZZ-DR-A-110-A and 120-B)
- House Type E1 Plans and Elevations (20020-PJA-E1-ZZ-DR-A-110 and 120-A)
- House Type F1 Plans and Elevations (20020-PJA-F1-ZZ-DR-A-110 and 120-A)
- House Type G1 Plans and Elevations (20020-PJA-G1-ZZ-DR-A-110-A and 120-B)
- House Type H1 Plans and Elevations (20020-PJA-H1-ZZ-DR-A-110 and 120-A)
- House Type J1 Plans and Elevations (20020-PJA-J1-ZZ-DR-A-110 and 120)
- Proposed Ground Floor Plan Extra Care (20020-PJA-EC-00-DR-A-110-C)
- Proposed First Floor Plan Extra Care (20020-PJA-EC-01-DR-A-111-C)
- Proposed Second Floor Plan Extra Care (20020-PJA-EC-02-DR-A-112-C)
- Proposed Roof Plan Extra Care (20020-PJA-EC-ZZ-DR-A-113-A)
- Proposed Elevations Hawthorne Road (20020-PJA-EC-ZZ-DR-A-120-C)
- Proposed Elevations West (20020-PJA-EC-ZZ-DR-A-121-B)
- Proposed Elevations Canal (20020-PJA-EC-ZZ-DR-A-122-B)
- Proposed Elevations East Courtyard (20020-PJA-EC-ZZ-DR-A-123-B)
- Proposed Elevations South Courtyard (20020-PJA-EC-ZZ-DR-A-124-B)
- Proposed Elevations North Courtyard (20020-PJA-EC-ZZ-DR-A-125-B)
- Proposed Street Scene Hawthorne Road (20020-PJA-00-ZZ-DR-A-101-B)
- Proposed Street Scene Canal (20020-PJA-00-ZZ-DR-A-102-B)
- Proposed Phasing Plan (20020-PJA-00-ZZ-DR-A-004)
- Environmental Noise Survey, Noise Break-In Assessment & Sound Insulation Scheme dated 17 November 2021

Reason: For the avoidance of doubt.

### Prior to Commencement of Development

3) Prior to the commencement of development, a Planning Obligation under Section 106 of the Town and Country Planning Act 1990 must be entered into with the Council to secure the affordable housing on the site and the provision of extra care units for persons of 55 years and older only.

Reason: To ensure that the development provides appropriate affordable housing.

4) No development or phase of development as shown on Proposed Phasing Plan: 20020-PJA-

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00-ZZ-DR-A-004 (hereinafter referred to as Phases A & B) shall take place until a Written Scheme of Investigation including programme of archaeological works has been submitted to and approved in writing by the Local Planning Authority for that phase of development. The scheme must include the following:

- A phased programme and methodology of site investigation and recording;
- A programme for post-investigation reporting to include production of a final report of the significance of the below-ground archaeological interest;
- Provision for appropriate publication and dissemination of the archaeology and history of the site;
- Provision for archive deposition of the report, finds and records of the site investigation;
- Nomination of a competent person or persons / organisation to undertake the works set out within the approved WSI.

The development shall be carried out strictly in accordance with the approved scheme.

Reason: In order to ensure appropriate recording or archaeology and non-designated heritage assets.

- 5) Notwithstanding the submitted Preliminary Risk Assessment and Phase II Geoenvironmental Site Assessment, no development shall commence until additional site investigation is carried out in accordance with a scope of works which shall previously have been agreed in writing by the Local Planning Authority. The investigation and assessment must be undertaken by competent persons with a report of the findings including an appraisal of remedial options and most appropriate for each relevant pollutant linkage has been submitted to and approved in writing by the Local Planning Authority.

Reason: The details are required prior to development commencing to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised and in order to protect water quality in the underlying Principal aquifer, Shirdley Hill Sand Secondary A aquifer and the adjacent canal.

- 6) No development shall commence until a 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, has been submitted to and approved in writing by the Local Planning Authority. 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. The remediation strategy must be carried out in accordance with the approved details at all times.

Reason: The details are required prior to development commencing to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised and in order to protect water quality in the underlying Principal aquifer, Shirdley Hill Sand Secondary A aquifer and the adjacent canal.

- 7) No development or phase of development shall commence other than as may be required in relation to remediation until details of existing ground levels and proposed finished ground and floor levels for the respective phases or phases have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: These details are required prior to commencement to ensure an acceptable visual appearance to the development and/or to ensure that the privacy of neighbouring occupiers/land users is retained at all times.

- 8) No development or phase of development shall commence until a Construction Traffic Management Plan relating to that specific phase or phases has been submitted to and approved in writing by the Local Planning Authority. The plan must include a programme of works, days and hours of working, a site layout during the construction phase, relevant contact details, routes to be taken by delivery vehicles, methods for traffic management including directional signage and full details of the proposed measures to ensure that mud and other loose materials are not carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance. The provisions of the approved Construction Traffic Management Plan shall be implemented in full during the period of construction.

Reason: This is required prior to the commencement of development in order to ensure the safety of highway users during both the construction phase of the development.

- 9) No development or phase of development shall commence until a Construction Environmental Management Plan relating to that specific phase or phases has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period and shall include the following:
- Pollution, noise, light and dust control measures including timing of activities in order to protect adjacent residents and ecological habitat;-
  - Protective measures to be applied during bird breeding season
  - Protection measures for the adjacent canal including appropriate storage of materials and steps to be taken to prevent pollution into the canal
  - Details of any ground-penetrating activity required including piling, investigation boreholes, or excavation require for subsequent ground source heating or cooling systems
  - Measures in order to minimise construction waste.

# Agenda Item 5a

Reason: To protect the amenity of adjacent land users and ecological interest of the area, prevent air, ground and water pollution and minimise waste.

- 10) No development or phase of development shall commence above slab level until a surface water drainage scheme relating to that specific phase or phases, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement National Standards. Proposals for infiltration must be accompanied by an assessment of risks to controlled waters while the Finished Floor Levels for all dwellings and the extra care facility must be at least 150mm above ground level.

The development shall be carried out in accordance with the approved details. The scheme shall be implemented in accordance with the approved details prior to occupation of the respective phase of phases of development and retained thereafter in perpetuity.

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

- 11) Prior to the commencement of development or phase of development, a detailed scheme of highway works together with a programme for their completion of that particular phase has been submitted to and approved in writing by the Local Planning Authority.

The scheme (where relevant to a particular phase) shall include:

- Alterations to the existing accesses on Hawthorne Road to construct priority junctions, including dropped kerbs and tactile paving at the site accesses;
- Reconstruction of footway along the south west side of Hawthorne Road across the whole frontage of the site, including returning redundant vehicle accesses back to footway;
- Relocation of the existing bus stop and shelter on Hawthorne Road which is adjacent to the proposed site access to a point approximately 80m north west of its current location.

No part of the development shall be brought into use until the required highway works for that particular phase have been constructed in accordance with the approved details.

Reason: These details are required prior to occupation to ensure that acceptable access to the development is achieved and to ensure the safety of highway users.

**During Building Works**



- 12) Samples of the facing materials to be used in the external construction of either phase of the development shall be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of that particular phase. The approved materials shall then be used in the construction of the development

Reason: In the interest of visual amenity.

- 13) The sound reduction performance for the glazing ( $R_w$ ) and combined ventilation rating ( $D_{n,e,w}$ ) for each dwelling within Phase A and Phase B shall, as a minimum, meet the performance standards shown in tables 10 and 11 of the submitted Environmental Noise Survey received on 18th November 2021.

Reason: In order to protect the living conditions of future occupiers from adverse noise impacts.

- 14) All attic/roof rooms within the dwellings of Phase A shall have ceilings that consist of, 100mm 45kg/m<sup>3</sup> insulation fitted tightly between the 200mm roof joists and 1no. 15mm SoundBloc plasterboard fixed to British Gypsum RB1 resilient bars to achieve a minimum sound reduction of 50dB  $R_w$ .

Reason: In order to protect the living conditions of future occupiers from adverse noise impacts.

- 15) No part of Phase A of the development shall be occupied until a detailed scheme of traffic calming measures designed to maintain vehicle speeds at 20mph or less on the access roads within the development has been submitted to and approved in writing by the Local Planning Authority, including the implementation of a Traffic Regulation Order to restrict speed to 20mph. The approved measures must be implemented prior to first occupation of Phase A.

Reason: In the interests of highway safety.

## Before Development is Occupied

- 16) Before the development or phase of the development hereby permitted is occupied, a verification report that demonstrates compliance with the agreed remediation objectives and criteria relating to that specific phase or phases shall be submitted to and approved in writing by the Local Planning Authority

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised and in order to protect water quality in the underlying Principal aquifer, Shirdley Hill Sand Secondary A aquifer and the adjacent canal.

# Agenda Item 5a

- 17) 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 shall be submitted to and approved in writing by the Local Planning Authority. Following completion of the remedial works identified in the approved remediation strategy, verification of the works must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised and in order to protect water quality in the underlying Principal aquifer, Shirdley Hill Sand Secondary A aquifer and the adjacent canal.

- 18) No part of either phase of development shall be occupied until full details of the arrangements to secure funding and maintenance of the approved drainage scheme for the lifetime of that specific phase or phases of development through an appropriate legally binding agreement have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved details and timetable and be managed and maintained as such thereafter.

Reason: In order to promote sustainable development, in order to secure proper drainage and to manage risk of flooding and pollution.

- 19) No phase of the development shall be occupied or brought into use until a Travel Plan(s) comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use relating to that specific phase or phases has been prepared, submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan(s) shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan Targets.

Reason: In order to meet sustainable transport objectives including a reduction in single occupancy car journeys and the increased use of public transport, walking & cycling.

- 20) No dwelling or extra care unit within either phase shall be occupied until space has been laid out within the curtilage of that specific dwelling for car(s) to be parked in accordance with the approved plans. All such spaces shall thereafter be kept available for the parking of vehicles in perpetuity.

Reason: To ensure that enough car parking is provided for the development and to ensure the safety of highway users.

- 21) No dwellinghouse within Phase A shall be occupied unless and until an electric vehicle charging point for that residential unit has been installed and is operational in accordance with details that shall previously have been submitted to and approved in writing by the

Local Planning Authority. Phase B shall be served by no fewer than five electric vehicle charging points made operational prior to first occupation on accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The approved infrastructure shall be permanently retained thereafter..

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

- 22) No dwelling or extra care unit within either phase shall be occupied until facilities for the secure storage of cycles for that residential unit have been provided in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The approved storage shall be permanently retained thereafter.

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

- 23) Prior to the first occupation of either phase of development a detailed scheme of external lighting to the proposed access roads and footways within Phase A and the extra care facility communal gardens and parking forecourt within Phase B shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to first occupation of that specific phase or phases.

Reason: In the interests of highway safety and in order to prevent glare onto adjacent habitat.

- 24) Prior to the first occupation of either phase of development, visibility splays of 2.4 metres by 25 metres at the new junctions into and within that specific phase or phases shall be provided clear of obstruction to visibility at or above a height of 1 metre above the carriageway level for that particular phase of the new development. Once created, these visibility splays shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of highway safety

- 25) Prior to the first occupation of any dwelling within Phase A visibility splays of 2.0 metres x 2.0 metres measured down each side of the access and the back edge of the footway have been provided clear of obstruction to visibility at or above a height of 1 metre above the footway level of the new development. Once created, these visibility splays shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of highway safety.

- 26) Prior to the occupation of any dwelling within Phase A and Phase B, closed boarded fencing with a minimum surface mass of 10 kg/m<sup>2</sup> must be installed to every garden boundary at

# Agenda Item 5a

height of 1.8m with the exception of the south-eastern perimeter of plots 1-10 which shall measure 2.4m in height, as shown in the submitted External Noise Level Assessment and Appendix C of the submitted Environmental Noise Report. The approved fencing must be maintained thereafter as such.

Reason: In order to protect the living conditions of future occupiers from adverse noise impacts.

- 27) No dwelling within either phase 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 for that particular phase of development. The infrastructure shall be installed prior to occupation and made available for use immediately on occupation of any dwelling or apartment in accordance with the approved details.

Reason: To ensure adequate broadband infrastructure for the new dwellings and to facilitate economic growth.

- 28) Prior to the occupation of the first dwelling within Phase A full details of an information pack to be provided informing residents of the presence and importance of the designated nature sites, and how residents can help protect them shall be submitted to and approved in writing by the Local Planning Authority. The agreed information must be provided on first occupation of each dwelling.

Reason: In order to comply with the Habitats Regulations Assessment Regulations and mitigate increased recreational pressure on European sites.

- 29) Prior to first occupation of either phase of development, and notwithstanding the detail contained on the Outline Landscape Proposals a detailed landscaping scheme covering that respective phase of the approved development shall be submitted to and approved in writing by the Local Planning Authority, including all boundary treatments and the location, size and species of each specific shrub, plant and tree to be planted and a schedule of implementation. The scheme shall incorporate the provision of at least 8 no. extra heavy standard trees to the Hawthorne Road frontage and at least 8 no. extra heavy standard trees between the south east elevation of the proposed Extra Care building and the commercial premises to the south east of the site.

Reason: In the interest of visual amenity and to ensure satisfactory tree replacement.

- 30) No phase of development shall be occupied until a scheme for the provision of bat and bird boxes including the phasing and timing for their implementation has been submitted to and approved in writing by the Local Planning Authority for that particular phase of development and implemented in accordance with those details and maintained thereafter.

Reason: To secure biodiversity enhancement.

- 31) A scheme of noise and odour control for any plant and equipment (Air Con, Kitchen Extraction etc) to be installed on the proposed extra care dwellings/building should be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development.

Reason: In order to protect the living conditions of future occupiers from adverse noise/odour impacts.

## Ongoing Conditions

- 32) Within the first planting/seeding season following practical completion of each phase of development, all planting, seeding or turfing comprised in the approved details of landscaping relating to that specific phase of phases shall be carried out; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

- 33) Notwithstanding the details shown on drawings 20020-PJA-00-ZZ-DR-A-100-H (Proposed Site Plan) and the Outline Landscape Proposals (MR21-065/101-A), no pedestrian link shall be formed between the site and the residential development to the north and west of the site adjacent to the canal without express planning permission being given by the Local Planning Authority.

Reason: To safeguard the living conditions of nearby residents.

## Informatives

### Highways

- 1) There will be a requirement for the applicant to enter into a s278 Highways Act 1980 Legal Agreement to enable the works on the adopted public highway. Further to this a Stopping-Up Order will be required with regard to the realignment of footway on Osborne Road. Please contact Sefton's Highway Development and Design team in this respect- email: [HDD.Enquiries@sefton.gov.uk](mailto:HDD.Enquiries@sefton.gov.uk)
- 2) The applicant is advised that the proposal will require the formal allocation of addresses. Contact the Development and Support team on 0151 934 4569 or E-Mail [snn@sefton.gov.uk](mailto:snn@sefton.gov.uk) to apply for a property numbers.

# Agenda Item 5a

## Canal

- 3) The applicant/developer is advised to contact the Canal & River Trust Infrastructure Services Team on 01782 779909 or email [Enquiries.TPWNorth@canalrivertrust.org.uk](mailto:Enquiries.TPWNorth@canalrivertrust.org.uk) in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust “Code of Practice for Works Affecting the Canal & River Trust” to ensure the waterways are protected and safeguarded.
- 4) The strip of land adjacent to the canal is subject to covenants associated with the land transfer agreement dated 27<sup>th</sup> February 2001. The applicant is advised to contact the Canal & River Trust Estate Management Team on 0303 040 4040 or email [Matthew.Hart@canalrivertrust.org.uk](mailto:Matthew.Hart@canalrivertrust.org.uk) directly to discuss this matter

## Cadent

- 5) Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets in private land. The applicant must ensure that the proposed works do not infringe on legal rights of access and or restrictive covenants that exist.

If buildings or structures are proposed directly above the apparatus the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance of any works, by visiting [cadentgas.com/diversions](http://cadentgas.com/diversions) Prior to carrying out works, including the construction of access points, please register on [www.linesearchbeforeudig.co.uk](http://www.linesearchbeforeudig.co.uk) to submit details of the planned works for review, ensuring requirements are adhered to.

**Report to:** PLANNING COMMITTEE      **Date of Meeting:** 19<sup>th</sup> January 2022

**Subject:** [DC/2021/02224](#)  
[4 Denstone Avenue Aintree Liverpool L10 6LH](#)

**Proposal:** Erection of a two storey extension to the side, a dormer extension to the rear of the dwellinghouse and alterations to the existing roof from hipped to gable following the demolition of the existing garage.

**Applicant:** Mr Thomas Wynn      **Agent:** Mr James O'Rourke  
Evolve Design Develop

**Ward:** Molyneux Ward      **Type:** Householder application

**Reason for Committee Determination:** Called in by Councillor Paula Murphy

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## Summary

The proposal seeks planning permission for the erection of a two storey side extension, a dormer extension at the rear of the dwellinghouse and alterations to the existing roof from hipped to gable following the demolition of the existing garage.

The main issues to consider are design, character and appearance of the area and the impact on the living conditions of neighbouring properties.

It is concluded the extensions will not cause significant harm and comply with Sefton Local Plan. The proposal is recommended for approval, subject to conditions.

## Recommendation:

**Case Officer**                      Kellee Campbell

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

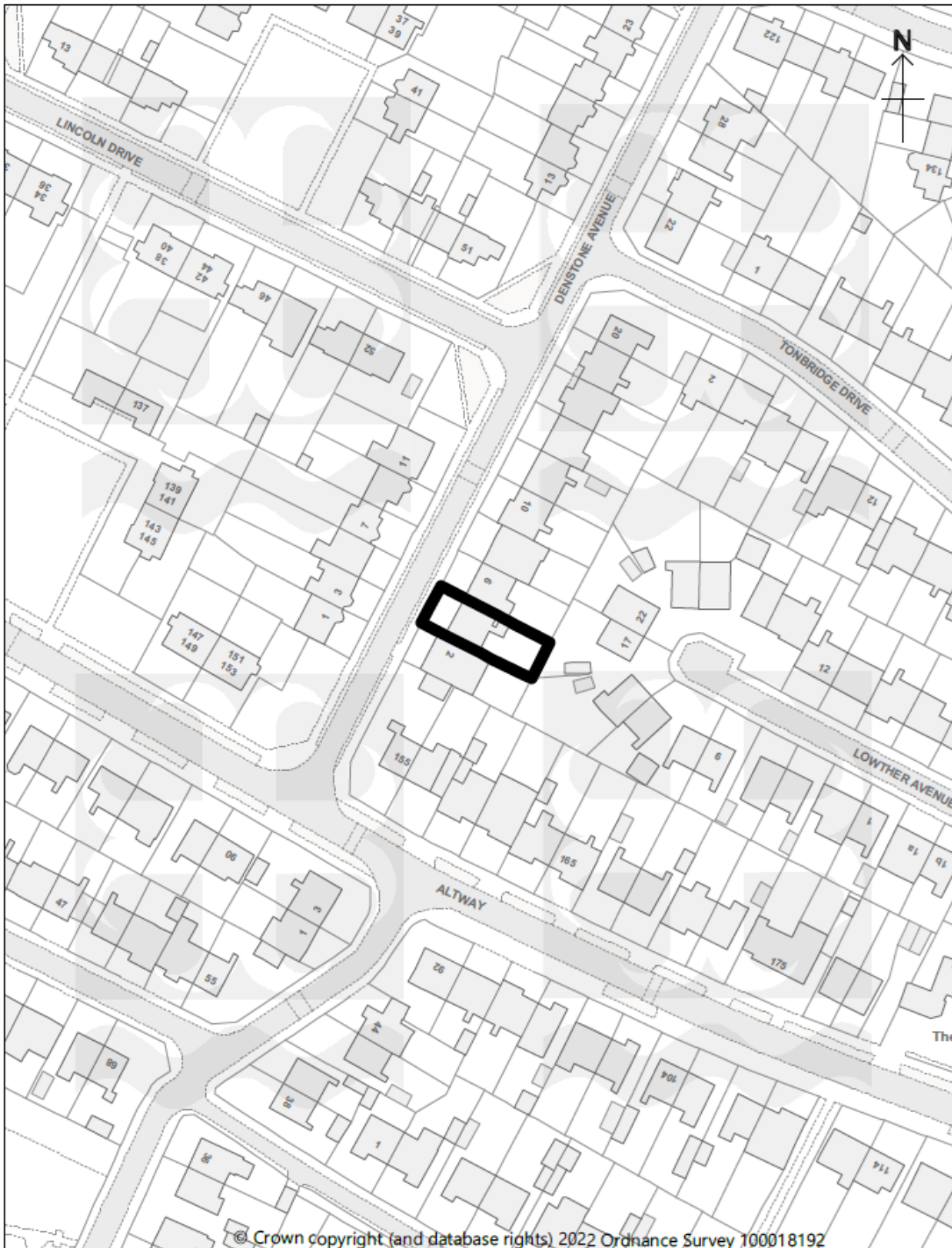
**Telephone**                        0345 140 0845

Application documents and plans are available at:

<http://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QZ46QDNWM2V00>

# Agenda Item 5b

## Site Location Plan



Reference: Map reference  
Date: 10/01/2022  
Scale: Scale: 1:1250  
Created by: Initials



## The Site

The site is located at 4 Denstone Avenue Aintree and is a semi-detached two storey dwellinghouse

## History

DC/2020/01318 - Erection of a single storey extension to side and rear of the dwellinghouse.  
Granted 17.11.20

## Consultations

**Highways Manager** – No objections

## Neighbour Representations

Two letters of objection from 15 Lowther Avenue Aintree (dwelling to the rear of the site) on the original submission and the amended plans.

### Objections - Overlooking and loss of privacy

The dormer windows will completely overlook their property and are too big, number 2 Denstone Avenue previously been granted planning permission despite objections, other dormers around neighbourhood are smaller. If the application was to be approved condition that the windows be smaller. The amended plans are the same and rear windows are no smaller and should be obscurely glazed, there are other smaller dormers within the area and have rear velux windows.

### Response

The objections regarding overlooking and loss of privacy are addressed in the report following the guidance set out in the House Extensions Supplementary Planning Document (SPD) 2018 and the Local Plan

## 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.

# Agenda Item 5b

## Assessment of the Proposal

The main issues to consider are design, character and appearance of the area and the impact on the living conditions.

### Design, character and appearance of the area

An amended plan was received to set the first element of the side extension back 1m from the front main wall so that the proposal would not result in a terracing effect within the street scene with number 6 Denstone Avenue.

The proposed side extension does not maintain an access to the rear. There are dwellings along Denstone Avenue including the adjoining neighbour at number 6 Denstone Avenue which have no access to the rear as these dwellings have side garages and extensions. The proposed two storey side extension has a lower gable roof height than the host dwelling with matching materials. The first floor element of the side extension is set back 1m from the front main wall and so will not result in a terracing effect. The hipped to gable end roof will complement the adjoining neighbour at number 2 Denstone Avenue which has an existing two storey side extension with gable roof and rear dormer similar to this proposal. The size and design of the extension fits in with the existing dwelling and is considered to be in keeping with the surrounding area.

### Living Conditions

Policy HC4 (House Extensions, Houses in Multiple Occupation and Flats) of the Local Plan seeks to ensure that extensions will not have any negative impacts on the living conditions of neighbouring properties, particularly with regards to outlook, light levels and privacy.

The proposed two storey side extension would not project beyond the front or rear elevation of the existing dwelling or beyond the front or rear elevation of the neighbouring property at number 6 Denstone Avenue. Number 6 Denstone Avenue has an existing single storey side extension and has a first floor obscure glazed side window. There would be some loss of light to this window, however given the existing window does not serve a habitable room, on balance it is considered that the impact on the living conditions would not be significant. The proposal is therefore acceptable in this respect.

The House Extensions SPD aims to ensure that neighbours' homes and gardens have a reasonable level of privacy and suggests that extensions should provide a standard distance of at least 21m between overlooking habitable room windows.

The footprint of the house is uniform with the layout of all the even numbered houses on Denstone Avenue. Lowther Avenue backs on to Denstone Avenue and is a cul de sac. No 15 Lowther Avenue is side on to the application site. There is a distance of 28m from the rear wall of the proposal to the

side wall with number 15. The application site backs onto number 17 Lowther Avenue with a distance of 23m from rear wall to rear wall.

The House Extensions SPD encourages any dormers to be positioned at the rear. The proposed flat roofed dormer has two bedroom windows and exceeds the 21m interface distance between habitable rooms to adjoining rear elevations and as such the proposal maintains a reasonable level of privacy to these dwellings.

The proposed extensions are far enough away from properties to the front and rear as to not cause harm to their living conditions.

The proposal is in accordance with policy HC4 of the Local Plan in this regard.

## **Conclusion**

The proposed extensions would not cause significant harm to the living conditions of neighbouring properties or to the character and appearance of the area.

The proposal therefore complies with Policy HC4 of the Local Plan and 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:

Existing plans  
Proposed ground floor plan  
Site plan and location plan  
Amended proposed elevations  
Amended proposed first floor and second floor plans

Reason: For the avoidance of doubt.

# Agenda Item 5b

## During Building Works

- 3) The materials to be used in the construction of the external surfaces of the development must be of similar appearance to those used in the existing building.

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

# Agenda Item 6

<b>Report to:</b>	Planning Committee	<b>Date of Meeting:</b>	Wednesday 19th January 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

The Executive Director of Corporate Resources and Customer Services (FD.6660/22) and the Chief Legal and Democratic Officer (LD.4860/22.) 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
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](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/>

## Appeal Decisions

### Land North Of Brewery Lane West Of Rock Lane Rock Lane Melling

**Reference:** EN/2020/00377 (APP/M4320/C/20/3258166)

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

**Procedure:** Informal Hearing

**Start Date:** 04/01/2021

**Decision:** Allowed

**Decision Date:** 02/12/2021

### Land west of Rock Lane, Melling L31 1EW

**Reference:** EN/2020/00377 (APP/M4320/C/20/3258167)

Appeal against engineering works including the importation of hardcore to create a hardstanding area on land west of Rock Lane, Melling, L31 1EW.

**Procedure:** Informal Hearing

**Start Date:** 04/01/2021

**Decision:** Allowed

**Decision Date:** 02/12/2021

## New Appeals

### 42 Station Road Ainsdale Southport PR8 3HW

**Reference:** DC/2021/00696 (APP/M4320/W/21/3283843)

Extension to existing external dining area and retention of timber canopy over including side panels and planters.

**Procedure:** Written Representations

**Start Date:** 21/12/2021

**Decision:**

**Decision Date:**

### 9 Argarmeols Road Formby Liverpool L37 7BU

**Reference:** DC/2021/00644 (APP/M4320/D/21/3284311)

Alterations to existing boundary wall to front of dwellinghouse.

**Procedure:** Householder Appeal

**Start Date:** 16/12/2021

**Decision:**

**Decision Date:**

### 77 Cherry Road Ainsdale Southport PR8 3SF

**Reference:** DC/2021/01572 (APP/M4320/D/21/3284835)

Erection of 1660mm high boundary timber fencing to the front and both sides including pillars and gates to the front of the dwellinghouse (retrospective completed 10/05/2021).

**Procedure:** Householder Appeal

**Start Date:** 13/12/2021

**Decision:**

**Decision Date:**

# Agenda Item 6

53 Halsall Road Birkdale Southport PR8 3DB

**Reference:** DC/2019/02423 (APP/HH/1921)  
High Hedge Complaint

**Procedure:** Written Representations  
**Start Date:** 07/12/2021

**Decision:**

**Decision Date:**



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## Appeal Decision

Site Visit made on 7 September 2021

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

an Inspector appointed by the Secretary of State

**Decision date: 24 November 2021**

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**Appeal Ref: APP/M4320/W/21/3276681**

**Lathom Club, Lathom Avenue, Seaforth, Merseyside L21 1EB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Brian Corrigan against the decision of Sefton Council.
  - The application Ref DC/2020/01200, dated 1 July 2020, was refused by notice dated 3 June 2021.
  - The development proposed is an *'outline planning application for the erection of a two storey block of up to 12 flats with associated parking following demolition of The Lathom and adjacent garages'*.
- 

### Decision

1. The appeal is allowed and planning permission is granted for an outline planning application for the erection of a two storey block of up to 12 flats with associated parking following demolition of The Lathom and adjacent garages at Lathom Club, Lathom Avenue, Seaforth, Merseyside L21 1EB in accordance with the terms of the application, Ref DC/2020/01200, dated 1 July 2020, subject to the conditions in the attached schedule.

### Preliminary Matters

2. I have utilised the description of development from the decision notice as this better focuses on the development involved. I have taken the postcode of the appeal site from the appeal form.
3. A revised National Planning Policy Framework was published in July 2021 (the Framework). Whilst the paragraph numbers have changed in regard to those relevant to the main issue of this case, the substance thereof remains the same as the 2019 iteration. I have sought comments from the main parties and taken any comments made into consideration.
4. An outline planning permission is sought with access, layout and scale to be considered. I have determined the appeal on this basis.

### Main Issue

5. The main issue is whether the proposed development would provide for a satisfactory standard of accommodation for its future occupiers with particular regard to air quality.

### Reasons

6. The appeal site is a former social club which is situated on the junction of Lathom Avenue and Chatham Close. Immediately beyond Lathom Avenue is Princess Way (A5036), a dual carriageway which meets Crosby Road South

# Agenda Item 6

Appeal Decision APP/M4320/W/21/3276681

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- (A565) a short distance to the west of the site. The appeal site is located within an Air Quality Management Area, with the Council identifying the main source of air pollution to be from road traffic on the A5036, with this being the main route that connects the Port of Liverpool to the motorway network.
7. Monitoring data has been provided by the Council in a number of locations and the main parties have set out differing views on the trends that can be drawn from it, making reference to the time periods and the distance of monitoring sites from the appeal site. The general trend does show a reduction in Nitrogen Dioxide (NO<sub>2</sub>) levels between 2015 and 2017, but I do acknowledge that in location 'EY-Lathom Avenue', that NO<sub>2</sub> levels in 2018 and 2019 were above the National Air Quality Standard objective (national NO<sub>2</sub> standard). The appellant states that this exceedance is due to the roadside location of the monitoring site and that at the proposed façade of the proposal, which is set back from the road, the NO<sub>2</sub> levels would be lower at around 38ug/m<sup>3</sup>. This is also reflected in the data from the monitoring site at 'ES-Chatham Close', which is situated further away from Princess Way (A5036) and shows consistently lower NO<sub>2</sub> levels than location 'EY-Lathom Avenue' over the 2015-2019 period that data has been provided for. My attention has also been drawn to the Council's 2019 Air Quality Annual Status Report (July 2019), that shows that at the nearest receptor, the levels of NO<sub>2</sub> were lower than the national NO<sub>2</sub> standard.
  8. The Council has raised concerns on the increasing levels of traffic and in particular the significant increase that is envisaged in Heavy Goods Vehicles (HGV) using the A5036 passing the appeal site due to expansion of the Port of Liverpool and a future new road. The Council's own traffic count data show HGV traffic growth at higher levels than a number of referenced documents which contain growth forecasts, one of which is produced by the Department for Transport. The appellant however considers that an increase in air pollution does not follow from an increase in traffic. To support this position, I have been provided with details of the Sefton Clean Air Zone Feasibility Study (May 2019), which expects emissions to fall between 2020 and 2025 due to the uptake of newer vehicles and alternative technologies. The Council itself has also referenced the efforts they are taking to bring about reductions in traffic related emissions such as the potential implementation of a Clean Air Zone.
  9. I therefore consider the modelling provided by the appellant within the Air Quality Assessment (26 June 2020), which is based on a worst case scenario, albeit using national government growth rates on traffic rather than estimated levels from the Council's data, to be robust. The NO<sub>2</sub> level would be at or below the national NO<sub>2</sub> standard. Although the appellant does not consider it necessary for mitigation, the development, whilst being below the national NO<sub>2</sub> standard, would nevertheless be in an area where there are high levels of existing pollution.
  10. Mechanical ventilation has been suggested as an essential mitigation measure, although concerns have been expressed that not being able to open windows would result in a poor standard of living for future occupiers. My attention has been drawn to an appeal<sup>1</sup> where an Inspector found that this arrangement would create an oppressive internal living environment for occupiers. It is evident however that the circumstances of that case differed, which was

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<sup>1</sup> Ref: APP/T2215/W/16/3165435

subject to higher levels of NO<sub>2</sub>, above the national NO<sub>2</sub> standard as well as other concerns beyond air quality relating to noise levels. In this case, whilst I consider mechanical ventilation would be necessary to avoid prolonged exposure to NO<sub>2</sub> emissions, because these NO<sub>2</sub> levels are lower than the national NO<sub>2</sub> standard, windows would not have to be non-openable, and it would be possible to open them for purge ventilation. Details of the mitigation could be secured by condition, including the maintenance measures.

11. For the reasons given above, I conclude that the development would provide satisfactory accommodation for future occupiers with regard to air quality. As such, there would be no conflict with Policy EQ4 of the Local Plan for Sefton, which seeks, amongst other matters, to minimise the risks of adverse impacts including on amenity and damage to health and wellbeing. It would also not be contrary to Paragraph 130 of the Framework, which seeks, amongst other matters, a high standard of amenity for existing and future users.

### **Other Matters**

12. The Council have set out that the appeal site is a non-designated heritage asset and reference has been made to its association with the Beatles and its architectural interest. Although the building has some significance, it is clear from the evidence before me that the building has been substantially altered and that in terms of cultural significance, the Beatles played at many venues and this site does not have a special relevance. The proposal would result in the demolition of the building and the loss of a non-designated heritage asset, albeit it having low significance. The re-use of a date stone and the potential for a blue plaque to be erected would assist in mitigating this harm. I also note the benefits of the proposal, including making a modest contribution to local housing need. Taken together, I consider the harm that would be caused to this non-designated heritage asset would be outweighed by the benefits.
13. The appeal proposal would result in the erection of a two storey block of apartments following the demolition of the Club and the garages. The building would have an L shaped layout with a longer frontage to Chatham Close than Lathom Avenue, with car parking accessed from Lathom Close. The Council has not raised any concerns in relation to access, layout or scale although I note the various concerns from interested parties relating to overdevelopment. The layout of the scheme broadly reflects the positioning of the existing Club building and a generously sized garden area is also provided between the building and the parking areas proposed. I do not therefore consider the proposal would have an unacceptable impact on the character and appearance of the area.
14. I further note concerns in relation to traffic on the narrow roads and on parking. The proposal would provide 15 parking spaces, and although Chatham Close is narrow, there is sufficient space for vehicles to pass and I do not consider this scale of development would be detrimental to highway safety.
15. Due to the layout of the site and the distances to neighbouring properties, the proposal would not lead to any significant loss of privacy or light for the occupants of neighbouring occupants. There is no firm evidence that the development would lead to increased crime or anti-social behaviour, cause fly tipping or vandalism, adversely impact on drainage or give rise to noise disturbance, particularly given the current lawful use of the site as a social

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club. Any disturbance during construction would be for a temporary period only, and can be mitigated by requiring the proper management of such.

16. I have no reason to consider the pedestrian accesses to either side of the building would necessarily give rise to disturbance. The presence of any asbestos on the site is a technical matter which would need to be addressed separately as part of the construction process. Given all of the above, other than in relation to air quality, I agree with the Council that there are no other reasons to withhold permission.

## Conditions

17. I have considered the conditions suggested by the Council and other parties, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the wording of the Council's conditions as appropriate.
18. I have imposed a condition specifying the relevant drawings in relation to access, layout and scale as this provides certainty. Standard conditions relating to the submission and timing of reserved applications and the commencement of development are necessary.
19. Conditions are also necessary in relation to the provision of a Construction Management Statement, details of highway works as well as contamination investigations required to ensure there are no adverse effects on living conditions, in the interests of highway safety and to minimise risks for land contamination respectively. A separate landscaping condition to the reserved matters condition is required in the interests of the character and appearance of the area and to ensure that any trees or planting that are damaged, diseased or removed within 5 years are replaced. It is essential for details relating to these conditions to be approved before any works commence to ensure there are no unacceptable impacts arising to existing surrounding and future occupiers and for highway safety reasons.
20. A condition is also necessary to ensure adequate drainage of the site, in the interest of flood prevention and to control demolition works during the main bird breeding season to prevent harm to protected species. Conditions are necessary requiring the parking, access and turning areas to be constructed, the provision of cycle storage and electric vehicle charging points to provide parking and to enable the use of electric vehicles and reduce emissions.
21. A condition requiring the submission of materials is necessary in the interests of the character and appearance of the area as are details of a date stone and potential blue plaque to mitigate against the loss of a non-designated heritage asset. Conditions relating to obscure glazing, acoustic glazing, acoustic barrier and acoustically treated and filtered ventilation as well as the construction of bedroom ceilings are required in the interests of ensuring satisfactory living conditions.
22. I have considered a suggested condition relating to the provision of full fibre broadband connections. However, I have not been provided with any particular justification for this condition. The appeal site is situated in the urban area where there is likely to be the availability of such infrastructure in the vicinity of the site to allow for the development to be connected. In any event, it is the norm on new build residential development, for a broadband internet

connection to be made available for future occupants. Accordingly, I have not imposed such a condition.

**Conclusion**

23. For the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, the appeal is allowed

*F Rafiq*

INSPECTOR



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## **Schedule of Conditions**

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 2) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 3) Details of appearance and landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans (only in respect of those matters not reserved for later approval): Proposed Site Plan at Scale 1 to 500 (Plan No: LATH/06/20/08), Existing Site Plan (Plan No: 06/20/09), Proposed Site Plan at Scale 1 to 200 (Plan No: LATH/06/20/10), Proposed Ground Floor Plan (Plan No: LATH/06/20/05), Proposed First Floor Plan (Plan No: LATH/06/20/06), Proposed Main Front Elevation (Plan No: LATH/06/20/01/A), Proposed Rear Main Elevation (Plan No: LATH/06/20/02/A), Proposed Small Front / Rear Elevations (Plan No: LATH/06/20/03/A) and Plan Section Boundary Wall Plan (Plan No: LATH/06/20/12).
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - v) wheel washing facilities;
  - vi) measures to control the emission of dust and dirt during construction;
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - viii) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 6) No development shall commence until details have been submitted to and approved in writing by the Local Planning Authority of a scheme of landscaping. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development; any trees or plants



which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced.

- 7) No development shall take place until a detailed scheme of highway works, including a programme for their completion shall have been submitted to and approved in writing by the local planning authority. The scheme shall include details of the proposed vehicular and pedestrian access onto Lathom Avenue and on Chatham Close where the existing access is to be closed. No part of the development shall be occupied until the works have been constructed in accordance with the approved details.
  
- 8) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
  - i) a survey of the extent, scale and nature of contamination;
  - ii) the potential risks to:
    - human health;
    - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
    - adjoining land;
    - ground waters and surface waters;
    - ecological systems; and
    - archaeological sites and ancient monuments.
  
- 9) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before any part of the development is occupied.
  
- 10) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried

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out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

- 11) No demolition works shall take place during the main bird breeding season between 1 March and 31 August inclusive unless a licensed ecologist has undertaken a nesting bird check immediately before any works start and submitted a report to the Local Planning Authority and received approval in writing from them. The report shall contain details confirming that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. The measures, where relevant, shall be adhered to through the period of demolition.
- 12) No part of the development hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and, provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 13) No above ground works shall take place until samples of all external facing materials have been submitted to, and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 14) Details of a scheme to incorporate the existing date stone and a commemorative blue plaque within the development which outlines the social history of the site must be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before any part of the development is occupied.
- 15) No part of the development hereby permitted shall be occupied until the means of access/turning area and vehicular parking shall have been constructed in accordance with the approved plans. The access/turning area and parking shall be retained thereafter.
- 16) Details of a minimum of two electric vehicle charging points shall be submitted to and approved in writing by the local planning authority before any part of the building is occupied. Development shall be carried out in accordance with the approved details and shall be retained thereafter.

- 17) Details of a secure cycle storage space for 12 bicycles shall be submitted to and approved in writing by the Council. The development hereby permitted shall not be occupied until the approved cycle store has been provided in accordance with the approved details and the cycle store shall thereafter be kept available for the parking of bicycles.
- 18) The development hereby permitted shall not be occupied until all first floor windows facing the boundaries of 7 Lathom Avenue and 9 Chatham Close at a distance of 10.5m or less have been fitted with obscured glazing, and no part of those windows that are less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the approved details shall be retained thereafter.
- 19) No part of the development hereby permitted shall be occupied until a scheme of acoustic glazing for all habitable rooms, with a minimum performance standard as shown in Section 8 of the Environmental Noise Impact Report (Ref: 14068 Version 1) has been submitted to and approved in writing by the Council. The approved scheme shall be installed before any part of the development is occupied and be retained thereafter.
- 20) No part of the development hereby permitted shall be occupied until a scheme for an acoustic barrier to protect the garden area of the proposed building and gardens of neighbouring properties around the proposed car park from noise, has been submitted to and approved in writing by the Council. All works which form part of the scheme shall be completed before any part of the development is occupied and shall be retained thereafter.
- 21) No part of the development hereby permitted shall be occupied until all bedroom ceilings have been constructed to the standard states in Section 8.3 of the submitted Environmental Noise Impact Report (Ref: 14068 Version 1). The bedroom ceilings shall be constructed before any part of the development is occupied and shall be retained thereafter.
- 22) No part of the development hereby permitted shall be occupied until a scheme for acoustically treated and filtered ventilation for all habitable rooms, including details of the maintenance, has been submitted to and approved in writing by the Council. The approved scheme shall be installed before any part of the development is occupied and be retained thereafter.



### Appeal Decisions

Hearing Held on 14 September 2021

Site visit made on 14 September 2021

**by Laura Renaudon LLM LARTPI Solicitor**

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

**Decision date: 2 December 2021**

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#### **Appeal Ref: APP/M4320/C/20/3258166 ('Appeal A')** **Land west of Rock Lane, Melling L31 1EW**

- 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 Marion Doherty against an enforcement notice issued by Sefton Metropolitan Borough Council.
- The enforcement notice was issued on 22 July 2020.
- The breach of planning control as alleged in the notice is *unauthorised change of use of the site for residential purposes including the siting of caravans*.
- The requirements of the notice are to cease the use of the land for residential purposes and remove all caravans, vehicles and domestic paraphernalia from the site.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.**

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#### **Appeal Ref: APP/M4320/C/20/3258167 ('Appeal B')** **Land west of Rock Lane, Melling L31 1EW**

- 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 Marion Doherty against an enforcement notice issued by Sefton Metropolitan Borough Council.
- The enforcement notice was issued on 22 July 2020.
- The breach of planning control as alleged in the notice is *engineering works including the importation of hardcore to create a hardstanding area*.
- The requirements of the notice are to remove all of the imported hardcore from the site then return the land to its former condition.
- The period for compliance with the requirements is three 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.

**Summary Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.**

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#### **Preliminary Matters**

1. The ground (f) appeal in Appeal B relates to the extent of hardstanding required to be removed if the notice is otherwise upheld, the parties agreeing that there was a hardstanding area on the site prior to the alleged breach of planning control. An agreed plan showing the area to be removed was supplied, at my request, after the close of the Hearing.

## Main Issues

2. It is agreed that the development in both appeals amounts to inappropriate development in the Green Belt. The Gypsy or Traveller status (in accordance with the national policy definition) of the appellant and her extended family who also seek to reside on the site is not contested. My pre-Hearing note sought clarification as to the Council's position as to any conflict with Part 2 of the Sefton Local Plan policy HC5, namely the criteria to be applied to applications for gypsy or traveller sites not allocated for development. This was clarified by the Council before and during the course of the Hearing, and some conflict with criteria (b) (road access) and (f) (local environment) is asserted.
3. My note also sought clarification as to the position of consultees in relation to matters concerning contamination, flooding and drainage that were raised in representations from local residents. The Council obtained comments from the various specialists and acknowledged that such concerns could be overcome by the imposition of planning conditions. Nonetheless, given the concerns raised, they remain matters for consideration.
4. The main issues arising in the appeal are therefore:
  - (i) The effect of the development on the openness and the purposes of the Green Belt ('definitional harm' by reason of inappropriateness being agreed);
  - (ii) Any other harm and/or policy conflicts arising, particularly the effects of the development on highway safety, on the character and appearance of the site and the area, and in relation to contamination, flooding and drainage; and
  - (iii) Whether any harm to the Green Belt and any other harm is clearly outweighed by other considerations so as to amount to very special circumstances justifying the development. Such other considerations particularly include the need for and supply of traveller sites and the availability of alternative sites, and the personal circumstances of the appellant and her family, to include consideration of the best interests of the children and any human rights arising.
5. Further main issues concern the reasonableness of the requirements to remove all the imported hardcore and the time given for compliance with the notices, should the appeals on grounds (f) and (g) fall to be considered.

## Reasons

### *Effects on the Green Belt – openness and purposes*

6. The history of the site reveals a former agricultural use with permission for a cattle shed and a later extension to it. No planning history of the pre-existing hardcore on the site, taking up approximately half of the area currently laid to hardstanding, is given, but it is not contended that it constituted inappropriate development in the Green Belt when it was laid. Thus there is some previous built and engineered form on the site, but in the light of authority<sup>1</sup> I do not consider that any previous development on the site affected the openness of

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<sup>1</sup> *Europa Oil and Gas v SSHCLG* [2013] EWHC 2643 (Admin) at paragraph 66; judgment approved by the Court of Appeal at [2014] EWCA Civ 825 and *Lee Valley RPA v Epping Forest DC* [2016] EWCA Civ 404 at paragraph 17

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- the Green Belt or the purposes of including the site within it prior to the unauthorised change of use.
7. There is also some evidence of the site having been used for scrap storage prior to the unauthorised change of use, and a neighbouring resident spoke at the Hearing of the improvements to the site that have come about since the present use has been instigated. Whilst I accept that there is no evidence of the Council having intended to enforce against any previous unauthorised use, I do not consider that the former use for scrap storage affects my considerations in relation to the Green Belt (or, for that matter, the character or appearance of the area). This is because the scrap storage use was not in itself authorised, it does not appear to have become immune from enforcement, and thus there is no right to revert to that use whether or not the notices are upheld. It cannot constitute a 'fallback' position and my starting point for consideration is thus the former lawful agricultural use of the site.
  8. A planning application was made last year but not validated by the Council in the light of the enforcement action that was taken. This included a site layout plan of the proposal showing eight caravan pitches, each consisting of one static and one touring caravan, and each with its own amenity building. In the light of the Council's allegation and the situation on the site at the time the notices were issued, however, I do not consider the deemed application here (on either ground (a) appeal) to include the provision of further operational development in the form of amenity buildings. The appellant confirmed at the Hearing that the deemed applications here would produce a 'workable' development because the existing cattle shed can be (and is being) used to provide amenity facilities for sanitation and laundry. Although I accept that there is likely to be some pressure for the future development of individual amenity blocks, I do not consider this to be so inevitable that it ought to contribute to my deliberations in these appeals, given the agreement between the parties that the site is 'workable' without that additional development.
  9. The other main differences from the site layout plan include the lesser extent of hardstanding and the proposed reduction in the total number of caravans from 16 to 12. It was said at the Hearing that around eight caravans were on the site at the time the notices were issued, although the relevant notice is not specific as to the number (and so nor could the deemed application be, in the absence of a planning condition imposed on any approval). Mr Brown for the appellant stated a continuing requirement for eight pitches, but that the number of touring caravans could be reduced by half. This in turn, he suggested, could be accommodated within the hardstanding that has already been laid rather than requiring the addition of any more, such as that indicated on the site layout plan. Thus although there may be some pressure for the addition of more hardstanding in future, again I do not regard this as so inevitable that it should fall for consideration now.
  10. The final main difference concerns the site access arrangements. At present the site is bounded to the east by a hedgerow and large double close-boarded gates bordering the highway verge, set back approximately 2.5m from the carriageway of Rock Lane. The site layout plan proposes to set back the gates by around 10m. The local highway authority requires a set back of 6m, together with a visibility splay that may require removal of part of the hedgerow to the south (discussed further below). Whether 10m or 6m, the removal of the gates further into the site, although not affecting the overall



amount of development in itself, will reveal an area of hardstanding to public view from the roadside.

11. Although referring to the provision of up to 16 caravans and eight amenity buildings, thus differing from the proposal comprising the deemed application, the appellant accepts that the development results in a significant loss of openness to the Green Belt<sup>2</sup>. Given the appropriateness of the pre-existing development on the site, I concur with this assessment. The introduction of a residential use over land approximating some 0.5ha<sup>3</sup> with associated engineering works, characterised by the provision of caravans and domestic effects (for example the trampoline present on the site at the time of my visit) plainly, in my view, amounts to the 'urban sprawl' that is the counterpart of openness as referred to in *Turner*<sup>4</sup>. I accept the Council's contention that openness is lost both spatially and visually as a result of the development. The site is largely screened from public view by the boundary treatment but the development nonetheless has a visual dimension and is obviously different in appearance, including from outside the site, from the agricultural use that has gone before it. As accepted by both parties, the development conflicts with one of the purposes of the Green Belt; namely to assist in safeguarding the countryside from encroachment.
  
12. National Green Belt policy (Chapter 13 of the National Planning Policy Framework ('the Framework') of July 2021) provides that engineering operations and material changes in the use of land are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. As I have found the developments alleged in each notice to result in a loss of openness and to conflict with the purpose of safeguarding the countryside from encroachment, it necessarily follows that the developments are inappropriate in the Green Belt (as the parties agree). The material change of use here is not among the examples given of what might be appropriate at what is now paragraph 150(e) of the Framework, and in any event the PPTS (Planning policy for traveller sites) confirms that traveller sites are inappropriate development in the Green Belt.
  
13. Such development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt, whether definitional or otherwise.
  
14. The High Court has recently explained<sup>5</sup> that national policy<sup>6</sup> requires the decision maker to have real regard to the importance of the Green Belt and the seriousness of any harm to it. The relevant Framework paragraphs do not, however, require a particular mathematical exercise nor do they require substantial weight to be allocated to each element of harm as a mathematical exercise with each tranche of substantial weight then to be added to a balance<sup>7</sup>.

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<sup>2</sup> SoC paragraph 5.7

<sup>3</sup> The present hardstanding (and thus use) physically takes up rather less land than the 0.53ha referred to in the submitted application (appellant SoC paragraph 4.2) although the relevant notice, and hence the deemed application, is directed to the whole appeal site comprising some 1.22ha (appellant SoC para 2.1). It is not suggested that the horses presently grazed to the south of the site are anything other than ancillary to the use alleged in the notice.

<sup>4</sup> *Turner v SSCLG* [2016] EWCA Civ 466 at paragraph 15

<sup>5</sup> *Sefton MBC v SSHCLG* [2021] EWHC 1082 (Admin)

<sup>6</sup> In paragraphs 143 and 144 of the Framework's former iteration

<sup>7</sup> *Sefton* at paragraph 34

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15. Consequently I do not find it appropriate to expressly disaggregate the weight to be attributed to each element of Green Belt harm (and the Council did not ask me to do so). The Framework requires that any harm to the Green Belt attracts substantial adverse weight and thus that is the weight I attribute to the harm to the Green Belt.

## *Effects on highway safety*

16. The effect on highway safety was not given as a reason for issuing either notice, and the Council confirmed at the Hearing that they are satisfied any adverse highway impacts can be overcome by a condition requiring an acceptable visibility splay as well as setting back the entrance gates to the site by some 6m. The parties disagreed as to what the relevant splay should be, with the Council relying on the DMRB standard of 2m x 215m and the appellant preferring MfS2 resulting in a Y-distance of around 150m.
17. MfS2 sets out that most of its advice can be applied to a highway regardless of speed limit. It recommends that designers start with MfS for any scheme affecting non-trunk roads. However, it goes on to qualify that advice to say that where actual traffic speeds are above 40mph for significant periods of the day then DMRB parameters for stopping sight distances (SSD) are recommended. Where there is some doubt, speed measurements should be undertaken. This has not happened here.
18. Applying DMRB, the unrestricted speed limit on Rock Lane suggests a design speed of 100kph, translating into a desirable minimum stopping sight distance ('SSD') of 215m (table 2.10, CD 109). One step below the desirable minimum for that speed is 160m, which is also the desirable minimum for a design speed of 85kph.
19. Exiting the site, there is ample visibility to the left (north). To the right (south), the view is partly occluded by a section of hedgerow adjoining the highway verge and a little further on the presence of a streetlight, a telegraph pole and signs warning drivers of bends and a junction in the road ahead.
20. Although the design speed of the road can be taken to be 100kph given the unrestricted speed limit, I would not expect the vast majority of traffic approaching from the south to be approaching that speed. The derestriction occurs just north of Melling, where drivers are almost immediately met with a junction to the left from Brewery Lane. The derestriction sign to the right adjoins what appears to be a residential fence, with an access beyond it to the right into what appears to be a farm complex. Approaching the bend, a further farm access to the right becomes apparent. The presence of a pedestrian footway and street lights alert the driver to potential hazards (as well as potentially resulting in some doubt as to what the speed limit actually is). A bus stop lies ahead, indicating the presence of nearby residences. Entrance to the site is then taken shortly after the signs to which I have referred.
21. Despite these factors serving to limit traffic speeds I do not think that, in the absence of actual speed measurements, there is adequate justification to depart from (or relax) the DMRB SSD standard. As MfS2 sets out, much of the underpinning research for SSD is limited to locations with traffic speeds of less than 40mph, and there is some concern that driver behaviour may change above this level as the character of the highway changes. Although traffic



speeds appeared to me less than 60mph, I was unable to judge that they were as low as 40mph, and speed measurements have not been taken.

22. Therefore I accept the Council's case that visibility splays of 2m x 215m (and the setting back of the entrance gates to 6m) are required. As there is no suggestion that these cannot be achieved, then subject to the imposition of appropriate planning conditions I find no conflict with the development plan, specifically with criterion 2(b) of HC5 or with 2(a) of EQ2, or with national policy in this regard.

*Effects on character and appearance*

23. The land immediately surrounding the site is relatively flat, and the Leeds-Liverpool canal lies some 60m away to the west, with a towpath adjoining it on its western side. The caravans presently on the site are clearly visible from the towpath, as well as from the humpback bridge on Brewery Lane, and this would be the case for any further caravans on the site. The site is separated from the residential properties to the north by a substantial tree belt. However, the land surrounding the site is not entirely undeveloped and there is also some pre-existing development on the site itself, with hardstanding having formerly been laid at the site entrance and the building previously used as a cattle shed being visible to the towpath. The land opposite the site to the east of Rock Lane consists of a large farm complex which, although presently appearing unused, comprises large buildings of substantial and permanent construction. The site is viewed, from the bridge to the south and the towpath to the west, in this context.
24. As the appellant points out, the PPTS makes clear that traveller sites can be appropriately located within rural and semi-rural settings. Weight should be given to sites that are well planned or soft landscaped so as to enhance the environment, but sites should not be so enclosed as to create an impression of deliberate isolation.
25. Policy HC5 2(f) requires new traveller sites to avoid 'unacceptable harm to the local environment' and policy EQ2 requires proposals to respond positively to local character and distinctiveness, and to make a positive contribution to their surroundings.
26. The Council's main concerns are the visibility of the site from nearby elevated positions, and the consequential visual impacts that would arise from providing a safe highway access. These measures would involve setting back the gates, thus revealing some of the hardstanding area to the road, and pruning and possible loss of the hedgerow.
27. Loss of the hedgerow is raised as a possibility, but on the basis of the evidence before me and my observations on site I do not think that the total loss of any part of the hedgerow is likely. Regular pruning would be required, but although the Council describe this as a 'significant burden' it is not said to be unreasonable. I do accept that the extent of the required pruning might well reduce the screening effects of the hedgerow to some degree, but not to such a significant extent that that function would be seriously undermined.
28. Hardstanding at and near to the site entrance has existed since before the present alleged breach of planning controls took place. Whilst the appearance of this part of the land itself has not changed in this respect, setting back the

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gates to 6m (or more) would reveal more of this hardstanding to passers-by. The existing gates are high and wide close-boarded double gates, and setting them back would, it was explained to me on site, involve tapering the entrance to a narrower set of gates than those found at present. I do not consider that these changes to the site entrance arrangements would have the harmful urbanising effect contended for by the Council, in the context of what is already a hard boundary at the site entrance.

29. As to the character of the site generally, this has necessarily changed as a result of the change of use and the siting of caravans. In view of the PPTS recognition that rural and semi-rural sites can be an appropriate location for traveller sites, however, I do not find that the character of the site has changed unacceptably (or would do, with the addition of more caravans and associated vehicles). The site is contained within mostly soft landscaping reflecting the existing field pattern. From the towpath and the bridge it is seen in the context of the large agricultural buildings to the east. It lies close to the residential properties to the north and is not in the middle of nowhere; rather, it rounds off and completes the linear cluster of development between the house opposite Brewery Lane and the motorway to the north.
30. Bearing in mind that traveller sites are expected to be found in such semi-rural settings I do not on the whole find there to be conflict with the relevant local policies, or with the Framework or PPTS, seeking to protect local character. There is no unacceptable harm amounting to any conflict with criterion (f) of part 2 of HC5. As to policy EQ2, whilst on its own the development of the site does not make a positive contribution to its surroundings, in the context of policies that anticipate traveller sites being located in semi-rural settings I do not consider there is conflict with the design objectives of this policy.

## *Effects on contaminated land, flooding and drainage*

31. Interested parties have raised concerns that the hardstanding has caused flooding and drainage problems to Rock Lane and to the neighbouring property; that the site (and/or the adjoining land to the north, 'The Hermitage') has in the past been used for coal storage and waste disposal resulting in contamination risks; that it is liable to flooding in the event of a canal breach; and that additional pressure on the sewerage network would be detrimental.
32. In response to my pre-Hearing note, the Council obtained comments from relevant consultees (the Lead Local Flood Authority and the Council's Pollution Control officers). No overall objections to the development were raised. The LLFA considers there is unlikely to be any additional flood risk to the neighbouring area as a result of the permeable hardstanding. A potential concern was raised about waste water but no substantive comments offered. The Council has proposed a condition to deal with this.
33. Pollution Control officers confirmed that the site adjoins (and possibly includes part of) a closed landfill site, and there is a possibility of 'made ground' material being present as a result of tipping. Standard land contamination conditions are sought because of the presence of potentially significant pollutant linkages.
34. In the light of these comments and the conditions proposed, I am satisfied that the concerns of interested parties about flooding, drainage, waste water disposal and land contamination are capable of being addressed, and any such

problems overcome. Therefore, and subject to imposing such conditions, these matters do not weigh against the development and there is no conflict with the relevant criteria of policy HC5 in these respects.

### *Other effects*

35. Two local councillors wrote (and one of whom appeared at the Hearing) raising several concerns about the development. These concerns are mainly addressed elsewhere in this decision letter. Additionally, although no particular issue was raised about the accessibility of the site, a conflict with the Sefton Local Plan policy EQ3 was asserted. This policy stipulates that new developments in the Borough must be accessible to local services and transport links, and be located and designed so as to encourage walking and cycling.
36. PPTS sets out that new traveller site development in open countryside that is 'away from' existing settlements should be very strictly limited. Here, the site lies opposite a footway leading into the nearby town of Maghull where shops and services (including schools) are available within walking distance. The small village of Melling lies to the south, similarly accessible by a footway. A bus stop lies shortly to the north of the site. Although not allocated for development I do not find the site to be 'away from' existing settlements or to fail the accessibility criteria found in local policy EQ3 or policy HC5(2)(c). On the contrary I consider its location to be sustainable.
37. Another local councillor spoke of his concern that to permit the development would undermine public confidence in the planning system and particularly in the Sefton local plan. The local plan has not long been adopted, following its Examination, and policy HC5 was found to be robust with adequate provision made to meet travellers' needs. It is clearly desirable that permissions for traveller sites, as for other developments, emerge from a plan-led system. However that system does allow for non-allocated sites to obtain permission, as in cases where the criteria-based policy of HC5 applies or in cases where very special circumstances justifying Green Belt development are shown to exist. Such cases may set a high bar to be met, but that does not mean that any resulting permissions are inconsistent with the application of policy.
38. A further consideration is whether 'intentional unauthorised development' has occurred, in which case a Written Ministerial Statement ('WMS') provides that it is a material consideration. The making of a planning application here, which was not validated by the Council due (I understand) to the timing of its submission, indicates both the appellant's consciousness that the development was unauthorised and her willingness to seek to regularise it.
39. In this case the development that has taken place appears readily reversible, and so the concern of the WMS that there is no opportunity to appropriately limit or mitigate the harm that has already taken place has limited application. Consequently I give this consideration limited weight. However, I acknowledge that the already-established benefits to the family of this settled base would not have arisen in the absence of the development having already taken place. Thus the weight I give to those benefits is somewhat tempered, although obviously none of the children involved are to blame for any breach of planning controls and it does not affect the weight I attribute to their interests as a primary consideration.

### *Other Considerations*

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## *Need for and supply of traveller sites*

40. Part 1 of policy HC5 allocates a number of traveller sites for development following the findings of a regional (Merseyside and West Lancashire) Gypsy and Traveller Accommodation Assessment ('GTAA') published in 2014. The four pitches required in the initial plan period to 2017/18 were granted permission before the local plan was adopted. A requirement for the remainder of the plan period of 11 pitches was identified: 6 in the period to 2022/23; 4 to 2027/28 and 1 to 2032/33. Without accounting for expected turnover, the number of emerging households requiring pitches was expected to be 6 in the period to 2017/18 (reduced to 4); 9 in the period to 2022/23 (reduced to 6); and 7 in the period to 2027/28 (reduced to 4). Thus in the period to 2027/28, if expected turnover is reduced to nought then the requirement for pitches rises from 14 to 22.
41. The Council accepts that inclusion of a turnover element in such assessments is falling out of favour, but nonetheless points out that policy HC5 makes an overprovision as against the anticipated pitch requirement: the allocation is up to 19 permanent pitches over the whole plan period to 2032/33, thus at least to some degree cancelling out the turnover. The appellant asserts that, of those 3 allocated permanent sites, site HC5.1 is presently unauthorised and has been operating under a personal permission, now expired; HC5.2 has not been brought forward and there are no proposals to do so on the horizon; and HC5.3 has a permission for 8 pitches but of these only 6 are suitable as permanent pitches and only 2 of them have so far been made available.
42. The GTAA points out that the short-term requirement should be treated as a minimum, and that the demand for pitches should be regularly reviewed, at least every five years, to determine the extent to which this minimum requirement is changing over time. The prediction of longer-term pitch requirements is said to be challenging. The Council is in the process of reviewing the needs assessment, now some eight years old, but was not in a position to share any findings by the date of the Hearing.
43. In the absence of an up to date assessment it is difficult to assess the extent of unmet need in the area. The allocations and policy were found to be robust on Examination of the local plan, and there was at that stage some proposed overprovision of pitches. There has also been a further site recently permitted on appeal, and the permission at site HC5.3 meets at least the anticipated need, as found by the GTAA, for the period expiring in 2023. On the other hand there is a recognition by the Council that the approach to pitch turnover might warrant reconsideration, and there is no available review of the demand for pitches. Taking these matters in the round, I concur with the Inspector in the Spurriers Lane appeal<sup>8</sup> that there is some doubt as to whether existing need is being met in its entirety, but there is unlikely to be any significant unmet need at present.
44. Although the review of demand for pitches is overdue I do not consider this to be a case of overall policy failure. The allocations made in the 2017 local plan following Examination made some overprovision for the then assessment of need, and there has been no persistent failure of policy to bring forward sufficient sites over an extended period.

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<sup>8</sup> APP/M4320/C/19/3221283 and APP/M4320/W/19/3220481

*Availability of alternative sites*

45. The Council agreed at the Hearing that none of the allocated sites in the Borough can meet the particular need here, the extent or nature of which was not challenged. The appellant seeks eight pitches for her extended family of, by descent, Irish Travellers. The pitches would be occupied by the appellant, her five siblings, and two of her children and all their respective families. Existing private sites are owned by English Gypsies and pitches would be unlikely to be made available to the appellant or her family. Public sites are generally full, with vacancies limited in number and unable to accommodate the extended family unit here. The extended family has moved from a (now closed) site in Skelmersdale and no evidence of current site availability outside the Borough has been provided. There appear no suitable alternative sites that would accommodate the need here. The appellant has not applied for a pitch on the Council's site, where vacancies become available on occasion. The Council's records show that vacancies over a two year period have however become filled quickly. On the evidence before me there are no presently available alternative sites to accommodate the extended family group.
46. The Council say that if the forthcoming review of pitch demand identifies need that cannot be accommodated by existing allocations then a 'call for sites' exercise would follow as part of a local plan review. The Council urge me not to second-guess where such allocations might be, whereas the appellant contends that it is inevitable that any further allocations, like those in the existing HC5 policy, will be in the Green Belt. I accept, in the light of the 2017 local plan allocations amounting to exceptional circumstances warranting Green Belt release for the HC5.1 sites, that on present information it is highly likely that any additional unallocated sites which come forward would be in the Green Belt, and note that this view was shared by the Spurriers Lane Inspector. Whilst not reducing the substantial adverse weight I give to the harm to the Green Belt caused by the development in itself, this likelihood does weigh in favour of the development, because if the appellant's needs are to be met in the Borough then it follows that some Green Belt harm is likely to result.

*Personal circumstances, including human rights and best interests of children*

47. At the time of writing the appeal statements the extended family group comprised 17 adults and 16 children under the age of 18. By the time of the Hearing a further baby had been born with another on the way. At the date of the Hearing all except the appellant, her husband and most of her own children were travelling away from the site. The extended family had largely if not all moved onto the site in July 2020 following a history of travelling together, originally based at a site now closed in Skelmersdale, and prior to moving onto this site having occupied unauthorised encampments including on Council car parks in the Borough. The public sector equality duty is relevant to my consideration of these appeals, as are the family's rights to enjoyment of their family life and home, including consideration of the best interests of the children.
48. Two of the appellant's children have enrolled in school, and letters (identical in form) have been received from teachers at those institutions supporting the appeal. One of the head teachers attended the Hearing and spoke persuasively of the benefits, both educational and more general, to the child in her charge of having become settled on the site and at school. I have no doubt that



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dismissing the appeal will be detrimental to the children's education, and the Council did not challenge this assertion by the appellant. The appellant indicated the family's intention, if the appeal is allowed, to put all of the children into school where possible. A minister of religion also spoke at the Hearing about the family's integration into the community and the benefits to welfare and education if the appeal is allowed.

49. Other correspondence from health professionals reveals a number of quite serious health problems suffered by family members. It is said that the children's physiological needs may not be met if the appeal is dismissed. Health professionals have expressed support for the appeal, referencing the provision of sanitary amenities and fresh water supplies as well as site safety and security. From this correspondence and the appellant's contribution to the Hearing, it is clear that the provision of available washing facilities has made a significant positive difference to meeting the health needs of one of the children in particular. The provision of a site with a secure perimeter, and the ability of the extended family to live together, has made a positive difference to the supervision and thus safety of at least one of the children. In respect of the adults, the clinical advantages of a settled base are less certain, although one of the professionals concerned expresses support for the family to be able to reside on their own land with the sanitary amenities that are required for families to live in a healthy clean environment. Other health conditions (not referenced by supporting correspondence) are asserted by the appellant and not disputed by the Council. Although again the clinical benefits of a settled base to those individuals are not quantified or described in detail, I am in no doubt that the family would benefit from a settled base from which to access health care and educate the children.

## **Planning Balance and Conclusions**

50. I have set out above that I attribute substantial weight to the harm to the Green Belt, arising by reason of inappropriateness, the loss of openness and the encroachment into the countryside. Additionally I attach limited weight to the development having intentionally taken place without authorisation. In order to permit inappropriate development in the Green Belt, that harm, and any other harm, must be clearly outweighed by other considerations amounting to very special circumstances.
51. I have found that the needs of this family cannot be met by any alternative site in the Borough. The review of the local needs assessment is overdue and, although the Council has taken positive steps to ensure the overprovision of pitches, there is some uncertainty resulting from the migration forecasts and the lack of an up to date assessment. I have also found that it is highly likely that the family's accommodation needs would have to be met in the Green Belt. The development does not, subject to complying with planning conditions, conflict with policy in any other way and in particular I have found that it meets the criteria of part 2 of policy HC5.
52. I attach some limited weight to the family's personal circumstances overall, with evidence that the health and well being of some of the adult family members would benefit from a settled base here and overall benefits from the family being able to live together. I attach very substantial weight to the particular health needs of some of the children that I have described above, and substantial weight to the social and educational benefits of all of the

children who will be able to attend school if permission is granted. Having regard to the aims of the public sector equality duty, I consider that to grant permission would assist in advancing equality of opportunity and in fostering social cohesion, as adverted to by the Rev. Kelly, and I attribute some weight to this.

53. I am conscious that in terms of the PPTS, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh Green Belt and any other harm so as to establish very special circumstances. Nevertheless in the particular circumstances of this case, I consider that the harm I have described is clearly outweighed by the cumulative weight I have given to the other considerations such that they do clearly outweigh the harm to the Green Belt and other harm. Very special circumstances do therefore exist which leads me to the view that planning permission should be granted. I have found no overall conflict with policy HC5 or the design or environmental policies cited by the Council or other parties. Because very special circumstances exist, it also follows that I find no conflict with policy MN7. Therefore the proposal overall complies with the development plan for the area.

### *Conditions*

54. The Council have suggested a number of conditions which, with some adaptations and the inclusion of landscaping details, I shall impose. A condition is necessary to restrict the occupation of the site to gypsies or travellers in order to ensure that the site meets the need which justifies granting the permission. A limit to 8 pitches and 12 caravans reflects the scale of the development sought and restricts it to the identified need. Restriction of lighting and a landscaping requirement are necessary to safeguard the character and appearance of the area.
55. Visibility splays and an internal access road, and drawings to confirm that vehicles can all enter and exit the site in a forward gear, are all necessary to ensure highway safety. Restricting the size of vehicles is necessary to ensure visual amenity. An assessment of contamination risks and any remedial measures are required to secure the health of those living on the site. Drainage details are also required so as to avoid health or flooding risks. Given the comments of the Lead Local Flood Authority I shall also require that no mobile homes are situated on the site before agreement as to floor levels has been given.
56. The conditions will in the main apply to the permission granted under Appeal A. Additionally I shall impose a condition on the Appeal B permission requiring the removal of the hardstanding if the use (granted under Appeal A) is to cease. This reflects the plan submitted after the Hearing which is now the agreed extent of the hardstanding that would have had to be removed if the appeal was otherwise dismissed. It is necessary because if the use is to cease then it is undesirable to retain the engineering works that have facilitated the use.

### **Conclusions and Formal Decisions**

57. For the above reasons I conclude that the appeals should succeed. As the deemed planning applications under ground (a) are to be granted, it follows that I do not need to consider the remaining grounds of appeal.

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## **Appeal A**

58. The appeal is allowed and the enforcement notice is quashed. 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 making of a material change of use of the land for residential purposes including the siting of caravans at land west of Rock Lane, Melling L31 1EW, subject to the conditions set out in the Schedule of Conditions to this decision.

## **Appeal B**

59. The appeal is allowed and the enforcement notice is quashed. 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 engineering works including the importation of hardcore to create a hardstanding area at land west of Rock Lane, Melling L31 1EW, subject to the condition set out in the Schedule of Conditions to this decision.

*Laura Renaudon*

INSPECTOR



## **APPEARANCES**

### FOR THE APPELLANT:

Marion Doherty	Appellant
Martin Doherty	Appellant's husband
Philip Brown	Philip Brown Associates

### FOR THE COUNCIL:

Piers Riley Smith	of Counsel
Steven Faulkner	Planning Team Leader
Ian Loughlin	Policy Team Leader
David Lawrenson	Enforcement Team Leader
Neil Kennard	Legal Services

### INTERESTED PERSONS:

Cllr. Paula Murphy	Local councillor
Cllr. Anthony Carr	Local councillor
Cllr. Ron Baker	Parish councillor
Rev. Joseph Kelly	Retired Parish Priest, St. George's RC Maghull
Yvonne Bennett-Gleig	Head Teacher, Summerhill Primary
John Hale	local resident

## **DOCUMENTS SUBMITTED AT THE HEARING**

- (1) Photograph of the site taken on 13 September 2021 (submitted by the Council)
- (2) Copy letters (4) from health professionals (submitted by appellant)
- (3) Copy letter from neighbouring resident (submitted by appellant)

## SCHEDULE OF CONDITIONS

### APPEAL A

1. The site shall not be occupied by any persons other than gypsies or travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
2. There shall be no more than 8 pitches on the site and on each pitch there shall be no more than 2 caravans, subject to their being no more than 12 caravans on the site at any time and no more than 1 static caravan on any pitch.
3. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
4. There shall be no external lighting on the site other than in accordance with details that shall have first been submitted to and approved in writing by the local planning authority.
5. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed **within 28 days** of the date of failure to meet any one of the requirements set out in (i) to (vii) below:

(i) **Within 4 months** of the date of this decision a scheme, to include a proposed timetable for completion of the works, for:

- The setting back of the access gates to the site a minimum of 6 metres from the edge of the existing carriageway to Rock Lane;
- The provision of visibility splays of 2 metres x 215 metres at the junction with Rock Lane;
- The provision of an internal access road with a minimum width of 5.5 metres, including parking and turning facilities to enable vehicles to access and egress the site in forward gear;
- A scheme of landscaping, to include indications of all existing trees and hedgerows on the site identifying those to be retained and set out measures for their protection throughout the course of carrying out the site development scheme;
- The floor levels of any static caravans to be brought onto the site; and
- Details for the draining of all foul and surface water from the site, avoiding discharge to the public sewer where possible but if not the details shall include measures to restrict the discharge rate

(the 'site development scheme') shall have been submitted for the written approval of the local planning authority.

(ii) **Within 4 months** of the date of this decision the provision to the local planning authority of tracking drawings demonstrating that the largest vehicles entering and exiting the site can do so in forward gear.

- (iii) **Within 4 months** of the date of this decision an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites – Code of Practice and the Environment Agency’s Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced) and shall assess any contamination on the site, whether or not it originates on the site.
- (iv) If any contamination is found, **within 6 months** of the date of this decision a report (‘the contamination report’) specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to the local planning authority for approval. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority.
- (v) If **within 9 months** of the date of this decision the local planning authority refuse to approve the site development scheme or the contamination report or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- (vi) If an appeal is made in pursuance of (v) above, that appeal shall have been finally determined and the site development scheme or, as the case may be, the contamination report shall have been approved by the Secretary of State.
- (vii) The approved site development scheme and measures identified in the contamination report shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved site development scheme the scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

6. All planting, seeding or turfing comprised in the approved details of the scheme of landscaping shall be carried out in the first planting and seeding seasons following the completion of the site development scheme; and any trees or plants which within a period of 5 years from planting or seeding die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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## **APPEAL B**

1. If the use of the site for residential purposes should cease, within 28 days of such cessation the hardstanding area marked in blue lines on the plan attached to this decision shall be removed from the site and the land restored to its former condition.



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### Plan

This is the plan referred to in my decision dated: 2 December 2021

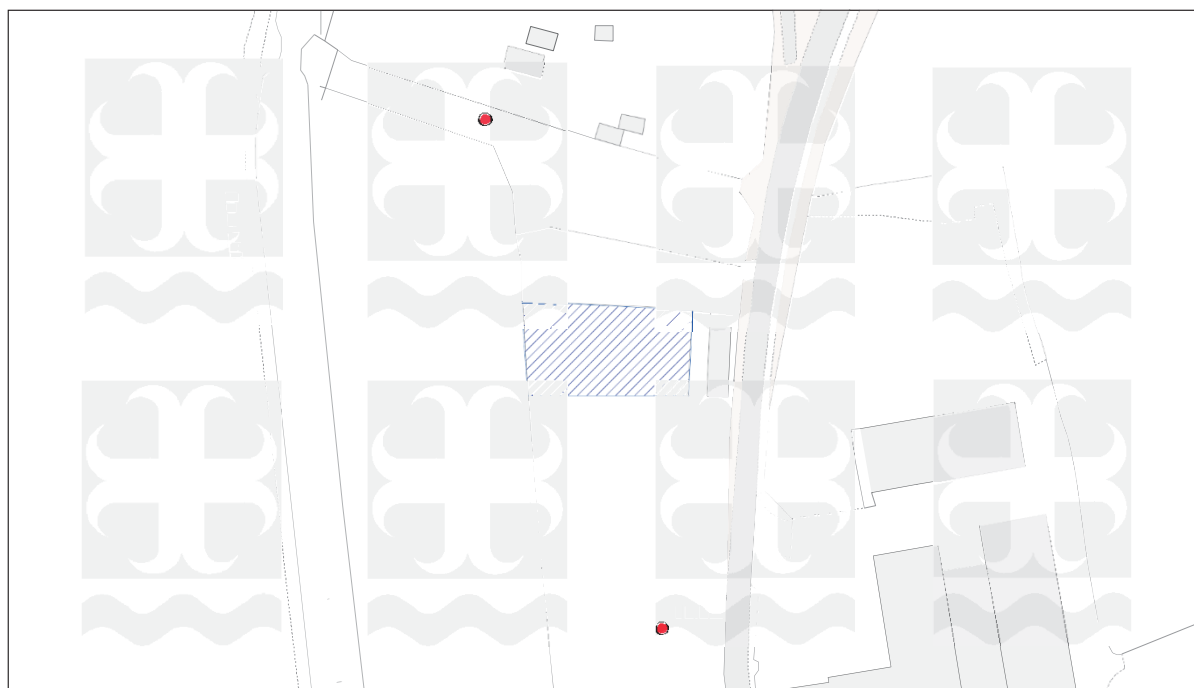
**by Laura Renaudon LLM LARTPI Solicitor**

**Land at: Rock Lane, Melling**

**Reference: APP/M4320/C/20/3258167**

Scale: NOT TO SCALE

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**Planning Committee**  
**Visiting Panel Schedule**

Date Monday 17<sup>th</sup> January 2022  
Start: 10:00 am at BOOTLE TOWN HALL

Agenda Item	Time	Application Details	Ward
4C	10:35am	<b>DC/2020/02629</b> 30 Liverpool Road, Formby Liverpool L37 4BW	Ravenmeols
4A & 4B	11:10am	<b>DC/2021/02486 &amp; DC/2021/02487</b> 40 Lancaster Road, Birkdale Southport PR8 2JY	Dukes
5B	11:50am	<b>DC/2021/02224</b> Denstone Avenue, Aintree Liverpool L10 6LH	Molyneux

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