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MEETING: PLANNING COMMITTEE

DATE: 21st September 2022

TIME: 6.30 pm

VENUE: Bootle Town Hall

Member

Cllr. Daren Veidman (Chair)
Cllr. Brenda O'Brien (Vice-Chair)
Cllr. John Dodd
Cllr. James Hansen
Cllr. David Irving
Cllr. John Kelly
Cllr. Sonya Kelly
Cllr. Steve McGinnity
Cllr. Carol Richards
Cllr. Joe Riley
Cllr. Michael Roche
Cllr. Paula Spencer
Cllr. Lynne Thompson
Cllr. Paul Tweed
Cllr. Carran Waterfield

Substitute

Cllr. Natasha Carlin
Cllr. Leslie Byrom C.B.E.
Cllr. Gareth Lloyd-Johnson
Cllr. Anne Thompson
Cllr. Maria Bennett
Cllr. Janet Grace

Cllr. Dave Robinson
Cllr. Mike Morris M.B.E.
Cllr. Linda Cluskey
Cllr. Liz Dowd
Cllr. Gareth Lloyd-Johnson
Cllr. Danny Burns
Cllr. John Joseph Kelly

COMMITTEE OFFICER: Ruth Appleby / Ian Barton
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If you have any special needs that may require arrangements to facilitate your attendance at this meeting, please contact the Committee Officer named above, who will endeavour to assist.

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

AGENDA

1. Apologies for Absence

2. Declarations of Interest

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

Where a Member discloses a Disclosable Pecuniary Interest, he/she must withdraw from the meeting 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 27 July 2022 (Pages 5 - 8)

4. Applications for Planning Permission - Petitions

Report of the Chief Planning Officer

A DC/2022/01546 - The Northern Road, Crosby (Pages 9 - 24)

5. Applications for Planning Permission - Approvals

Report of the Chief Planning Officer

A DC/2022/00950 - 40 Buckfast Close, Formby (Pages 25 - 30)

6. Planning Appeals Report (Pages 31 - 54)

Report of the Chief Planning Officer.

7. Visiting Panel (Pages 55 - 56)

Report of the Chief Planning Officer.

Please note change of day/date of visiting Panel

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

PLANNING COMMITTEE

MEETING HELD AT BOOTLE TOWN HALL ON 27 JULY 2022

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

Councillors Irving, John Kelly, Sonya Kelly,
McGinnity, Richards, Riley, Roche, Spencer,
Lynne Thompson, Tweed, Waterfield and Lloyd-
Johnson

ALSO PRESENT: Councillor Howard

23. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Dodd, Hansen and Anne Thompson (Substitute Member).

24. DECLARATIONS OF INTEREST

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

25. MINUTES OF THE MEETING HELD ON 29 JUNE 2022

RESOLVED:

That the Minutes of the meeting held on 29 June 2022 be confirmed as a correct record.

26. DC/2022/01148 TELEGRAPH HOUSE, MOOR LANE, CROSBY

The Committee considered the report of the Chief Planning Officer recommending that the above application for the erection of a mixed-use development containing commercial and community floorspace (classes E/F1) at ground floor level, and 72 No. proposed residential apartments on upper floors, including associated works, all following the demolition of the existing building be granted, subject to the conditions and for the reasons stated or referred to in the report.

Councillor Howard, as Ward Councillor, made representations on behalf of local residents who were in favour of the proposed development.

Arising from the discussion members referred to the balconies on the proposed development and suggested the need for some safety measures

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to protect against falling objects as the balconies were above what could potentially be a busy pedestrian area.

Officers clarified that the reference in the report to what could be built under permitted development rights was not given any weight in coming to the recommendation.

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 and subject to completion of a Section 106 legal agreement to secure affordable housing, a contribution toward recreation mitigation of the coast a contribution to replace signage at the public car parks in Crosby centre and an Employment and Skills Plan, and subject to an additional condition to provide safety measures to prevent objects falling from balconies.

27. DC/2022/00412 DAIRY 21, STAMFORD ROAD, BIRKDALE

The Committee considered the report of the Chief Planning Officer recommending that the above application for the removal of condition No.4 (hours of use of new bottling room) pursuant to planning permission DC/2021/00118 approved 07/09/2021. be granted subject to the conditions and for the reasons stated or referred to in the report.

RESOLVED:

That the recommendation be approved and the application be granted subject to the conditions and for the reasons stated or referred to in the report and the additional 2 conditions set out in Late Representations and subject to an informative to give a name and contact number for nearby residents in the event of complaints about noise from the dairy.

28. 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 Maclaren	DC/2019/00464 (APP/M4320/W/21/3283298) - Rear of 54 Sefton Road, Litherland, Liverpool. Appeal against refusal by the Council to grant Planning Permission for the erection of a 2 unit mews development following demolition of existing three storey building	Dismissed 4/07/2022

HGG Ltd	DC/2021/01679 (APP/M4320/W/21/3289226) - Land at Strawberry Hall, 293 Southport Road, Lydiate, Liverpool. Appeal against refusal by the Council to grant Planning Permission in principle for a development of 4 dwellings	Dismissed 4/07/2022
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RESOLVED:

That the report be noted.

29. 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 25 July 2022.

Application No.	Site
DC/2022/01148	Telegraph House, Moor Lane, Crosby.
DC/2022/00412	Dairy 21 Stamford Road, Birkdale.

RESOLVED:

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

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Report to: PLANNING COMMITTEE **Date of Meeting:** 21st September 2022

Subject: [DC/2022/01546](#)
[The Northern Road Crosby Liverpool L23 2RD](#)

Proposal: Prior notification application for the installation of 1No. 18m monopole, supporting 6No. antennas, 1No. wrap around cabinet at the base of the monopole, 2No. equipment cabinets, 1No. electric meter cabinet and ancillary development thereto including 1No. GPS module.

Applicant: CK Hutchinson Networks (UK) Ltd **Agent:** Mr Ben Gilpin
Gateley Hamer

Ward: Victoria Ward **Type:** Prior notification - masts (56 days)

Reason for Committee Determination: Referred to Committee by Chief Planning Officer

Summary

The proposal is for a 18m monopole with ancillary equipment located near to Great Crosby Primary school, Northern Road Crosby. It is acknowledged that improved telecommunications bring widespread public benefit, and that masts and associated equipment are considered to be acceptable in principle. However, pre-application consultation has been inadequate, and it has not been demonstrated that a robust search has taken place of all practicable alternatives. It is considered that the proposal would result in a dominating and intrusive feature which would significantly detract from the appearance and character of The Northern Road. The proposal is sited on a footway next to a bus stop and outside a very busy school and there are concerns over pedestrian safety. The proposal is unacceptable and is recommended for refusal.

Recommendation: Prior Approval Required and Refused

Case Officer John Kerr

Email 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=RFXICNNWJNK00>

Site Location Plan



DC/2022/01546 - The Northern Road, Crosby

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The Site

The application site comprises pavement fronting the north elevation of the garden of 64 The Northern Road, Crosby. Behind this garden space is Great Crosby Primary School. The site is directly opposite 65 The Northern Road, which is located on the corner of The Northern Road and Moorside Road.

History - none of relevance

Consultations

Highways Manager

There are Highway Safety issues in relation to the layout of the equipment.

Environmental Health Manager

No objection.

VICTORIA Ward – Councillors Leslie Byrom and Janet Grace both strongly oppose the location of the mast positioned in front of Great Crosby Catholic Primary School

Neighbour Representations

A 1,044-signature online petition (updated on 12/09/2022) opposing the development has been received by Planning Services on the following grounds:

This proposal would severely impact the safety of pupils, parents and children entering and leaving the school by reducing the pavement area and restricting the view of the road. A previous application to site a monopole outside Forefield Lane School was refused siting health and safety as a heavy factor in the decision. It is not in keeping with a residential area.

Note: The Forefield Lane application was withdrawn by the applicant and was not refused.

A 156-signature hard copy petition opposing the development has also been received by Planning Services on the following grounds:

We object to the proposed structure on the basis of obstructing pedestrian traffic (prams, buggies, children, parents, bikes scooters, wheelchairs, mobility scooters etc.)

There is heavy footfall, twice daily, to and from a busier than average primary school and nursery.

191 individual neighbour/general representations have been received.

190 of these representations oppose the application on the following grounds:

Material Planning Considerations

Siting

- *Close to school*
- *Close to residential properties*
- *Better alternative sites*
- *Will reduce width of pavement causing pedestrian obstruction*
- *Will conflict with bus stop*
- *Risk of people being forced into the road*
- *Will cause safety issues especially at drop off and pick up times near school*
- *Pavement is already busy with street furniture*
- *People already congregate on the grass verges - this will increase*
- *Reduces space for safe access into school*
- *Northern Road is already a dangerous road*
- *Will cause issues for disabled access on the footway and pushchairs*
- *Distraction to road users*
- *Equipment will create a funnel effect*

Appearance

- *Would not fit in with street furniture*
- *Eyesore*
- *Negative visual impact upon surroundings*
- *Not in keeping with quiet residential area*
- *Far taller than any other infrastructure in the area*
- *Spoils distant views*

Lack of notification

- *Consultation period taking place in school summer holidays is unfair and undemocratic*
- *Great Crosby School did not receive the consultation as it was within school holidays*

Other Considerations

Health impacts

- *Long-term impact on health on young children*
- *Impacts on health of local residents*
- *Impact on people's wellbeing and quality of life*
- *Unknown risks, research is ongoing*

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- *Lawsuits have proved that mobile towers cause health consequences*
- *Health and safety risks due to location*

Impact of construction works

- *Structural work will cause traffic issues in the area*

Similar proposals refused elsewhere

- *A similar proposal was refused outside Forefield Primary School*

No evidence to support need for equipment

- *Vast majority of internet communication uses landlines*
- *Local area is already well served by other 4G networks*
- *Data in the area is already sufficient*

Impact on house prices

- *It would put people off buying a house within the vicinity of the area*

1 representation supports the application on the following grounds:

- *5G coverage is essential for equal access to facilities and services across the community*
- *No scientific evidence to support the danger to human or other biological life*

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.

This application is subject to Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Assessment of the Proposal

The proposal

The proposal comprises an 18-metre telecommunications mast with antennas with a cabinet at the base. Three separate cabinets are also proposed to be located adjacent to the mast.

The application site comprises pavement with a residential garden and Great Crosby Primary School to the south of the site, and residential properties to the north, east and west. A small, grassed area separates the pavement from the adopted carriageway to the north, however, the pavement is widened in this location and the verge is hard surfaced directly adjacent to the proposed site of the equipment to allow space for the bus stop. The surrounding area is characterised by two-storey semidetached properties including The Northern Road, Moorside Road, Ascot Park, The Precincts and Rosedale Avenue. There is a tree directly next to the proposed site which is approximately 8m in height. There are also existing street light columns of a similar height, the closest of which are located on the opposite pavement.

In support of their proposal, the applicants state that:

“The proposed new mast has been sited and designed in order to provide 5G coverage and to fill the hole in coverage for this mobile network The current massive shift in user demand from city centres and places of work to residential areas and suburbs requires an improvement in coverage and capacity throughout the whole network. The current proposal therefore provides such additional capacity to the network whilst still promoting the improved 5G technology”.

“The 3G and 4G provision allows internet access, video calling, data down streaming, accessing social media networks and emailing.... Therefore, to maintain high quality indoor 3G and 4G services into this area would promote activity in line with the general population demand as the ownership of smart devices increases. 5G service provision will bring faster, more responsive, and reliable connections than ever before.

“The search area is very small for this new installation. There is currently a hole in the coverage in this area of Sefton therefore a new site is required to provide the latest 3G, 4G and 5G technology”.

The design and proposed height of 18m is justified as follows:

“The operator has carefully considered the design of the new proposed column. The operator is proposing the most sensitive design currently available to provide the necessary coverage and capacity to the surrounding area. Due to all the technologies that will be available at this location 3G, 4G and 5G, 6 antennas need to be installed at the top of the slim-line monopole. These are split into a dual stack formation where 3 antennas will be located at the top and the other 3 will be located underneath. The 3 upper antennas will provide new 5G service provision. The 3 lower

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antennas will provide 3G and 4G technology for the operator to the surrounding area. This makes the lower set of antennas 3.35m lower than the top of the pole. Thus, if the column were to be any lower, the antennas would not be able to clear the buildings and urban clutter and as such would not be able to operate effectively”.

Type of application: “Prior Approval” procedure

Certain forms of telecommunication development, for example, mobile telephone masts, are known as ‘permitted development’ (i.e. they do not require planning permission) subject to ‘prior approval’ from the Local Planning Authority (LPA). The prior approval procedure means that the principle of development is not up for debate – this is already accepted. The Local Planning Authority can only consider the siting and appearance of the proposal providing various conditions and limitations are met.

This is clarified within chapter 10 of the National Planning Policy Framework (NPPF) which states at paragraph 115: - ‘Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure’.

The LPA is satisfied that the proposed development complies with the conditions and limitations of the General Permitted Development Order. The NPPF encourages the applicant to submit, with any telecommunications application, the outcome of consultations with statutory bodies, evidence that existing sites containing masts have been considered and that the proposed equipment when operational complies with International Commission guidelines.

Other than these, the only issues the LPA are entitled to consider in assessing this application for prior approval are the siting and appearance of the telecommunications equipment.

Consultation before making the application

In their supporting statement, the applicants (CK Hutchinson Networks) have indicated that before making this application they initiated pre-consultation discussions on 15th July 2022 with the local planning authority (LPA). They say this is “intended to provide an opportunity for the LPA to discuss development proposals and identify site specific issues”. The operator may have sent a notification to say they were intending to submit an application and to ask for the view of the LPA. However, as no fee was paid, no formal pre-application consultation with the LPA was in fact carried out. This is confirmed by a statement on the application form. In response to the question:

“Has assistance or prior advice been sought from the local authority about this application?”, the applicants answered “No”.

The NPPF states at para 117 that applications for electronic communications development should be supported by the necessary evidence to justify the proposed development and that this should include:

“a) the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college”.

In their Supplementary Information”, the applicants stated that “A letter of consultation was sent [to Great Crosby Catholic Primary School] prior to submission of the application but received no response”. They go on to state that “There has been no response from the school at the time of submission”.

The applicants include in their “Supporting Information” a number of references to the Code of Practice for Wireless Network Development in England (March 2022). Paragraph 18 of this Code sets out the principles and commitments that operators should follow when developing their networks, including:

- consultation with local planning authorities, local communities, and other stakeholders.

Given the closeness of the mast and associated equipment to the school and given the size of this four-form entry school, it is considered that a more proactive approach should have been taken to ensure that the school was aware of the proposal and to obtain their views before making the formal application.

While members for Victoria ward were consulted before the application was submitted and expressed their opposition, no meaningful dialogue was carried out with the Local Planning Authority. It is therefore considered that inadequate pre-application consultation has taken place with the local planning authority, local communities, and other stakeholders.

Notifying those affected by the application

The Council’s Statement of Community Involvement (SCI) requires that for telecommunications developments all schools and colleges within 200 metres of the equipment should be notified. Great Crosby Primary School was consulted by the operator before the application was submitted and by the Planning Department after the application was submitted. The SCI also states that all other properties within 100 metres of equipment should be notified, and all such properties were in fact notified.

There is concern that the application was submitted on 1st August at the start of the school holiday period when the school and many of those who would be affected by the proposal would be unaware of the proposal. The school did ultimately receive the letter notifying them of the proposal, though many parents may not have found out about it as the period for making representations ended on 27th August. It is unfortunate that an application for a

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telecommunications mast and equipment outside a busy school was submitted at the start of the school summer holiday. For this type of application there is a fixed time period of 56 days within which to make a decision otherwise the application is granted 'deemed consent'.

Siting and Appearance

The proposed mast at 18m in height would be sited at the back edge of the pavement adjacent to Great Crosby Primary School and would be significantly taller than any natural or built structure within the immediate vicinity. Given the positioning of the apparatus in an open 'gap' within the street scene, it would be a highly prominent and jarring addition which detracts from the appearance of the area. At street level, the three cabinets of up to 1.75m in height would create a sense of clutter, emphasised by what is otherwise a relatively open frontage of the Northern Road.

At 18m high, the mast would be 10m higher than a tree which is right next to the site. The height of the mast in this location would be the equivalent to the height of a two-storey house above the existing tree. Although there are trees in the background, the mast would be very visually intrusive. The whole of the mast would not be immediately visible from a distance when approaching in either direction along The Northern Road, as the view would be filtered by the street trees. However, when approaching from the Moorside Road direction, the mast would be clearly visible from a distance of over 240 metres, that is from as far away as the main entrance gates to Moorside Park.

It is understood the mast needs to be 18m high to be able to receive and send clear signals unobstructed by buildings or trees. However, an 18m mast in this location would be particularly conspicuous and intrusive on the approach from Moorside Road. Therefore, the siting and appearance of the proposal would cause harm to the character and appearance of the area.

Highway Safety

The width of the section of footway at the proposed location of the monopole and the cabinets varies from 1.9m to 2.2m, but at the bus stop, the overall width is 4.7m including the bus boarding area, which is approximately 11.0m long.

The depths of the two largest cabinets are 0.7m when closed and 1.5m when opened. The equipment is proposed to be installed at a maximum gap of 0.3m from the existing boundary wall, thus leaving an overall footway width of 3.6m in front of the cabinets (when closed) and 2.8m (when opened) for pedestrian use. This is less than the 3.0m width recommended by Sefton Council outside schools where pedestrian volumes are likely to be higher than normal and at bus stops without a shelter, where passengers are more likely to congregate waiting for a bus. The installation is proposed at a bus stop and close to a primary school where parents and school children often wait at school drop off and pick up times. Therefore, the Highways Manager would expect the footway to be sufficiently wide to accommodate waiting passengers while still allowing for pedestrian movement along the footway.

The Highways Manager also notes that the width of the footway between the existing tree and the cabinet to the east end of the installation measures 1.4m which is less than the Council's standard minimum footway width of 2.0m and will be unable to accommodate a wheel chair user and non-wheelchair users using person side-by-side who require a width of at least 1.5m The 1.4m gap is partially a grass verge and not fully paved which it would need to be to ensure safe access for pedestrians.

While it may be possible to make amendments to the footway and the positioning of the proposed equipment to accommodate the proposal, the applicant has provided no evidence to demonstrate that there would not be conflict between parents and children going to and from school, those waiting at the bus stop and other pedestrians walking along the footway in this area. Given that the application was only submitted on 1st August and must be determined by 27th September, there has been insufficient time for the Highways team to assess any likely conflict which may arise since the start of the new school term.

Overall, to site the equipment in the proposed location could become an obstacle for the very many people who use this footway by preventing an unobstructed pedestrian through route along the footway at busy times and it would have the potential to endanger pedestrians. Therefore, in the absence of any evidence as to the impact of the proposed mast and cabinets on those using the footway, it is concluded that this proposal is not acceptable from a highway safety point of view.

Alternative Sites Considered

The applicants claim in the Alternative Sites section (p.6) of the "Supporting Information" that the area surrounding the proposed site has been fully investigated, and they "considered that the application site was the most viable and suitable location for the proposed equipment". They note that "the search area for the proposed site is small due to the operator's requirement to fill the hole in coverage to increase coverage and capacity in this location". The applicants include a number of alternative sites which have been ruled out and give reasons why they are not considered suitable.

Government advice is that applications for electronic communications development should be supported by the necessary evidence to justify the proposed development. This should include "for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure" (NPPF, para 117 (c))

The applicants have looked at two buildings with this possibility in mind. This includes "Fairfields Residents Home" (i.e., Fairfield Residential Home) which was discounted due to the pitched roof of the property being unsuitable to host the equipment. They also considered Great Crosby Primary School which they discounted due to the low roof not being able to provide the required coverage.

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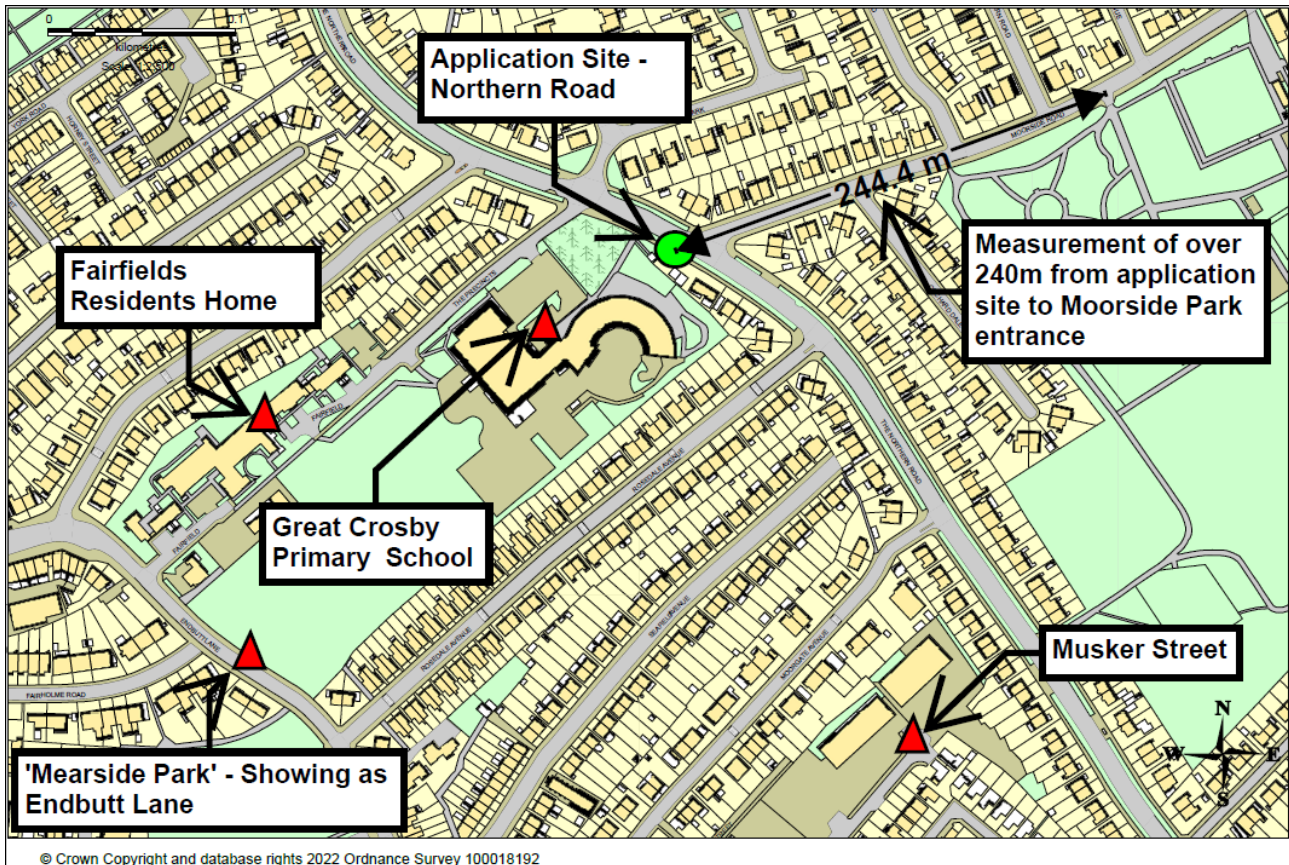
They considered two further locations. One of these was 'Mearside Park' which it is assumed was meant to read 'Moorside Park'. However, from the Grid Reference supplied this location appears to be southwest of Great Crosby Primary School at the end of its playing fields, on Endbutt Lane. This location was discounted as the pavement width was insufficient. The final alternative location was Musker Street, and this was discounted due to its proximity to new residential properties and limited space in a nearby builder's yard.

Site Selection Process: Alternative sites considered and not chosen

Site Type	Site name and address	National Grid Reference	Reason for not choosing site
Rooftop	Fairfields Residents Home	E332385 N399718	The pitched roof of the property is unsuitable to host the equipment
Rooftop	Great Crosby Catholic Primary School	E332503 N399733	The roof is too low to house the equipment. Discounted from a radio perspective as the require coverage could not be achieved due to the lack of elevation
Streetworks	Mearside Park	E332352 N399555	A street works installation was discounted at Mearside Park as the pavement width is insufficient
Streetworks	Musker Street	E332704 N399533	An option was investigated and discounted at Musker Street as the pavement width is insufficient and close to new residential properties. The adjacent builders' yard is also unsuitable given its limited space

These sites are shown on the plan below.

Proposed Location of Telecommunications Mast and Other Alternative Sites



The applicants are not required to provide information in relation to the alternative locations. However, the application does not specify the proposed 'area of search' in terms of the cell area within which the mast is required. This makes it difficult to evaluate the possible alternative and discounted sites.

In the absence of more detail, it is not possible to conclude that a robust assessment of all alternative sites has been carried out and that this is the best site available.

It is considered that more suitable alternative locations have not been adequately ruled out and on balance, the visual impact, siting, and appearance is unacceptable.

Health Impacts

A Certificate has been supplied with the application confirming that the apparatus would be compliant with International Commission guidelines on radiation.

Chapter 10 of the National Planning Policy Framework (NPPF) states at paragraph 118 that: - "Local planning authorities must determine applications on planning grounds only. They should not... set health safeguards different from the International Commission guidelines for public exposure".

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As the application has been accompanied by the relevant Certificate, the Local Planning Authority cannot refuse it on health grounds.

Other issues

Impact of construction works

Although construction works may cause traffic issues in the area, these are not considered to be a material planning consideration.

Similar proposals refused elsewhere

It is understood that an application for a similar proposal near Forefield Primary School was submitted and eventually withdrawn. However, every application is assessed on its own merits and different considerations applied in that instance.

Impact on house prices

The impact on house prices is not a material planning consideration.

Policy On Telecommunications

There are objections that question whether there is a need for this type of equipment in the local area. It is understood that there is a need to expand the telecommunications network on a national scale. The Government is clear in its support for the principle of this type of development. The National Planning Policy Framework (NPPF) states that “advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections”.

Conclusion

The installation would provide 5G coverage for the surrounding area, providing a substantial benefit to the area in terms of facilitating the growth of next generation mobile technology and improving existing coverage. This recognised as being essential for economic growth and well-being in paragraph 114 of the NPPF.

Nevertheless, it is considered that the process of arriving at this preferred location for the mast has been flawed. There has been little attempt to properly engage both with the local planning authority and with the large Great Crosby Primary School. The application was submitted near the start of the school summer holiday when the school was least able to consider the proposal. There is confusion about one of the alternative sites which is described incorrectly. No indication has been given of the extent of the search area for a mast so there is insufficient evidence that a robust search of all possible alternative sites has been carried out.

The principle of this proposed development is established by the General Permitted Development Order. Under the prior approval process, the Local Planning Authority can only consider siting and appearance.

It is acknowledged that masts supporting 5G telecommunications are required to be high. However, at 18m high this mast rises the equivalent height of a two-storey house above the 8m tree right next to the site. The mast and associated cabinets will introduce a jarring and discordant note on The Northern Road. In particular the mast would be able to be viewed from a distance of over 240m from the east, from the main gates to Moorside Park on Moorside Road.

The proposed siting on the footway right outside Great Crosby school and by a bus stop could cause harm to pedestrian safety. No evidence has been submitted which has assessed this potential conflict.

The proposed 18m high mast would be a dominant and intrusive feature out of scale and character with its surroundings. The proposed mast would undoubtedly provide public benefits, but it is concluded that these benefits would not outweigh the harm to the character of the area through the siting and appearance of the mast.

For these reasons given above it is considered that prior approval is required and that prior approval should be refused.

It is therefore recommended that prior approval is required and refused.

Recommendation - Prior approval required and refused

Reasons for Refusal:

- 1) The proposed 18-metre-high monopole would result in a dominating and intrusive feature which would significantly detract from the appearance and character of the area and does not comply with Policy EQ2 of the Sefton Local Plan.
- 2) No information has been submitted to identify the area of search and it has not been demonstrated that a robust search has been carried out of all practical alternatives.
- 3) The proposal could cause harm to pedestrian safety contrary to the provisions of Policy EQ3 (f) of the Sefton Local Plan.

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Agenda Item 5a

Report to: PLANNING COMMITTEE **Date of Meeting:** 21st September 2022

Subject: [DC/2022/00950](#)
[40 Buckfast Drive Formby Liverpool L37 4HD](#)

Proposal: Erection of a single storey extension to the front, a two storey extension to the side and a single storey extension to the rear, following the demolition of existing porch to front, garage to side and conservatory to the rear.

Applicant: Mrs Laura Hargreaves **Agent:**

Ward: Ravenmeols Ward **Type:** Householder application

Reason for Committee Determination: Applicant is related to a member of the planning department.

Summary

The application seeks consent for the erection of a two storey extension to the side of the house, incorporating a rear dormer and a single storey extension to the rear of the property. The main issues to consider are the impact of the extensions on the character of the area and the impact on neighbouring properties.

It is considered that the application is acceptable on all grounds. It is therefore recommended for approval with conditions.

Recommendation: [Approve with conditions](#)

Case Officer Christine Griffiths

Email planning.department@sefton.gov.uk

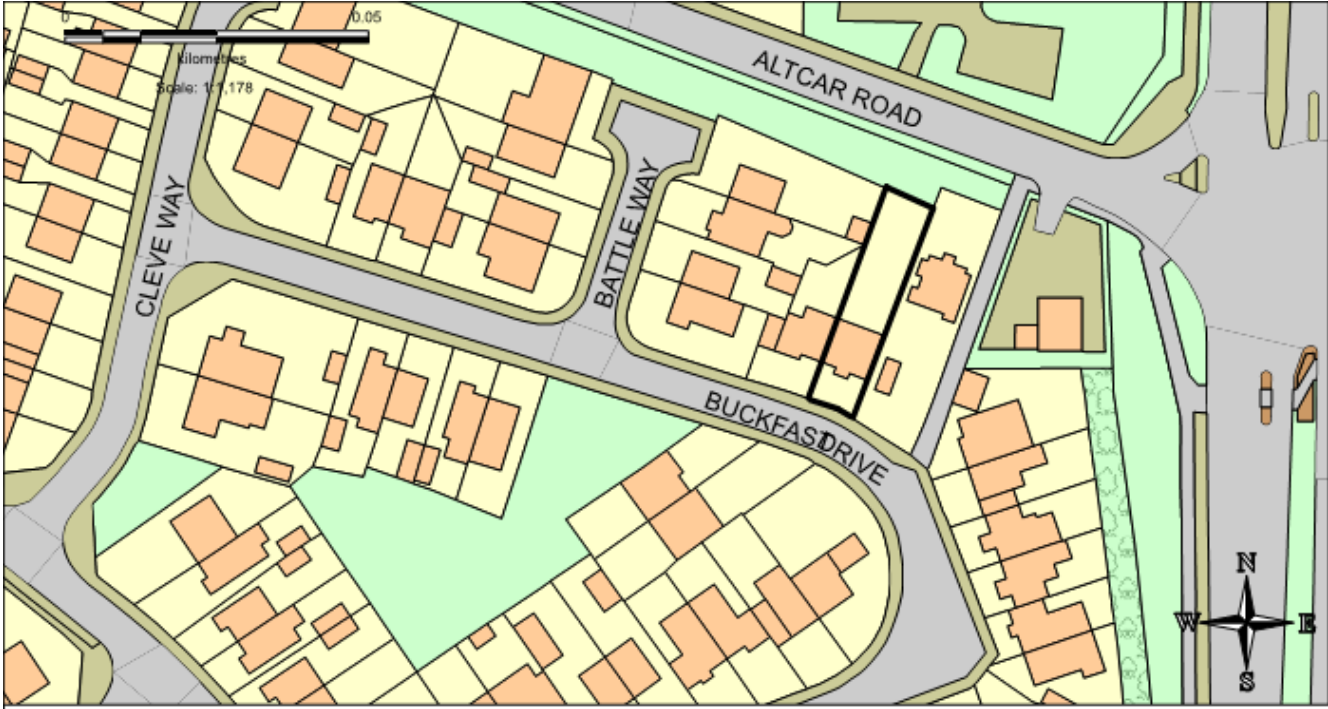
Telephone 0345 140 0845

Application documents and plans are available at:

<http://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RBTHOFNW08000>

Agenda Item 5a

Site Location Plan



DC/2022/00950 40 Buckfast Drive, Formby, L37 4HD

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The Site

A semi-detached dormer bungalow positioned on Buckfast Drive, Formby.

History

There is no relevant planning history associated with this application.

Consultations

Highways Manager – No objection

Neighbour Representations

None received.

Policy Context

The application site lies within an area designated as 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 main issues to consider in respect of this proposal are the impact on the character of the area, the impact on the living conditions of neighbouring residents and highway safety

Character of the area

Local Plan Policy HC4 'House Extensions' permits development that is of high quality design, that matches or complements the style of the dwelling and the surrounding area and for which the size, scale and materials of the development are in keeping with the original dwelling and surrounding area.

The side extension is set behind the main front elevation, will maintain a lower ridge height and have a pitched roof. The projection of the porch is greater than that recommended in the Council's guidelines. However, it is considered acceptable in this instance, as the additional projection is marginal (by some 30cm) and viewed against the neighboring porch at number 42 and positioned adjacent to the rear garden boundary of number 44 Altcar Road at the other side.

Agenda Item 5a

The rear extension is of an acceptable design.

Overall, the proposal is a positive design that will complement the host dwelling and not harm the character of the street scene.

Living Conditions

Local Plan Policy HC4 'House extensions' advises that alterations to dwellinghouses should be designed so there is no significant reduction in the living conditions of neighbouring properties in particular in relation to outlook, loss of light/overshadowing and privacy.

42 Buckfast Drive

The single storey front and rear extension will not breach the Council's 45-degree guideline when taken from the nearest habitable room windows from the neighbouring property. The rear extension would also be partially screened along the adjoining boundary by high fencing and hedges. The side extension would be screened from the neighbour by the existing property. The proposal would not be significantly overbearing or overshadowing to this neighbour.

No windows are proposed in the side elevation of the front or rear extension, whilst appropriate interface distances would be maintained to the front and rear. The proposal would not result in overlooking.

44 Altcar Road

The side extension will run along the adjoining side boundary to this property. Because it is right up to the boundary, the appropriate form (Certificate B) has been completed confirming that notice has been served upon this neighbour. This extension will mainly run adjacent to an existing outbuilding positioned within the curtilage of this neighbour's rear garden which is positioned on the eastern side. When taking this into account, together with the orientation of the properties, it is considered that any resulting overshadowing of the neighbour's garden would be similar to that existing. The neighbour has a relatively large garden area and combined with the positions and scale of the extension, it is considered that the proposal would not be significantly overbearing on the neighbour. A condition can be added to ensure that the additionally proposed gable windows are fitted with obscure glass, to prevent any side overlooking.

Highway Safety

The existing garage forms part of the proposed extension and will no longer be available for parking, thus leading to loss of an off-street parking space.

It is not proposed to change the existing access arrangements and while the garage space will be lost, there is sufficient space to park at least one vehicle on the driveway within the curtilage of the site. The site is in a sustainable location with ease of access to local amenities and services and is accessible by public transport with bus stops within short walking distance on Altcar Road served by bus services to local and wider destinations. The site is also within an acceptable walking distance of the Formby railway station.

The proposal would not give rise to highway safety concerns.

Conclusion

It is considered that the proposed development would be in keeping with the existing property and would not cause significant harm to the character of the street scene or the wider area. It would not create a significant negative impact upon the living conditions of neighbouring residents or present any highway safety concerns. It is considered that subject to conditions this application complies with the Sefton Local Plan and Formby and Little Altcar Neighbourhood plan.

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 and Proposed Plans referenced 1001C, 1002C, 1003C, 1004C, 1005C dated July 2022.

Reason: For the avoidance of doubt.

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.

Before the Development is Occupied

- 4) The proposed gable window shall be: i) obscure-glazed, and ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and maintained as such thereafter.

Reason: To protect the living conditions of nearby occupiers.

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Agenda Item 6

Report to:	Planning Committee	Date of Meeting:	Wednesday 21 st September 2022
Subject:	Planning Appeals		
Report of:	Chief Planning Officer	Wards Affected:	(All Wards)
Cabinet Portfolio:	Planning and Building Control		
Is this a Key Decision:	No	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary:

To advise members of the current situation with regards to appeals. Attached is a list of new appeals, enforcement appeals, development on existing appeals and copies of appeal decisions received from the Planning Inspectorate

Recommendation(s):

- (1) That the contents of this report be noted for information since the appeals decisions contained herein are material to the planning process and should be taken into account in future, relevant decisions.

Reasons for the Recommendation(s):

To update members on planning and enforcement appeals

Alternative Options Considered and Rejected: (including any Risk Implications)

N/A

What will it cost and how will it be financed?

(A) Revenue Costs

There are no direct revenue costs associated with the recommendations in this report.

(B) Capital Costs

There are no direct capital costs associated with the recommendations in this report.

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Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets): There are no resource implications	
Legal Implications: There are no legal implications	
Equality Implications: There are no equality implications.	
Climate Emergency Implications: The recommendations within this report will	
Have a positive impact	N
Have a neutral impact	Y
Have a negative impact	N
The Author has undertaken the Climate Emergency training for report authors	N
There are no climate emergency implications.	

Contribution to the Council's Core Purpose:

Protect the most vulnerable: Not applicable
Facilitate confident and resilient communities: Not applicable
Commission, broker and provide core services: Not applicable
Place – leadership and influencer: Not applicable
Drivers of change and reform: Not applicable
Facilitate sustainable economic prosperity: Not applicable
Greater income for social investment: Not applicable
Cleaner Greener: Not applicable

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.6950/22) and the Chief Legal and Democratic Officer (LD.5150/22) 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.

Contact Officer:	Tina Berry
Telephone Number:	0345 140 0845
Email Address:	planning.department@sefton.gov.uk

Appendices:

The following appendices are attached to this report:

Appeals extract from the back office system plus copies of any Planning Inspectorate decisions.

Background Papers:

The following background papers, which are not available anywhere else on the internet can be accessed on the Councils website www.sefton.gov.uk/planapps

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Appeals Received and Decisions Made

Email: planning.department@sefton.gov.uk

Contact Officer: Mr Steve Matthews 0345 140 0845

Please note that copies of all appeal decisions are available on our website:

<http://pa.sefton.gov.uk/online-applications/>

Appeal Decisions

18 Far Moss Road Crosby Liverpool L23 8TQ

Reference: DC/2022/00079 (APP/M4320/D/22/3299317)
Alterations to the approved scheme DC/2020/00413 to increase the size of the roof terrace to 6.765m and introduce larger privacy screens.

Procedure: Householder Appeal

Start Date: 27/05/2022

Decision: Dismissed

Decision Date: 16/08/2022

Telegraph House Moor Lane Crosby

Reference: DC/2021/01032 (APP/M4320/W/22/3297484)
Erection of a part four/part five storey building for mixed use including a commercial floorspace (Class E) at ground floor and 74 No. residential apartments (Class C3) on upper floors, roof terraces at fourth floor level and associated works including access and landscaping.

Procedure: Informal Hearing

Start Date: 23/05/2022

Decision: Withdrawn

Decision Date: 11/08/2022

Telegraph House Moor Lane Crosby

Reference: DC/2021/02920 (APP/M4320/W/22/3299551)
Erection of a part four/part five storey building for mixed use including a commercial floorspace (Class E) at ground floor and 74 No. residential apartments (Class C3) on upper floors, roof terraces at fourth floor level and associated works including access and landscaping (alternative to DC/2021/01032).

Procedure: Informal Hearing

Start Date: 10/06/2022

Decision: Withdrawn

Decision Date: 11/08/2022

77 Scarisbrick New Road Southport PR8 6LJ

Reference: EN/2022/00021 (APP/M4320/C/22/3293859)
Appeal against Construction of an outdoor swimming pool and retractable enclosure which is being used to provide swimming lessons which constitutes a material change of use and is not incidental to the enjoyment of the dwellinghouse

Procedure: Written Representations

Start Date: 24/03/2022

Decision: Dismissed

Decision Date: 10/08/2022

Lulworth Road Birkdale Southport PR8 2AT

Reference: DC/2021/02314 (APP/M4320/W/22/3295594)
Application under Prior Notification Procedure for the installation of 15.0 metre telecommunications monopole and associated ancillary works.

Procedure: Written Representations

Start Date: 25/05/2022

Decision: Dismissed

Decision Date: 10/08/2022

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459 Lord Street Southport PR9 0AQ

Reference: DC/2021/02736 (APP/M4320/W/22/3293755)

Variation of Condition 3 pursuant to planning permission DC/2017/00968 approved 12/10/2017, to change hours of business to 07:00 - 02:00 hrs

Procedure: Written Representations

Start Date: 14/04/2022

Decision: Dismissed

Decision Date: 19/07/2022

Poplar Lodge 15B Green Lane, Formby Liverpool L37 7DJ

Reference: DC/2021/02736 (APP/M4320/W/22/3293755)

Erection of a two storey extension to the side following demolition of the existing side extension/garage, porch to the front and first floor extension to the rear of the dwellinghouse in addition to alterations to the roof to form a double-pitch

Procedure: Householder Appeal

Start Date: 18/03/2022

Decision: Allowed

Decision Date: 22/06/2022

New Appeals

38 Waller Street Bootle L20 4PU

Reference: DC/2021/02960 (APP/M4320/W/22/3302854)

Change of Use from a dwellinghouse (C3) to a short term holiday let (Sui Generis) (Retrospective).

Procedure: Written Representations

Start Date: 19/08/2022

Decision:

Decision Date:

9 Cummins Avenue Formby Liverpool L37 7AL

Reference: DC/2021/01999 (APP/M4320/W/22/3297330)

Erection of a detached two storey dwellinghouse on land to be severed from 9 Cummins Avenue (Alternative to DC/2020/02593 refused 29/4/21)

Procedure: Written Representations

Start Date: 13/07/2022

Decision:

Decision Date:

26 Elsworth Close Formby Liverpool L37 2YS

Reference: DC/2021/01677 (APP/M4320/D/22/3301602)

Erection of a part two storey, part first floor extension to the front incorporating a porch, first floor extension to the side incorporating a Juliette balcony to the rear, a single storey extension to the rear and the raising of the ridge height of the dwelling.

Procedure: Householder Appeal

Start Date: 02/08/2022

Decision:

Decision Date:

64 Thornfield Road Thornton Liverpool L23 9XZ

Reference: EN/2022/00165 (APP/M4320/C/22/3303565)

Appeal against Without planning permission and within the last four years alterations from a hipped to gable end roof to incorporate a rear dormer extension and erection of a single storey extension to the side and rear of the dwellinghouse.

Procedure: Written Representations

Start Date: 26/08/2022

Decision:

Decision Date:

38 Waller Street Bootle L20 4PU

Reference: EN/2022/00159 (APP/M4320/C/22/3302856)
Appeal against Without planning permission and within the last
10 years change of use from a dwellinghouse (C3) to a short
term holiday let (Sui Generis).

Procedure: Written Representations

Start Date: 18/07/2022

Decision:

Decision Date:

Appeal Decision

Site visit made on 26 July 2022

by G Rollings BA(Hons) MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2022

Appeal Ref: APP/M4320/D/22/3299317

18 Far Moss Road, Crosby, L23 8TQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Tom Hardwick against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2022/00079, dated 17 January 2022, was refused by notice dated 4 March 2022.
 - The development proposed is alterations to the approved roof terrace to the rear of the property including enlarging the terrace size and introducing larger privacy screens.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of surrounding occupiers, with particular regard to privacy.

Reasons

3. The proposed terrace is on the second floor on a projecting flat roof at the rear of the property. It extends across most of the width of the building and permission exists for an enclosed terrace to cover part of the proposed space with a depth of around 3.5 metres, enclosed to the sides by opaque screens with a height of 1.7m ('the approved scheme'). The appeal scheme incorporates an enlargement of the enclosed area to a depth of about 6.7m, the full extent of the flat roof area, with enclosing side screens of 1.8m height. In both instances, the height of the rear screen would be 1.2m.
4. I viewed neighbouring properties from all parts of the existing flat roof to the extents of the approved and appeal schemes. Windows in the sides and rear elevations at 16 and 20 Far Moss Road were clearly visible from the part of the roof to be covered by the appeal proposal, but obscured in the approved proposal. Additional patio and garden areas could also be viewed more clearly. I took account of the fact that the proposed opaque screens would limit direct overlooking of neighbouring properties from the sides of the terrace in both cases. Nonetheless, in the appeal scheme, it would be possible to stand at the rear precipice of the terrace and look directly into the gardens of adjoining properties. Similar views in the approved scheme would be restricted by the mass of the building below.
5. The terrace would also be visible from the aforementioned areas and despite the opaque screen treatment, could result in neighbours having the impression

of being overlooked. Whilst there would be views from the terrace towards properties adjoining the rear of the appeal site, these are further away than Nos 16 and 20 and the effects of the appeal and approved schemes are not significantly different.

6. Nonetheless, the appeal scheme would lead to a loss of privacy, and this is sufficient for me to conclude that the proposed development would have a harmful effect on the living conditions of surrounding occupiers. It would conflict with the development plan for the area, *A Local Plan for Sefton* (2017), including Policy HC4 which seeks dwelling extensions of a design that does not result in a significant reduction to the living conditions of neighbouring occupiers, amongst other factors. This policy is consistent with the National Planning Policy Framework (2021), particularly paragraph 130 relating to design quality. I have also had regard to the Council's *House Extensions Supplementary Planning Document* (2018).

Other Matters

7. The appellant's reason for the proposed works is to ensure safe maintenance of the flat roof area. The unbalconied area of the roof in the approved scheme would require clearing of debris and cleaning, and I acknowledge that there would be a safety risk in accessing an unsecure area with no edge protection. However, this would have been considered in the design of the permitted scheme. I also appreciate that home improvement works can benefit the local economy, but both the existence of risk and the small economic benefit beyond that of the approved scheme does not outweigh the harm identified in the main issue.

Conclusion

8. There are no material considerations that lead me to a decision that is otherwise in accordance with the development plan for the area.
9. The appeal is dismissed.

G Rollings

INSPECTOR

Agenda Item 6


The Planning
Inspectorate

3C
Temple Quay House
2 The Square
Bristol
BS1 6PN

Direct Line: [REDACTED]
Customer Services:
[REDACTED]

Email: [REDACTED]
www.gov.uk/planning-inspectorate

Your Ref:
Our Ref: APP/M4320/W/22/3297484
Further appeal references at foot of letter

Mr Matthew Sobic
Savills (UK) Limited
Belvedere
12 Booth Street
Manchester
M2 4AW

11 August 2022

Dear Mr Sobic,

Town and Country Planning Act 1990
Appeals by Crossfield Exclusive Developments Limited
Site Addresses: Telegraph House and Adjacent Land , Moor Lane, Crosby, L23
2SF and Telegraph House and Adjacent Land, Moor Lane, Crosby, L23 2SF

Thank you for your letter withdrawing the above appeal(s).

I confirm no further action will be taken.

Any event arrangements made for the appeal(s) will be cancelled.

A copy of this letter has been sent to the local planning authority.

Yours sincerely,

Adam Hill
Adam Hill

<https://www.gov.uk/government/publications/planning-inspectorate-privacy-notice>

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is - www.planningportal.gov.uk/planning/appeals/online/search

Linked cases: APP/M4320/W/22/3299551



Appeal Decision

Site visit made on 28 July 2022

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 10 August 2022

Appeal Ref: APP/M4320/C/22/3293859

77 Scarisbrick New Road, Southport PR8 6LJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Thomas Howie against an enforcement notice issued by Sefton Metropolitan Borough Council.
- The enforcement notice was issued on 25 January 2022.
- The breach of planning control as alleged in the notice is the construction of an outdoor swimming pool and retractable enclosure which is being used to provide swimming lessons which constitutes a material change of use and is not incidental to the enjoyment of the dwellinghouse.
- The requirements of the notice are:
 - a) Remove the retractable enclosure from the property or reduce its height to no higher than 2.5 metres in order to comply with permitted development rights; and
 - b) Cease using the swimming pool for providing swimming lessons. Only use the swimming pool for purposes which are incidental to the enjoyment of the dwellinghouse.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (g) of the 1990 Act as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction and a variation in the terms set out below in the Formal Decision.

Preliminary Matters

1. The enforcement notice concerns a residential property, No 77 Scarisbrick New Road. It is alleged that a swimming pool in the rear garden is used for providing swimming lessons, which the Council argues constitutes a change of use. In cases where there is a dispute as to whether a material change of use has occurred, it is first necessary to establish the correct planning unit, and the present and previous primary (or main) uses of that unit. The planning unit is usually the unit of occupation, unless a smaller area can be identified which is separate and occupied for different and unrelated purposes. In this case, the planning unit comprises the dwelling house and its garden, which is correctly identified in the plan attached to the notice.
2. The next step is to establish to present and previous primary uses. It is clear that the previous use was as a dwelling house, which is a residential use. Further, there is no dispute that the swimming pool in the rear garden is used for providing swimming lessons for paying customers, as well as being used by the family living in the house. There is no physical or functional separation between the swimming pool and the house.

3. As such, the property would be in a mixed use of residential and the provision of swimming lessons. The concept of a mixed use being two or more primary uses existing within the same planning unit or unit of occupation. It is important that the allegation refers to all the components of the mixed use even if only one is required to cease. This is because, where there is a mixed use, it is not open to the Council to decouple elements of it; the use is a single mixed use with all its component activities. Even if the additional components are lawful, the enforcement notice should be corrected, if possible, to describe the mixed use properly.
4. Therefore, it is necessary for me to correct the allegation to - "without planning permission, the material change of use from residential to a mixed use of residential and for the provision of swimming lessons; including the construction of an outdoor swimming pool with a retractable enclosure to facilitate that change of use". I note that the Council is not seeking the removal of the pool, or the enclosure providing it is reduced in height. This acknowledges that a pool may be constructed and used for purposes incidental to the enjoyment of the dwelling house as such. Hence, the requirements would remain as set out in the notice.
5. The Council and the Appellant have agreed that I can use my powers of correction under Section 176(1)(a) of the 1990 Act. I am satisfied I can make such a change to the allegation without injustice since the effect of the notice would remain unchanged. The terms of the deemed planning application would change but the planning issues would not be materially altered.
6. In addition, the ground (b) appeal – that the matters alleged have not occurred as a matter of fact – relies on the argument that the alleged change of use does not amount to a breach of planning control. This is a ground (c) appeal and should be considered as such, which the main parties have agreed.

The ground (c) appeal

7. In order to succeed on a ground (c) appeal, the appellant must show on the balance of probabilities that the matters alleged in the notice, as corrected, do not constitute a breach of planning control. Therefore, I must decide whether a change of use to a mixed use of residential and for the provision of swimming lessons constitutes a breach of planning control.
8. Section 55(1) of the 1990 Act provides a broad definition of 'development', which comprises the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change in the use of any buildings or other land. Development requires planning permission under Section 57(1), and the carrying out of development without permission constitutes a breach of planning control under Section 171A(1).
9. The property is a substantial detached house with a relatively large garden, which is located within a residential area. A swimming pool with a glazed enclosure has been constructed in the rear garden, along the boundary with No 2A Balfour Road. The Appellant advises that the swimming pool is primarily for the benefit of the family living in the dwelling house. It is acknowledged that lessons are offered as a basis for sharing the benefit of the pool with the wider community, whilst also providing a way for the family to afford the maintenance of the pool.

10. The extended use of the pool for providing swimming lessons, combined with the commerciality of the lessons, results in a significant difference in the character of the residential property. There are also off-site effects, which third parties describe as comings and goings in relation to the swimming lessons and associated noise and disturbance, which have planning consequences. I accept that home businesses can operate from residential premises without amounting to a material change of use, but this is dependent on the type of activity and the site-specific circumstances. In this case, the number of customers using the facility, the size of the pool and the hours of use have resulted in a change in character when compared with the previous residential use.
11. I find, therefore, that the activities taking place on site give rise to such materially different planning circumstances that, as a matter of fact and degree, it has resulted in such a change in the definable character of the property that it amounts to a material change of use to the matters alleged. There is no planning permission for that use, and for the reasons given above, the use cannot be considered incidental to the enjoyment of the dwellinghouse. As such the exemption under Section 55(2)(d) of the 1990 Act does not apply and the appeal on ground (c) must fail.

The ground (a) appeal and the deemed planning application

Main Issue

12. The terms of the deemed planning application are derived from the corrected allegation. Therefore, planning permission is sought for the material change of use from residential to a mixed use of residential and for the provision of swimming lessons; including the construction of an outdoor swimming pool with a retractable enclosure to facilitate that change of use. I note the Appellant is not seeking to retain the enclosure in its current form, but I am required to deal with the matters alleged in the first instance.
13. The main issue is the effect of the development on the living conditions of neighbouring occupiers with regard to noise and light pollution.

Reasons

14. The appeal property is a large premises which can accommodate the swimming pool and enclosure while ensuring a good-sized usable garden remains. However, No 77 is close to the junction of Scarisbrick New Road with Balfour Road. The relationship of the appeal property to No 2A Balfour Road is such that the swimming pool is sited along the boundary that forms the rear wall to the neighbour's garden. While No 2A is a large, detached house, the rear garden is relatively modest in depth. Consequently, the swimming pool is situated close to the neighbour's house. In fact, it is closer to the neighbour's house than the host dwelling. The pool also adjoins the side boundary of No 3 Balfour Road, although I saw that it is screened to a certain extent by a rear extension and outbuilding at that property.
15. Although the swimming pool has a moveable enclosure, there is no apparent sound insulation. Lessons are held on a regular basis and I understand they typically take place during the afternoons on weekdays and in the mornings at the weekend. Numbers of customers vary, but the lessons can operate on a 1:1 basis or a 1:3 basis with parents waiting at the poolside. In the winter months the pool is lit to an appropriate level to enable safe use.

Agenda Item 6

Appeal Decision APP/M4320/C/22/3293859

16. The Council is concerned about light pollution and noise and disturbance from the use of the pool for swimming lessons. Due to the position of the pool in relation to No 2A, I share the Council's concerns about noise and disturbance. Even on a 1:1 basis, there would likely be parents waiting at poolside. This is in addition to customers arriving and waiting for lessons. This would introduce a level of activity into the rear garden, greater than would normally be expected in a residential area. This would have a harmful impact on the living conditions of No 2A Balfour Road due to the proximity. I appreciate that the pool can be used for the personal enjoyment of the occupants of the appeal premises but this is unlikely to lead to activity on a scale similar to that occurring as a result of lessons.
17. I accept that the pool could be illuminated if it were used for incidental purposes and this aspect may well be comparable to the illumination during lessons. However, the potential for noise and disturbance arising from the commercial use in a residential area, with this particular development layout, remains unacceptable in my judgement.
18. I am aware of the numerous letters of support for the development, in particular, the clear benefits of providing swimming lessons on a 1:1 basis for children, especially those with disabilities or special educational needs which I consider further below. There are also letters from neighbours that state there is no noise and disturbance resulting from the unauthorised use. However, there is also evidence to the contrary from those people living closest to the development.
19. I also note that the premises used to function as a day nursery, but that use ceased and this consideration carries limited weight. I am aware of other commercial venues in the vicinity but I must consider this case on its merits. Other commercial uses in different locations, with different development layouts, may be acceptable. I understand the Appellant's desire to continue to run a business from their home but this does not outweigh my concerns about the impact on neighbours' living conditions.
20. The Appellant draws my attention to planning permission for a public swimming pool to the rear of No 34 Grosvenor Road (Ref DC/2019/02039). It seems that there are elements of this development that are comparable, however, it is difficult for me to make a complete assessment as I am unaware of the site-specific circumstances. In this case, the pool is housed within a fully glazed enclosure with no sound proofing that is very close to a neighbouring house.
21. I have considered whether I could impose planning conditions to make the development acceptable. However, the extent of restrictions to the operation to reduce its impact to an acceptable level would have the effect of negating the planning permission, which would be unreasonable.
22. I appreciate that the Appellant offers an alternative scheme that would include a different type of enclosure. However, this would not overcome my concerns about the use itself.

Conclusion

23. I have considered the benefits of the development for children with special educational needs. Disability is a 'relevant protected characteristics' for the purposes of the Equality Act 2010 and the Public Sector Equality Duty. Hence, I

must have due regard to the need, among other things, to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not. The retention of the development would enable the children with special requirements to continue to access swimming lessons. However, there are other options for securing swimming lessons, albeit these are more limited due to the impact of the COVID-19 pandemic. On the other hand, the harm resulting from the development is considerable. The negative impact on the recipients of swimming lessons of dismissing this appeal would not outweigh the conflict with residential amenity.

24. I find that the development would have an adverse impact on the living conditions of neighbouring occupiers with regard to noise and disturbance. It would be contrary to Policies EQ4 and HC3 of the Local Plan (2017), which seek to protect residential amenity, and the National Planning Policy Framework insofar as it seeks to protect the amenity of existing and future occupiers. The development would not accord with the development plan as a whole and there are no material considerations that indicate a decision should be made otherwise. The ground (a) appeal fails, therefore.

The ground (g) appeal

25. The ground (g) appeal is that the compliance period falls short of what should reasonably be allowed. The Appellant is seeking a longer period to source and install a suitable enclosure. I accept that it will probably take longer than one month to install a suitable replacement. Consequently, I shall vary the compliance period to three months. This will also allow more time for customers to make other arrangements.

26. The ground (g) appeal succeeds to this extent.

Conclusion

27. For the reasons given above, I conclude that the appeal should succeed on ground (g) only. I shall uphold the enforcement notice with a correction and a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

28. It is directed that the enforcement notice is corrected by:

The deletion of the allegation in paragraph 3 of the notice and its replacement with "without planning permission, the material change of use from residential to a mixed use of residential and for the provision of swimming lessons; including the construction of an outdoor swimming pool with a retractable enclosure to facilitate that change of use", and varied by:

The replacement of "one month" with "three months" as the period for compliance in paragraph 5 of the notice. Subject to the correction and variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Debbie Moore

Inspector

Appeal Decision

Site visit made on 1 August 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2022

Appeal Ref: APP/M4320/W/22/3295594

Lulworth Rd/Palatine Rd, Birkdale, Southport PR8 2AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2021/02314, dated 18 September 2021, was refused by notice dated 15 November 2021.
 - The development proposed is a 15.0m Phase 8 monopole C/W wrapround cabinet at base and associated ancillary works.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO) under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have nevertheless had regard to Policy EQ2 of A Local Plan for Sefton (April 2017) (the LP) and the National Planning Policy Framework (the Framework) only in so far as they are material considerations relevant to matters of siting and appearance.

Main Issue

4. The effect of the siting and appearance of the proposed installation on the character and appearance of the area, including the Birkdale Conservation Area and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

5. The appeal site is located within the Birkdale Conservation Area (the BCA), whose significance is largely derived from the predominance of large, traditional villas which are set back from the highway within generous plots

- with mature landscaping. These features, along with the considerable width of the mainly tree-lined streets, contribute towards a spacious and green parkland setting. The openness of the appeal site reflects the positive features of the BCA.
6. The street furniture in the locality of the appeal site comprises a small bus shelter and street lighting columns which are of a limited height and width and tend to be set back from the footway edge thus are largely screened by trees. The surrounding buildings are also set back from the public realm and are limited in scale. As such, the built form and infrastructure in this locality are not dominant features in the street scene.
 7. To the contrary, the proposed installation would be of an excessive height and would be positioned close to the carriageway, in an area where the footway is more open due to its increased width and reduced tree planting and coverage. Although its siting would not impede pedestrian flow, it would however be in a prominent, open position and would be a noticeably dominant feature in the street scene due to the lack of screening. Accordingly, it would be a utilitarian feature that would visually jar with the spacious characteristics of the locality. I am not convinced that conditioning the colour of the installation would overcome these concerns.
 8. The appellant asserts that the associated cabinets are permitted development and thus are not subject to prior approval. It has not been demonstrated how they would meet the permitted development requirements and, moreover, as they form part of the telecommunications works that have been applied for it seems to me that the cabinets are only required in conjunction with the proposed monopole, hence it is reasonable to consider the collective effect of the proposed installation.
 9. Therefore, the siting and appearance of the proposal would cause harm to the character and appearance of the area, including the significance of the BCA, as it would be an unduly prominent and incongruous feature within an open part of the street scene. Overall, the harm to the significance of the BCA would be less than substantial. Paragraph 202 of the Framework states 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.
 10. The proposal would facilitate improvements to 5G coverage levels and network capacity within the locality and is noted as being essential to bring optimum telecommunications and mobile broadband in the area. I note that the area surrounding the appeal site is somewhat lacking in coverage and there is a congested cell nearby. Chapter 10 of the Framework supports the provision of high-quality communications, noting that advanced, high quality and reliable communications infrastructure is essential for economic growth and social wellbeing.
 11. The appellant has provided details of alternative sites which were considered for the proposed development and subsequently discounted. I acknowledge that the immediate area is residential in nature and there are heritage assets and tree canopies which may present issues with particular locations. Nevertheless, some of the alternative locations which were considered were some distance from the nominal, including sites outside of the BCA, yet coverage issues were not always sited as a reason for discounting them. I note

that there is variety in the built form and general streetscape in the wider area, particularly close to some of the considered alternative locations.

12. As such, there is nothing before me to suggest that there are no sites outside of the BCA or residential area which are not within the cell search target area or that they would not provide realistic alternatives. I am not therefore convinced that moving the proposal away from the currently proposed location would place it closer to more sensitive receptors or require a monopole of increased height. Furthermore, the reasons for discounting many of the alternatives are weak. Overall, I am not therefore satisfied that the search and assessment of alternative sites was sufficiently robust or that an exhaustive search for a site that is less harmful than the appeal site has been carried out.
13. Accordingly, although the proposal would result in economic and social benefits, as it has not been satisfactorily demonstrated that there is a need for the development to be sited in the proposed location or that other more suitable sites are not available, this limits the weight I can afford them. As such, the harm I have identified is not outweighed by the need for the installation to be sited as proposed.
14. Insofar as they are a material consideration, the proposal would be contrary to the aim in Policy EQ2 of the LP for proposals to respond positively to the character, local distinctiveness and form of its surroundings, and the Framework's objective of achieving well designed places.

Other Matters

15. I note the various concerns raised by third parties, namely regarding outlook and highway safety, however as I am dismissing this appeal for other reasons there is no need for me to consider these matters. Concerns in relation to the effect of the proposal on property values is a private interest and is not therefore a consideration for the planning system.
16. With regards to potential effects on health, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine.

Conclusion

17. For the reasons given above, I conclude that the appeal should be dismissed.

H Ellison

INSPECTOR



Appeal Decision

Site visit made on 14 June 2022

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

an Inspector appointed by the Secretary of State

Decision date: 19 July 2022

Appeal Ref: APP/M4320/W/22/3293755

459 Lord Street, Southport PR9 0AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Nagender Chindam (Sri & Jays Limited) against the decision of Sefton Council.
 - The application Ref DC/2021/02736, dated 19 November 2021, was refused by notice dated 20 January 2022.
 - The application sought planning permission for a change of use from an estate agents (A2) to a restaurant (A3) without complying with a condition attached to planning permission Ref DC/2017/00968, dated 12 October 2017.
 - The condition in dispute is No 3 which state that: "*The premises shall not be open for business outside the hours of 07:00 - 00:00*".
 - The reason given for the condition is: "*In the interests of residential amenity*".
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal site comprises of a ground floor restaurant unit which was granted permission (DC/2017/00968) in October 2017. Conditions were imposed, including one that restricted the hours that the use could operate. The application which is the subject of this appeal seeks to vary these conditions to allow an additional two hours of use from 12 midnight to 2am.

Main Issue

3. The main issue is whether the restriction on the hours of use is necessary and reasonable having regard to the living conditions of the occupiers of neighbouring residential properties, with particular reference to noise and disturbance.

Reasons

4. Lord Street is a busy high street in a town centre location which contains a range of ground floor uses, including retail, restaurant and drinking establishments. The site has an external area to the rear of the main building, beyond which is a building that leads on to Stanley Street. It was evident from my site visit that unlike the busy Lord Street with its range of commercial activities, Stanley Street was quieter and contained residential properties. Given the proximity of residential properties along Stanley Street, outdoor activity in this area, such as music and talking would likely cause an

- unacceptable level of noise and disturbance to local residents at a time of day when much lower levels would be reasonably expected.
5. The appellant has said the external seating area can cease at midnight, allowing the business to operate after this time from the remainder of the property. Although further details defining the extent of the external area could be sought and the extended hours be limited to Friday's and Saturday's, I have not been provided with details on how a differing restriction on the business hours between the internal and external areas could be implemented. I was able to see that as well as the main building, there is a further building within the red edge, adjacent to Stanley Street. Whilst the rear door from the main building on Lord Street could be locked, the rear building to Stanley Street would need to be accessed from the outdoor seating area or from Stanley Street itself. It would not be clear how those passing through this space could be differentiated from those utilising this space. As such, based on the evidence before me, I am not convinced that such a restriction could be effectively monitored and enforced given the overall lawful use of the site within the defined appeal site.
 6. The said condition is therefore necessary and reasonable, having regard to the effect that the additional hours of operating would have on the living conditions of neighbouring residential occupiers due to potential noise disturbance. In this respect the proposal would conflict with Policy EQ4 of the Local Plan for Sefton, which seeks, amongst other matters, to minimise the risks of adverse impacts including from noise.
 7. Although the process to obtain a premises licence is rigorous and includes extensive consultation, there is a clear distinction between licensing considerations and those of planning. In the case of the latter, planning permission relates to the use of the land and typically, does not take account of the occupant of the premises at any particular time.
 8. The proposal would support the business in a competitive environment with rising electric utility costs and particular difficulties within the hospitality sector¹, particularly after the Covid-19 pandemic. This would have a wider benefit in supporting local jobs, the vitality and viability of the town centre at night and in heritage terms where there are properties that are currently vacant. Whilst recognising these benefits, particularly for small businesses, they would be significantly off-set by the likely adverse impact upon the neighbouring residential occupiers. I am also unaware that, without the change in opening hours, the business would necessarily struggle in these regards.
 9. My attention has been drawn to various other establishments in the area which have later operating hours than the appeal business. I am not aware of the full circumstances of these referenced cases, including when they were granted planning permissions and their relationship to surrounding residential properties. Although a number of these are said to have outdoor seating to Lord Street, there is no information before me on whether any have seating to the rear, behind the buildings fronting Lord Street. As such, I cannot be certain that any of these other uses are comparable to the appeal scheme.
 10. A Grade II listed veranda is situated to the front of part of the appeal terrace. The appeal site is also situated within the Lord Street Conservation Area. I

¹ Coronavirus and its impact on UK hospitality: January 2020 to June 2021 (Office for National Statistics)

have had special regard to the statutory duty where it is necessary to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and the building. Since the appeal scheme would not involve any operational development or material changes of use, I do not find harm in regard to these matters.

Conclusion

11. I have found that the development would conflict with the development plan read as a whole. It has not been demonstrated that there are any material considerations of sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, the appeal is dismissed.

F Rafiq

INSPECTOR

Appeal Decision

Site visit made on 30 May 2022 by Hilary Senior BA (Hons) MCD MRTPI

Decision by J Hunter BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2022

Appeal Ref: APP/M4320/D/22/3294584

Poplar Lodge, 15B Green Lane, Formby, L37 7DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Martin against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2021/01434, dated 28 May 2021, was refused by notice dated 28 January 2022.
 - The development proposed is side extension and alterations to gain more head height in current lean-to roof, with new front porch and alterations to existing roof at rear.
-

Decision

1. The appeal is allowed and planning permission is granted for a two storey extension to the side following demolition of the existing side extension/garage, porch to the front and first floor extension to the rear of the dwellinghouse in addition to alterations to the roof to form a double-pitch at 15B Green Lane, Formby, L37 7DJ in accordance with the terms of the application, Ref DC/2021/01434, dated 28 May 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P_01 Location plan, P_03 Proposed ground floor plan, P_05 Proposed first floor plan, P_07 Proposed front elevation, P_09 Proposed rear elevation, P_11 Proposed side elevation 1, P_13 Proposed side elevation 2.
 - 3) The materials to be used in the construction of external surfaces of the development hereby permitted shall match those used in the existing building.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The description of development in the formal decision is taken from the Decision Notice rather than the planning application form, as this provides a more precise description of the development.

4. The reason for refusal on the Councils decision notice refers to Policy HC3 of the Sefton Council – A Local plan for Sefton (2017). The Council have confirmed that this is an incorrect policy reference and that Policy HC4- House Extensions, Houses in Multiple Occupation and Flats is the correct policy. I have been supplied with Policy HC4 and have determined the appeal with reference to it.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the occupiers of No 15a Green Lane with particular regard to outlook.

Reasons for the Recommendation

6. The host dwelling is a previously extended two storey detached dwelling set back from the road. The property is set in an established residential area where there are a variety of house types, designs and landscaping which collectively, afford the area with an open and verdant character. The host dwelling is a relatively modern building, the proposed extensions would allow a remodelling of the internal layout.
7. Sefton Council House Extensions Supplementary Planning Document (2018) (SPD) advises that extensions should not have an overbearing effect on nearby properties, taking account of the position of the neighbouring windows and the way they face in relation to the extension. There should be at least 12m from blank 2 storey walls to neighbouring habitable rooms except in exceptional circumstances. In this case, the existing extension does not meet the guidance being closer to the neighbouring property than 12 metres.
8. The side elevation of the neighbouring property (No 15a) faces the side of the host dwelling and is separated from it by tall close boarded fencing, a path and landscaping. No 15a Green Lane is a single storey listed building with low level window openings serving both a bedroom and a kitchen in the side elevation. Due to the low level windows, the current outlook from these windows limited by the fence and the roof of the existing extension. Whilst the proposed extension would result in a higher rendered wall being visible from the neighbouring property the outlook would not be significantly additionally harmed by the proposal.
9. I conclude that the proposal would not result in a significant reduction in the living conditions of the occupiers of No 15a Green Lane with particular regard to outlook. It would therefore comply with Policy HC4 of the Sefton Council – A Local plan for Sefton (2017) which amongst other things, seeks to ensure that development should not have unacceptable impacts on the living conditions of neighbouring properties, in particular that there should be no loss of outlook on main windows of habitable rooms.

Other Matters

10. The host property lies within the Green Lane Conservation Area and the neighbouring property, May Cottage No 15a Green Lane is a Listed Building. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area and preserving the setting of the listed building.

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11. The Council, in determining the planning application concluded that the extensions would preserve or enhance the character or appearance of a conservation area and preserve the setting of the listed building, due to the design of the proposal and that there would be no significant alterations to the footprint of the building. From the evidence before me and my observations on site there is no reason to disagree.

Conditions

12. I have had regard to the conditions suggested by the Council in line with the advice in the National Planning Policy Framework and the Planning Practice Guidance. In addition to the standard timeframe condition, I consider that a condition requiring the development to be constructed in accordance with the approved plans is necessary for the avoidance of doubt. A condition regarding external materials is also necessary to ensure there would be no harm to the character or appearance of the appeal property or the surrounding area.

Conclusion and Recommendation

13. The proposal does not conflict with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweigh this finding.
14. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

Hilary Senior

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

J Hunter

INSPECTOR

Planning Committee
Visiting Panel Schedule

Date Tuesday 20th September 2022
Start: 10:00 am at BOOTLE TOWN HALL

Agenda Item	Time	Application Details	Ward
4A	10.20am	DC/2022/01546 The Northern Road Crosby	Victoria Ward
5A	11.00am	DC/2022/00950 40 Buckfast Close Formby	Ravenmeols Ward

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