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Sefton Council



MEETING: PLANNING COMMITTEE

DATE: 14th December 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. Laura Lunn-Bates
Cllr. Susan Bradshaw
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 Democratic Services
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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.

A G E N D A

1. Apologies for Absence

2. Declarations of Interest

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

Where a Member discloses a Disclosable Pecuniary Interest, he/she must withdraw from the meeting 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 16 November 2022 (Pages 5 - 8)

4. Applications for Planning Permission - Petitions

Reports of the Chief Planning Officer

A DC/2022/01189 - Land to the rear of 19 College Avenue, Formby, Liverpool (Pages 9 - 22)

B DC/2022/01276 - 5 and 5A Bury Road, Birkdale, Southport (Pages 23 - 34)

5. Applications for Planning Permission - Approvals

Report of the Chief Planning Officer

A DC/2022/01805 - Former Z Block Sites Buckley Hill Lane Netherton (Pages 35 - 48)

6. Planning Appeals Report (Pages 49 - 62)

Report of Chief Planning Officer

7. Visiting Panel Schedule (Pages 63 - 64)

Report of Chief Planning Officer

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

PLANNING COMMITTEE

MEETING HELD AT BOOTLE TOWN HALL ON 16 NOVEMBER 2022

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

Councillors Dodd, Hansen, Irving, John Kelly,
Sonya Kelly, McGinnity, Richards, Riley, Roche,
Spencer, Lynne Thompson, Tweed and Waterfield

46. APOLOGIES FOR ABSENCE

No apologies for absence were received.

47. DECLARATIONS OF INTEREST

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

48. MINUTES OF THE MEETING HELD ON 19 OCTOBER 2022

RESOLVED:

That the Minutes of the meeting held on 19 October 2022 be confirmed as a correct record.

49. DC/2022/00727 - LAND OFF SENTINEL WAY / HEYSHAM ROAD, NETHERTON

The Committee considered the report of the Chief Planning Officer recommending that the above application for full planning permission for residential development with creation of site access including landscaping, parking, supporting infrastructure and other associated works be granted subject to the conditions and for the reasons stated or referred to in the report.

Arising from the discussion Members were concerned about a number of matters which they considered would result in inadequate living conditions for future residents. These included:

- poor air quality due to heavily trafficked nearby roads, including Heysham Road, and the dust from the cement plant opposite the site;

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- noise from the adjoining industrial use (including from reversing vehicles) and the railway;
- conflict between the path emerging from the development and the turning circle at the Heysham Road end of the site, causing danger for pedestrians and in particular children as this development would be geared towards families; and
- overlooking of gardens from the railway.

The Committee concluded that the above factors, in combination, would create an unsatisfactory living environment.

RESOLVED:

That the recommendation be not approved and the application be refused for the reason that this linear site is hemmed in by the railway along one side and land used for industrial purposes on the other side, and a waste disposal use and cement plant fronting the Heysham Road end of the site. These uses, together with heavily trafficked nearby roads, generate noise and air pollution. The turning circle at the Heysham Road end is used by large vehicles and is likely to result in danger to pedestrians and cyclists on the path leading from the development. In combination, these factors would result in a poor form of development with unsatisfactory living conditions for future residents and would be contrary to Policies EQ2(2), EQ4 (1, 2 & 4), and EQ3(f) of the Sefton Local Plan, and paragraph 130 (f) of the National Planning Policy Framework.

50. DC/2022/00704 - 55 CHAPEL STREET, SOUTHPORT

The Committee considered the report of the Chief Planning Officer recommending that the above application for the change of use of the first, second and third floors from retail to residential, to create 2 No. one bed apartments and 1 No. two bed apartment be granted subject to the conditions and for the reasons stated or referred to in the report.

Arising from the discussion Members referred to the exit from the upper floors in the case of an emergency and it was reported that this aspect could be dealt with under building regulations.

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 an informative advising of the need to ensure adequate fire escape.

51. 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
Tonik Rok Ltd	DC/2021/02531 (APP/M4320/W/22/3290162) - The Doric 146 Rawson Road Seaforth Liverpool L21 1HR - appeal against refusal by the Council to grant Planning Permission for the change of use from Public House (A4) to a House in Multiple Occupation (HMO) (Sui Generis) (12 Units) after demolition of existing attached outbuildings to the rear	Allowed 27.09.22
Mr Dodd	DC/2021/01677 (APP/M4320/D/22/3301602) - 26 Elsworth Close Formby Liverpool L37 2YS - appeal against the refusal by the Council to grant Planning Permission for the 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.	Allowed 21.09.22

RESOLVED:

That the report be noted.

52. VISITING PANEL SCHEDULE

The Committee considered the report of the Chief Planning Officer which advised that the undermentioned site had been inspected by the Visiting Panel on 14 November 2022.

Application No.	Site
DC/2022/00727	Land off Sentinel Way / Heysham Road, Netherton

RESOLVED:

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

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Report to: PLANNING COMMITTEE **Date of Meeting:** 14th December 2022

Subject: [DC/2022/01189 – Land to the rear of 19 College Avenue, Formby, Liverpool, L37 3JL](#)

Proposal: Erection of a detached two storey (plus attic floor) dwellinghouse

Applicant: Mr. Ian Morris **Agent:** Mr. David Bennet, Keith David Partnership Architects

Ward: Harington **Type:** Full Application

Reason for Committee Determination: Petition objecting to the application endorsed by Councillor Irving (who also called-in the application)

Summary

This application seeks approval for the erection of a detached dwelling on a plot that has been severed from the rear of Number 19 College Avenue within a Primarily Residential Area of Formby. It is considered that the principle of development and the impact on the character of the area is acceptable, that there will be no unacceptable impacts on the living conditions of neighbouring properties or on future occupiers of the proposal and that sufficient access can be provided. The proposal is therefore recommended for approval with conditions.

Recommendation: Approval with Conditions

Case Officer Neil Mackie
Email planning.department@sefton.gov.uk

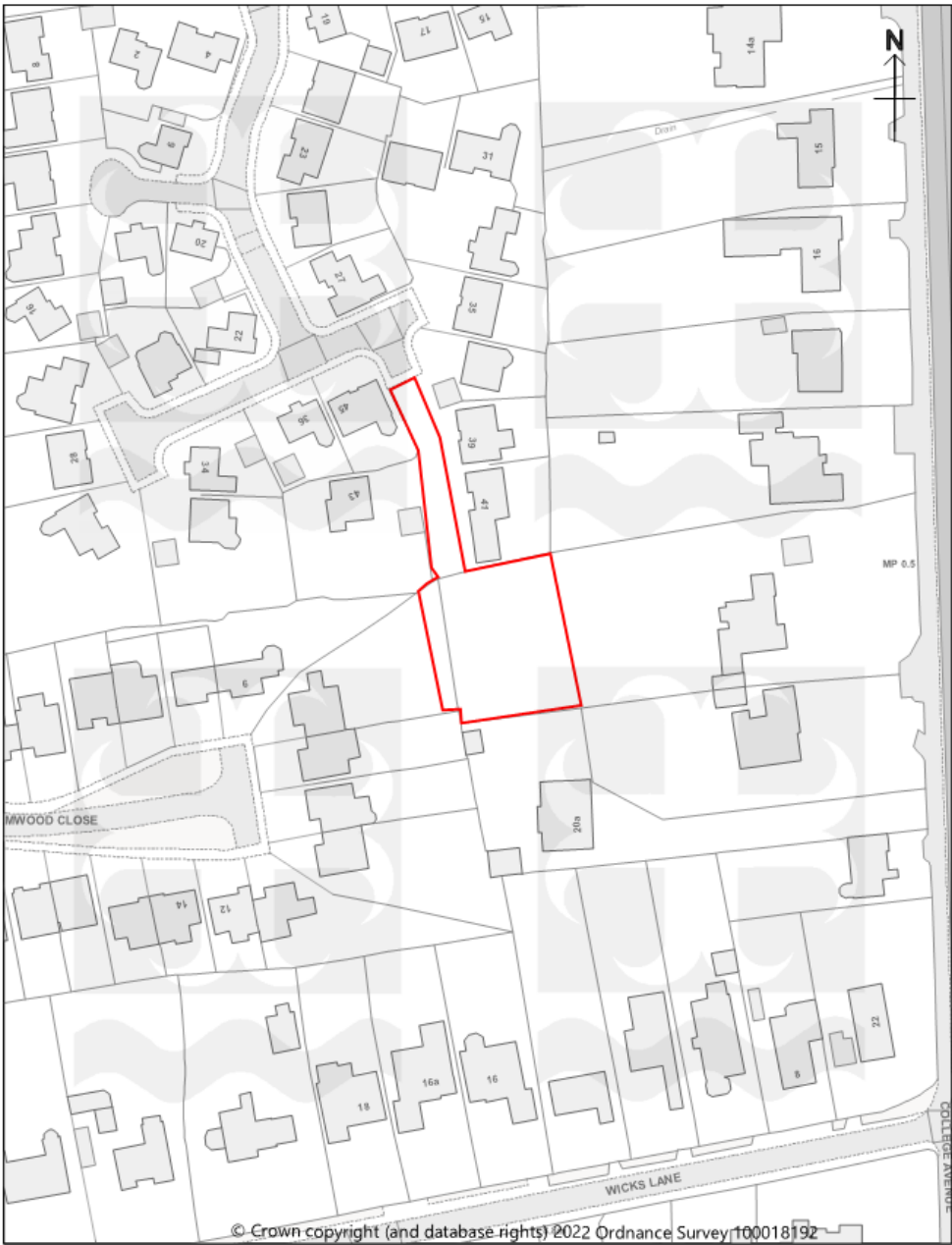
Telephone 0345 140 0845

Application documents and plans are available at:

<http://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R9Z5TYNWHRY00>

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Site Location Plan



Sefton Council



Reference: DC/2022/01189
Date: 05/12/2022
Scale: 1:1250
Created by: MB

DC/2022/01189
Land to the rear of 19 College Avenue
Formby L37 3JL

The Site

The site comprises a plot of land that has been severed from the rear of Number 19 College Avenue within a Primarily Residential Area of Formby. To the north and west of the site are two-storey residential properties on Holmwood Close and The Evergreens, with a two-storey property to the south (Number 20a College Avenue). Bordering the site to the north is a sycamore protected by Tree Preservation Order 109.

History

N/1998/0222 - Erection of 1 detached two-storey dwellinghouse to form part of the former Holmwood School residential development site at Barkfield Lane. Approved 4th June 1998.

Consultations

Highways Manager - No objection as there are no adverse highway safety implications. Note that the access to The Evergreens is over a private access road and that it has not been indicated that the applicant has right of access over this or that consent of the owner(s) has been granted for its use.

Environmental Health Manager - No objection subject to conditions securing a Construction Environmental Management Plan (due to the proximity of neighbouring properties) and seeking details for any piling or ground-compaction.

Flooding & Drainage Manager - No objection.

Network Rail - No objection.

Formby Parish Council - No comments made.

Little Altcar Parish Council - No comments made.

Merseyside Fire & Rescue Service - Reference made for need to comply with Approved Document B5 of the Building Regulations and s55 of the County of Merseyside Act 1980.

Neighbour Representations

A petition objecting to the proposal with 25 signatories has been endorsed by Councillor Irving. The petition objects to the application for the following reasons:

- The proposal is inconsistent with the Local Plan in respect of backland development and infringes on the Neighbourhood Plan
- The density of the development will have a very dominating aspect on the surrounding properties, contrary to policy
- The proposal will be a three-storey house contrary to policy

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- The dwelling will cause significant detriment to the landscape and change the visual character and street pattern of the area, as it would not represent the character and distinctiveness of its surroundings nor add to the overall quality of the area
- The proposal will have a severe impact on the privacy of neighbouring homes, particularly to a side window serving a habitable room window at No 41 The Evergreens
- The building size is excessive for the plot
- The proposed access is shown to be wider on the plans than it is in reality, running across third party properties
- Construction traffic will lead to problems due to the site location and access
- The proposal will result in a loss of trees, and interfere with those to neighbouring properties
- Query the findings of the preliminary ecological appraisal as based on anecdotal evidence the site has been well used by red squirrel, hedgehogs and birds for over 25 years.

Individual objections have been received from Numbers 37, 39, 41 and 45 The Evergreens and Numbers 19 and 20A College Avenue. Issues raised by objectors relate to:

- The proposal by virtue of its size and proximity to boundaries, along with associated traffic and vehicle related noise will have a severe impact on the privacy and enjoyment of neighbouring homes
- The building size is excessive for the plot, being in excess of 30% of the plot size
- The building will be too large in relation to existing properties on The Evergreens, the road from which the proposal will gain its access
- The proposal is for a three-storey dwelling and not two-storey as described
- The proposal will overlook neighbouring rear gardens (9.3m distance to garden of No 41 The Evergreens) and no more than 12m from a habitable room window to the side of No 41
- The permissive access driveway has been incorrectly interpreted within the application documents and is narrower than shown
- There is insufficient space for visitor parking within the site
- There will be insufficient access for construction traffic without trespass or disruption to Nos 37-45 The Evergreens
- Concerns regarding access by emergency vehicles, particularly fire appliances
- There is no access to the shared sewers and stated that previous agreements may have lapsed
- Concerns about impacts on trees
- The use of piling to protect trees would not be appropriate in this residential location.
- Concerns about impact on ecology
- Concerns regarding future use of building as flats

Queries were also made regarding the given address of the site, but the absence of any separate address for this plot of land within the Local Land Property Gazetteer meant that 'Land to the rear of 19 College Avenue' was as accurate as could be.

Councillor Irving has called this application in to be determined by Planning Committee.

Councillor Irving also submitted objections to the proposal on the basis that even with amendments the proposal represents a three-storey dwelling, which is contrary to Neighbourhood Plan policy H5. He also considers that the sheer size of the property, the density, scale and massing would result in a very dominant feature in this area of two-storey dwellings contrary to Neighbourhood Plan policy H1 and Local Plan policy EQ2. He is also concerned as to how drainage is to be dealt with and queries the true extent of the permissive access to the site from The Evergreens. Cllr Irving also queried the absence of tree and ecological surveys, which were then provided by the applicant.

Policy Context

The application site lies within an area designated as a Primarily Residential Area in the Sefton Local Plan (LP), adopted by the Council in April 2017. The National Planning Policy Framework, the New Housing (2018) Supplementary Planning Document and Sustainable Travel and Development (2018) Supplementary Planning Document are also material.

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

Assessment of the Proposal

This application seeks approval for the erection of a detached two-storey dwelling, with accommodation in the roofspace, and associated ground-works and landscaping.

The main issues to consider in respect of this application are the principle of development, the impact on the character of the area, the impact on the living conditions of neighbouring properties, the living conditions to be provided to future occupiers and the access to the property.

Principle of Development

As this site lies within a designated Primarily Residential Area, Local Plan policy HC3 'Residential Development and Primarily Residential Areas' is of direct relevance. This allows for new residential development where it is consistent with other Local Plan policies.

The Formby & Little Altcar Neighbourhood Plan, in Policy GP1 'Spatial Strategy', promotes the infilling of the settlement boundary (which this proposal falls within) for future housing, economic and community related development. Policy H2 'New Housing' requires new housing to be well connected within the site and within the wider town.

Subject to the assessment of the other matters that follow, the principle of development can be accepted.

Character of the Area

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Local Plan policy EQ2 'Design' only permits development where it responds positively to the character, local distinctiveness and form of its surrounding. This approach is also taken within Neighbourhood Plan policy ESD2 'High Quality Design'.

Backland development is commonplace to the immediate area, as seen to the neighbouring Number 20a College Avenue, and as such the provision of a further dwelling here would be appropriate to the overall character of the area. This was a view also taken in granting the 1998 approval for this same site.

The general appearance of the proposal (in regard to the roof pitches, the fenestration and variation to elevations) and the finishing materials are acceptable and draw from those seen in the immediate area.

The scale of the dwelling has been reduced since the original submission so it better responds to the height of neighbouring properties and to respond to the requirements of Policy H5 of the Neighbourhood Plan (presumption against development of more than 2.5 storeys unless it can be demonstrated that such development is appropriate).

Objectors and Councillor Irving contend that the as-amended scheme remains a three-storey dwelling but based on the elevations and the position of windows, limited to two-floors with rooflights to the roof. This is not agreed. The proposal presents as a two-storey dwelling and as such does not fall foul of Neighbourhood Plan policy H5, which does not specify a maximum height for a dwelling merely that there will be a presumption against anything greater than 2.5 storeys.

Objectors reference the dwelling being too large for the plot, with the built footprint being too great. This is not agreed with. It is considered that the proposal represents a largely standard form of development as seen to this residential area, with a deeper rear garden than front and separation to the side elevations. Other 'as built' or extended properties in the immediate area also run close to shared side boundaries and this forms part of the prevailing character of the area.

Further, the application site (excluding the access) occupies an area of 0.1ha and so would represent a density of 10 dwellings per hectare. While this is below the density target within the Council's guidance as well as that within policy H1 'Density' of the Neighbourhood Plan. While below the recommended target of 25-30 dwellings per hectare within the Neighbourhood Plan it is considered that this density reflects the prevailing character and is acceptable.

In respect of the garden size, this is commensurate with that seen to neighbouring properties and within the area.

On this matter the proposal is considered to be compliant with the aims and objectives of the Local and Neighbourhood Plans.

Living Conditions
Neighbouring Properties

As scaled from the submitted plans there will be sufficient interface distances from habitable room windows, particularly upper-floor windows, to the rear gardens and habitable room windows of neighbours on The Evergreens to comply with the Council's guidance, save for the rear garden to Number 41.

The submitted proposed site plan shows a distance of 9.3m from the first-floor front elevation of the proposed dwelling to the side boundary with the garden of Number 41. The Council's guidance recommends a minimum distance of 10.5m between habitable room windows and boundaries with gardens, but as held by the Planning Inspectorate and others on decisions made in the borough this is guidance and can be departed from where justified. Given the overall width of the rear garden to Number 41 it is not agreed that a shortfall here would give rise to significant harm in respect of overlooking with a subsequent unacceptable impact on the living conditions or useability of the garden as a whole.

The occupier of Number 41 also highlights the impacts of the proposal on a window to the side elevation of the ground-floor of their dwelling, which is stated to be used as a study (and shown as such within planning permission reference N/2001/0113). While the distance between this window and the nearest window to the proposal will be around 19m (less than the recommended guidance of 21m) it is considered that this will not result in unacceptable impacts. The addition of a window to a side elevation with views towards land outside of the control of the applicant is their choice and as such should not sterilise or act as a bar to development coming forward. Further, the remainder of the dwelling is unaffected by any direct overlooking and as such it cannot be said that there will be unacceptable impacts to the living conditions of the dwelling as a whole.

Representations received from Number 20a College Avenue, the neighbouring backland dwelling to the south of the application site, raise concerns about overlooking of habitable room windows as well as overlooking the rear garden. As taken from Ordnance Survey mapping the north-facing elevation of No 20a is at least 15m from the shared boundary with the proposal, and then the first-floor windows and juliet balconies to the proposal are 14m from this boundary, comfortably exceeding the 21m minimum as recommend within the guidance. The ground-floor windows of the single-storey elements to the rear of the proposal are closer to the boundary, 10.1m, but the total distance will still exceed the 21m guidance.

In respect of the distance of windows to the rear garden of Number 20a, the ground-floor windows will be below the recommended 10.5m within the guidance but being ground-floor they are unlikely to give rise to unacceptable impacts through overlooking and subsequent loss of privacy.

The position of the dwelling from boundaries allied with the orientation and/or depths of neighbouring gardens ensures that the proposal will not contribute to unacceptable impacts through overshadowing gardens or habitable room windows. Further, the siting will ensure that while visible the proposal will not result in an overbearing or overly dominant building that would

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have an unacceptable impact on the enjoyment of rear gardens or otherwise lessen the living conditions of neighbouring properties.

Post-construction, the comings and goings from this single dwelling to The Evergreens are unlikely to be so great as to result in unacceptable impacts through noise and/or general disturbance.

In view of the above it is therefore considered that the proposal will not give rise to unacceptable impacts to the living conditions of current or future occupiers of neighbouring properties

Future Occupiers

The garden size comfortably exceeds the minimum required within the Council's guidance and all the habitable rooms to the ground and first-floors will have good outlook. The two bedrooms within the roofspace will only be served by rooflights but this will be apparent to any future occupier. Given the floorspace of the proposal it is unlikely that this shortfall would result in unacceptable living conditions for future occupiers and furthermore if this was to be an issue for future occupiers then the building is capable of being adapted to meet future needs (for example subsequent approval would not be required for the use of the first-floor cinema/games room as a bedroom(s) in the future).

Taking a balanced view it is therefore considered that the proposal will provide for acceptable living conditions for future occupiers.

Access

A key point of contention from objectors is that access to this property will be through an existing private driveway serving a number of properties on The Evergreens. No information was originally submitted with the application to demonstrate that there was a right of way or other secured access from the application site across unadopted land to The Evergreens highway.

While objectors make reference to a permissive right of way they highlight that the extent of the red-line application site is much larger than the right of way, as physically shown within the existing private access serving properties, and query whether such an access is suitable (plus querying highway impacts arising from construction activities).

The property having sufficient pedestrian and vehicle access from the highway is a key issue as to whether the proposal as a whole is acceptable or not. If it relied upon the agreement of third parties to secure or otherwise implement, then a condition securing sufficient access prior to occupation would be insufficient (as it would fail to meet the relevant tests) but instead a planning obligation, to be entered into by all parties, would be required.

The agent for the application contends that there is a permissive right of way for the dwelling and that sufficient access can be provided through a condition.

In view of the above it is considered reasonable to secure the details of and provision for access from The Evergreens highway by way of a condition attached to any approval.

Other Matters

Trees

The proposal seeks the removal of all trees present on site. As set out in the submitted Tree Survey Assessment, all but one of those trees are considered to be 'C' class in terms of quality (the other is 'B' class) and as such their removal is justified.

The proposed site plan indicates new tree planting but does not specify their size or species. So as to ensure compliance with the Local Plan such details will be required, which can be secured by a condition attached to approval (as will the implementation of an approved landscaping scheme.)

In respect of the impact on trees adjoining the application site, the assessment provides for marked root protection areas and advises methods of development such as piling and the use of porous surfaces retaining the existing ground levels (e.g. geoweb or similar, with all works done by hand) on areas of hard surfacing. Further, the assessment also recommends crown pruning to three trees (marked as T1, T3 and T9 in the assessment) whose crowns overhang the site.

As such it is considered that subject to adhering to arboricultural standards that the proposal is unlikely to cause harm to off-site trees, whilst the loss of on site trees would be acceptable subject to replacement tree planting.

Ecology

The application is supported by a Preliminary Ecological Appraisal undertaken by Tyrer Ecological Consultants Ltd with surveying carried out on 20th September 2022.

The appraisal considers that the sole building on site, a small timber shed, provides negligible bat roost suitability and that the trees on site are absent of any "extensive rot holes, cracks, woodpecker holes, peeling bark, splits or other crevices typically used by bats" and as such also have negligible bat roost suitability.

No physical evidence of red squirrel activity was found in the site nor was any evidence of bird nesting. Further there were no field signs to indicate the presence of badgers within the site, with the absence of suitable habitat for sett building indicating that their presence is highly unlikely.

The appraisal considers that the site is unsuitable for great crested newts, common toad, common frog and reptiles, and that the site has few features that would likely provide habitat for invertebrates.

The appraisal does consider that the nature of the site may provide some suitability for shelter and hibernation for hedgehogs and so their presence throughout the year is considered to be possible.

In respect of flora no botanical species of conservation were identified within the site.

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Although objectors have made anecdotal statements regarding the presence of protected species on the site no evidence has been provided to counter that provided by suitably qualified and experienced ecologists within the Assessment.

The appraisal recommends that the removal of trees, shrubs and vegetation is limited to being outside of the bird nesting season, which can be secured by a condition attached to any approval. Reasonable Avoidance Measures are recommended, to be set out within a working method statement, to reduce the risk of harming small mammals or other “terrestrial fauna”. The method statement can be secured by a condition.

Notwithstanding the absence of evidence of red squirrel use within the site it is considered reasonable to attach a condition to any approval requiring all trees and shrubs to be checked for dreys prior to their removal, with a report confirming this to be submitted to the Council.

Moving beyond matters of protection, a number of options to enhance biodiversity are recommended within Appendix III of the appraisal. As such a condition will be attached to any approval seeking the details of the number and location of bat boxes, bird boxes, bee bricks and hedgehog ‘highways’ to be provided within the site, along with a timetable for their implementation.

Drainage

As the proposal will result in a net increase in the impermeable surface of the site it is considered reasonable and necessary to secure the submission, approval and subsequent implementation of a full sustainable drainage scheme by a condition. This is necessary to ensure that flood risk isn’t increased on this site or, importantly, to neighbouring sites, which is a requirement within Neighbourhood Plan policy F1 and Local Plan policy EQ8. Given the current nature of the site any drainage scheme must achieve a greenfield runoff rate.

Subject to the condition being met this aspect of the proposal is considered acceptable.

Conclusion

In view of the above it is considered that this application complies with the aims and objectives of the Formby & Little Altcar Neighbourhood Plan, the Local Plan and all other material considerations. The proposal is therefore recommended for approval with the conditions that follow.

Recommendation – Approval with Conditions

Time Limit for Commencement

- 1) The development hereby permitted shall be commenced before the expiration of three 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:

00 Rev A 'Location Plan'

05 Rev F 'Existing and Proposed Site Plans'

10 Rev F 'Proposed Plans'

15 Rev G 'Proposed Elevations'

Preliminary Ecological Appraisal, October 2022, Tyrer Ecological Consultants Ltd

BS5837 Tree Survey Assessment, ref 220653_22/A1, June 2022, Indigo Surveys Ltd

Reason: For the avoidance of doubt.

Before the Development is Commenced

- 3) No development shall commence, including any works of demolition, until a Highways Construction Management Plan has been submitted to, and approved in writing by, the local planning authority.

This shall include but not be limited to such matters as the number of trips and type of vehicles to be used, the delivery hours, the location and extent of a site compound for parking of vehicles and the location and extent of wheel washing facilities (or other measures to limit the potential spreading mud on the carriageway).

The approved statement shall be adhered to throughout the implementation of this permission.

Reason: This is required prior to the commencement of development in order to ensure the safety of highway users during both the demolition and construction phase of the development. If the details are not approved prior to commencement it will prejudice the safety of highway users.

- 4) a) No development shall commence until a detailed scheme showing vehicle access from The Evergreens adopted highway through to the vehicle access gates of the dwelling hereby approved has been submitted to and approved in writing by the Local Planning Authority.
- b) The approved scheme shall then be implemented and completed prior to the first occupation of the dwelling.

Reason: To ensure that the proposal can be safely accessed.

- 5) No development shall commence, including any works of demolition, until a Construction

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Environmental Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period and shall include details regarding noise, dust and vibration suppression along with details of any piling/ground compaction measures to be used and measures to mitigate impacts arising from such works.

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

- 6) Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. In the event of surface water draining to the public surface water sewer, the pass forward flow rate to the public sewer must be restricted to 5 l/s.

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

Reason: To ensure satisfactory drainage facilities are provided to serve the site in accordance with the National Planning Policy Framework, policy F1 of the Formby and Little Altcar Neighbourhood Plan and Policy EQ8 of the Sefton Local Plan.

- 7) a) Given the known presence of red squirrel within this area, as a precaution a precommencement check of any trees or shrubs must be undertaken prior to their removal.
- b) A report confirming the absence of dreys must be submitted to and approved by the Local Planning Authority prior to any shrub or tree removal.

Reason: In the interests of ecology.

- 8) Prior to the commencement of development site specific information must be submitted to and approved by the Local Planning Authority in respect of the measures to be used to protect trees bordering the development site.

The approved measures must then be adhered to throughout construction.

Reason: To ensure trees are protected.

- 9) a) Prior to the commencement of development a working method statement setting out reasonable avoidance measures to reduce the risk of harm to small mammals and terrestrial

fauna (such as hedgehogs) shall be submitted to and approved in writing by the Local Planning Authority.

b) The approved method statement shall then be adhered to at all times until the development is completed.

Reason: In the interests of ecology.

Before the Development is Occupied

10) The dwelling shall not be occupied until a detailed scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include replacement planting for those trees to be lost at least at a 1:1 basis (minimum heavy standard as planted) and any trees must be small seed-bearing species which encourage red squirrels and discourage grey squirrels.

Reason: To ensure sufficient living conditions for future occupiers and to enhance biodiversity.

11) a) The dwelling shall not be occupied until all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out for that particular property.

b) any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure sufficient living conditions for future occupiers and to enhance biodiversity.

12) a) The dwelling hereby approved shall not be occupied until details of bat boxes, bird boxes, bee bricks and hedgehog 'highways' to be installed to the dwelling/within the site (to include number, type and location on an appropriately scaled plan as well as timing of installation) has been submitted to and approved by the Local Planning Authority.

b) The details approved under (a) above must be implemented in accordance with those details prior to the first occupation of that particular dwelling and maintained as such thereafter.

Reason: In the interests of biodiversity.

Ongoing Condition

13) a) No tree felling, scrub clearance, hedgerow removal, vegetation management, ground clearance and/or building works is to take place during the period 1 March to 31 August inclusive.

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b) If it is necessary to undertake works during the bird breeding season then all buildings, trees, scrub, hedgerows and vegetation are to be checked first by an appropriately experienced ecologist to ensure no breeding birds are present.

c) If present, details of how they will be protected are required to be submitted for approval.

d) If necessary the details approved under (c) above shall be implemented.

Reason: In the interests of ecology.

Informatives

- 1) The applicant is advised that the proposal will require the formal allocation of addresses. Contact the Development and Support team on 0151 934 4195 or E-Mail snn@sefton.gov.uk to apply for a street name/property number.
- 2) There are a variety of piling methods available, some of which cause considerably greater noise and vibration than others. It is common for the prevailing ground conditions to influence the chosen method of piling. Where the prevailing ground conditions would permit more than one piling method, the Council would expect the contractor to choose the method which causes the least amount of noise and vibration, in accordance with the following hierarchy:

Pressed-in methods, e.g. Hydraulic jacking

Auger / bored piling

Diaphragm Walling

Vibratory piling or vibro-replacement

Driven piling or dynamic consolidation

Should the contractor propose to use a method which is not the preferred lower impact option, then satisfactory justification will need to be provided in order to demonstrate the piling method that is utilised meets Best Practicable Means (BPM). Please note vibration monitoring will be required for all piling projects. For further advice on what to include in your piling methodology scheme and current standards please contact Sefton's Pollution Control Team (email ETSContact@sefton.gov.uk)

Report to: PLANNING COMMITTEE **Date of Meeting:** 14th December 2022

Subject: [DC/2022/01276](#)
[5 and 5A Bury Road, Birkdale, Southport PR8 4EP.](#)

Proposal: Proposed demolition of ground floor rear extension, mixed use development incorporating, partial retention of ground floor Commercial, Business and Service use (Use Class E), part change of use of ground floor and upper floor (from a C3/C4 use class) to a 7-person, 7-bedroom house of multiple occupation (sui generis), alterations to front, rear and side elevations, with access, car parking, landscaping and associated infrastructure.

Applicant: Mr. D Wainwright, St David
Birkdale Ltd **Agent:** Mrs. Carol Clarke, Bramhall Town
Planning Ltd

Ward: Birkdale Ward **Type:** Change of Use

Reason for Committee Determination: Petition objecting to the application endorsed by Councillor Shaw and called in by Councillor Shaw

Summary

The application seeks planning permission for the change of use of an existing dwelling house and part of an existing shop to form a 7-bedroom, 7-person house of multiple occupation (this is a Sui Generis use). Part of the shop would also be retained as a smaller shop unit (Use Class E - Commercial, Business and Service).

The proposed development includes the demolition of an existing ground floor rear extension to the shop, to provide private outdoor amenity space for the occupiers of the house of multiple occupation. Alterations to front, rear and side elevations are also proposed including new windows at the ground floor level and a door to the storeroom of the commercial unit, along with car parking, landscaping and covered bin storage.

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Recommendation: Approve with conditions

Case Officer Rob Cooper

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>

Site Location Plan



Sefton Council



Reference: DC/2022/01276
Date: 05/12/2022
Scale: 1:1250
Created by: MB

DC/2022/01276
5 and 5A Bury Road
Southport PR8 4EP

Agenda Item 4b

The Site

The application site is located on the corner of Bury Road and Matlock Road in Birkdale. The site comprises a retail shop (no. 5) and a dwellinghouse (No. 5a). To the front of the shop is an existing block paved area which has been used for parking, the front of the dwelling is also hard surfaced.

History

There have been various applications associated with the site, of which the most relevant are:

DC/2022/00468 – Prior notification for the demolition of the single storey rear extension, issued 30 May 2022.

DC/2022/00656 - Certificate of lawfulness for the proposed change of use of a dwelling (C3) to a house of multiple occupation (5 bedroom) (C4), issued 31 May 2022.

Consultations

Local Plans Manager

The site is not within an area covered by an article 4 direction for Homes in Multiple Occupation and therefore there is no restriction to the number of HMOs in a local area. In any case, there isn't considered to be an existing local over-concentration of HMOS. The proposal should meet the internal and external space requirements as set out in the Flats and HMO Supplementary Planning Document.

Highways Manager

No objections subject to conditions relating to highways works, provision of the car parking, cycle parking and access prior to occupation, and a highway construction management plan.

Environmental Health Manager

No objection subject to condition for increased sound insulation.

Housing Standards Manager

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

Conservation Officer

The proposal will not cause any harm to the Non-designated Heritage Asset.

Merseyside Police - Design Out Crime Officer

Advice provided with regards to designing out crime, including removal of communal bench at the front of the property, proximity of bedroom two to the communal kitchen may cause disturbance and disputes, secure mailboxes for tenants, all bedroom doors should be lockable to BS3621 standard, management of communal spaces and bin storage areas, height of rear boundaries.

Neighbour Representations

The application has been 'called-in' by Councillor Shaw to be determined by Planning Committee. The call-in requests the application to be refused on the following grounds: Harmful to residential amenity and impact on the quality of life of future occupants.

A petition signed by 36 individuals and endorsed by Councillor Shaw has been received opposing the development on the grounds that the development would have *'An adverse impact on the area and existing residents, loss of privacy, increased noise levels, increased traffic, increased parking, and increased anti-social behaviour'*.

Individual written objections have been received from 9 local residents. The grounds of objection include:

Character of the Area

- No other HMOs in the area
- Additional refuse storage required to the front of buildings
- Impact on trees/retention of trees

Living Conditions

- Rooms could be double occupancy for more than 7 people
- Noise from outdoor areas to the rear and front
- Adjoining properties have party walls adjoining communal rooms
- Hours of shop opening, and associated noise, disturbance, pollution and litter
- Type of people occupying the HMO
- Crime, fear of crime and anti-social behaviour
- Concern over safety of young children and the elderly in the area
- Potential for neighbour disputes and leading to increase pressure on local emergency services

Highway Safety

- Traffic and parking and safety issues during school start and finish times
- Cars already park over driveways

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Non-Material Matters

The impact on house prices and whether the HMO could be located somewhere else have also been raised although these are not material planning considerations.

Policy Context

The application site lies within a primarily residential area as identified in the Sefton Local Plan adopted by the Council in April 2017.

Assessment of the Proposal

The main issues to consider in respect of this proposal are the principle of the development, the effect on the character of the area, and the effect on the living conditions of neighbouring residents, and highway safety.

Principle

The application site is located within a primarily residential area. A house in multiple occupation is a residential use that is acceptable in principle subject to the criteria set out in Local Plan policy HC3 (Residential Development and Primarily Residential Areas), HC4 (House Extensions, Houses in Multiple Occupation and Flats) and the guidance in the 'Flats and House of Multiple Occupation' Supplementary Planning Document (SPD).

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

Character of the area

The site does not fall within an article 4 area, and there are no other HMOs in the local vicinity. Local residents are concerned that the introduction of one would impact on the character of the area. However, the proposal for the 7 person HMO would not be significantly different in character or appearance to that of the existing dwelling or a small (C4) HMO of up to 6 individuals, and the associated comings and goings and parking demand of the proposed scheme would be similar to the existing site. Furthermore, given that there are no other HMOs nearby, the proposal would not result in an over-concentration of HMOs in the area.

The external alterations including the new windows and door, and the proposal to remove the masonry paint and return the elevations to bare brick are minor and would be in keeping with the appearance of the area. The provision of covered bin storage would also screen refuse storage from view.

Concerns were raised with regards to the potential loss of the existing trees to the front of the property. These are not statutorily protected, and the site is not within a Conservation Area, however the applicant has confirmed that these are to be retained.

Consequently, the proposal would not cause any demonstrable harm to character of the area and is considered to be acceptable in this regard.

Living Conditions of Neighbouring Occupiers

The property is located on a corner and has internal walls that adjoin residential properties on Matlock Road and Bury Road. It is considered appropriate for a scheme of sound insulation to be provided to protect neighbouring properties as recommended by the Environmental Health Manager. This can be secured by condition.

Concerns were raised by a local resident over the provision of a seating area at the entrance to the HMO, and the potential for noise and disturbance from residents congregating in that outside area, the plan has since been amended and the bench removed.

Concerns have been raised over the opening hours of shop opening, and associated noise, disturbance, pollution and litter. The existing shop has been there for many years and there are no current planning conditions restricting the opening hours. The gross floor space of the shop unit would be substantially reduced, therefore an objection on these grounds could not be sustained. The recommended landscape management plan condition includes the provision of a refuse bin for customers of the shop.

Residents have expressed concerns and perceptions relating to the occupants of the proposed HMO, particularly in relation to anti-social behaviour, crime and fear of crime. Such concerns can be a material planning consideration. However, there is no evidence to suggest that the future occupants of the property would be more disruptive or noisier than those living as part of a more 'traditional' family home. Furthermore, there is no substantiated evidence to suggest that the proposal is likely to result in any increase in criminal activity or antisocial behaviour.

In response to the advice provided by Merseyside Police Designing Out Crime Officer, the applicant has removed the bench from the front of the property, added a second internal door so that a small hall provides greater separation from bedroom 2 and the communal kitchen/dining room, and a condition is also recommended for a landscape management plan to cover the external areas and refuse storage.

Living Conditions of Future Occupiers

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

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amenity space.

The proposal involves the provision of seven bedsitting rooms each with their own ensuite. There would be two rooms on the ground floor along with a shared kitchen/dining area, and five rooms on the second floor.

All room sizes and the facilities provided for future residents satisfy the SPD standards. Each of the habitable rooms is served by at least one window that provides an acceptable outlook and will ensure sufficient light is received. In line with advice from the Environmental Health Manager, a condition can be imposed to secure a scheme of sound insulation to minimise noise impacts where habitable rooms adjoin the shop unit and where walls adjoin existing residential properties.

The SPD requires an area of private outdoor amenity space available for all residents to use. The current proposal would require a minimum area of 60 square metres for the 7 bedsits. The proposal includes an area of outdoor amenity space at the rear of the property amounting to 40 square metres. Whilst this would be private and accessible to all residents in the property it is acknowledged that it only provides 66% of that required by the SPD. This is a significant shortfall and needs to be considered as part of the overall planning balance.

Concerns have been raised by local residents and a Ward Councillor that some of the rooms are large enough to accommodate two people, and that the total number of occupiers would be greater. However, the description of development applied for expressly states that the proposal is a 7-person, 7-bedroom HMO, furthermore the total number of occupants can be controlled by planning condition.

Highway Safety

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

The proposed development would be accessed from both Matlock Road and Bury Road, but while there is an existing vehicle dropped crossing onto Bury Road, a new vehicle dropped crossing will be required onto Matlock Road. This will need to be provided in accordance with Sefton's Vehicle Crossings Policy, and wholly at the applicant's expense.

It is proposed to provide seven off street parking spaces within the site. The submitted layout plan indicates that these would comprise 3 for the occupiers of the HMO, 2 for the shop and 2 visitor spaces. The parking provision is considered to be acceptable, given that the site is in a sustainable location with easy access to local amenities and public transport with bus stops within short walking distance on Eastbourne Road and Kew Road served by buses to local and more distant destinations. The site is also within acceptable walking distance of Birkdale railway station.

In response to the initial comments from the Highways Manager, the applicant has provided an amended layout plan demonstrating that each car parking space would be 2.5m x 5.0m and has

shown provision for electric vehicle charging can be accommodated within the site. However, electric vehicle charging is now a matter for building regulations to control and does not need to be conditioned.

Conditions are recommended to secure the necessary highways works, provision of the car parking, cycle parking and access prior to occupation, and a highway construction management plan.

Other Material Considerations

5A Bury Road is an existing dwellinghouse (Use Class C3). Under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), it is 'permitted development' to change the use from a dwellinghouse (C3) to a small house in multiple occupation (C4 - 'small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom').

Earlier this year the applicant applied for and was issued with a lawful development certificate for 'the proposed change of use of a dwelling (C3) to a house of multiple occupation (5 bedroom) (C4)'. The applicant has since sought confirmation from Housing Standards who have confirmed that one of the rooms could be double occupancy, therefore achieving the maximum of six occupants allowed under permitted development rights.

The applicant could therefore retain the existing shop and implement a 6 person HMO without the need for planning permission. The applicant has confirmed that if they were unsuccessful in achieving planning permission for the larger 7 bed/7 person HMO they would implement the smaller HMO using permitted development rights. They consider this to be their 'fallback'; position which is a material planning consideration.

If they were to do this, the six occupants would not have any private amenity space. The shared kitchen/living area would also be smaller at 13.5 sq. compared to the 21 sq. m for 7-person scheme. This would be alongside the existing larger shop and its associated comings and goings, and no planning conditions to secure enhanced sound insulation. The proposed development also provides covered bin storage, and improved parking areas. Therefore, the option which could be implemented as permitted development would be more harmful to the living conditions of future occupiers, to the living conditions of neighbouring occupiers and to the character of the area.

Taking the above into account and given that there is a realistic prospect of the applicant implementing the permitted development scheme if this application is unsuccessful, significant weight should be attributed to this and the benefits of this current application.

Conclusion

The proposal would not meet the private amenity space requirements contained within the SPD. However, compared to the 'fallback' scheme, the development would provide considerable

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benefits to the living conditions of the future occupiers of the HMO. It would not cause harm the living conditions of neighbouring occupiers or to the character of the area. Significant weight is attributed to the benefits of the scheme which outweigh the short fall in private amenity space. Consequently, on balance the application is recommended for approval.

The required sound insulation, highway works, parking provision, refuse storage and limit on the number of occupiers can be secured by planning conditions.

Recommendation - Approve with conditions

Time Limit for Commencement

- 1) The development hereby permitted shall be commenced before the expiration of three 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:

5-5ABR/200/PL Site Location Plan Existing Site Plan;
5-5ABR/201/PL Existing Plan Layouts;
5-5ABR/202/PL Rev P2 Existing Elevations;
5-5ABR/209/PL Rev P2 Proposed Plan Layouts;
5-5ABR/210/PL Rev P2 Proposed Elevations; and
5-5ABR/211/PL Rev P8 Site Location Plan Proposed Site Plan June.

Reason: For the avoidance of doubt.

Before the Development is Commenced

- 3) Prior to commencement of the development hereby approved, a scheme of sound insulation shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall protect the living conditions of occupiers of adjoining properties and occupiers of the HMO by demonstrating an enhancement of all walls and ceilings (including kitchens, dining rooms, living rooms, halls, stairs, landings etc.) by a minimum of 10db above the standard shown in table 0.1a of Approved Document E of the Building Regulations. The sound insulation works shall be completed as approved before the use of the building begins and thereafter retained in perpetuity.

Reason: To safeguard the living conditions of future occupiers of the HMO and the living conditions of adjoining occupiers.

- 4) No development shall commence, including any works of demolition, until a Highways Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period.

Reason: This is required prior to the commencement of development in order to ensure the safety of highway users during both the demolition and construction phase of the development. If the details are not approved prior to commencement, it will prejudice the safety of highway users.

Before the Development is Occupied

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

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

- 6) The development shall not be occupied until the bin storage has been provided in accordance with approved drawing no. 5-5ABR/211/PL Rev P8. The bin storage shall be retained in perpetuity thereafter.

Reason: To safeguard the appearance of the area.

- 7) Prior to the occupation of the development hereby approved, details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be carried out in accordance with the approved details and retained thereafter.

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

- 8) Prior to the occupation of the development hereby approved, a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all communal amenity space, planters, provision of a refuse bin for customers of the shop, and management of all refuse storage shall be submitted to and approved in writing by the Local Planning Authority. The landscape management shall be carried out in accordance with the approved plan over the period specified.

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

- 9) The development shall not be occupied until a detailed scheme of highway works together with a programme for their completion has been submitted to and approved in writing by

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the Local Planning Authority. The scheme shall include:

- Details of new vehicle dropped crossing onto Matlock Road

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

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

- 10) The development shall not be occupied until the off street car parking areas have been provided in accordance with approved drawing no 5-5ABR/211/PL Rev P8. The areas shall be kept available for the parking of vehicles in perpetuity thereafter.

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

Ongoing Conditions

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

Reason: To avoid an over-concentration of people living in the property, to protect the character of the area and the living conditions of future occupiers and nearby residential occupiers.

- 12) Customers are not permitted on to the shop premises at any time outside the hours of:

07:00 - 23:00 hrs Monday to Saturday (Inclusive)
08:00 – 18:00 Sundays and Bank Holidays

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

Notes for Applicant

1. The applicant is advised that the proposal will require the formal allocation of addresses. Contact the Development and Support team on 0151 934 4195 or E-Mail snn@sefton.gov.uk to apply for a street name/property number.
2. The applicant is advised that all works to the adopted highway must be carried out by a Council approved contractor at the applicant's expense. Please contact the Highways Development and Design Team at HDD.Enquiries@sefton.gov.uk for further information.

Report to: PLANNING COMMITTEE **Date of Meeting:** 14th December 2022

Subject: [DC/2022/01805](#)
[Former Z Block Sites Buckley Hill Lane Netherton](#)

Proposal: Removal of condition 20 pursuant to planning permission DC/2021/02293 approved 18/11/2021 - to allow the method in which Sandway Homes are securing the Affordable Housing on site, which will be via Homes England grant funding.

Applicant: Sandway Homes **Agent:** Mrs Ann Dixon
Pegasus Group

Ward: St Oswald Ward **Type:** Removal of condition

Reason for Committee Determination: Discretion of Chief Planning Officer

Summary

This application seeks to remove condition 20 imposed on planning permission DC/2021/02293 for a residential development of 63 homes. Condition 20 requires the submission, approval and implementation of an affordable housing scheme.

The sole issue to consider is the viability of the scheme. The report concludes that the scheme cannot viably deliver the affordable homes and it is recommended that the condition is removed.

Recommendation: Approve with Conditions

Case Officer Diane Humphreys

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=RI551XNWKB00>

Agenda Item 5a

Site Location Plan



Sefton Council



Reference: DC/2022/01805
Date: 05/12/2022
Scale: 1:1250
Created by: MB

DC/2022/01805
Former Z Blocks
Buckley Hill Lane Netherton

The Site

The application site is one of three sites known as the former Z Blocks sites. It is bounded by Northern Perimeter Road to the north, Higher End Park to the east, Acton Rake to the south and Buckley Hill Lane, Maypole Court, Muttons Rake and Tarbrock Court to the west.

Relevant history

DC/2022/01246 Non-material amendment to planning permission DC/2021/02293 granted on 18.11.2021 for minor changes to approved plans including the addition of frosted windows to en-suites and/or bathrooms for house types (HT3BT, HT3BS and HT4BS) and replacement of patio doors to bi-fold sliding doors for house type (HT4BD). Approved 19 July 2022

DC/2021/02293 Variation of Condition 2 pursuant to planning permission DC/2020/01853 approved on 01/07/2021 to allow amendments to drawings. Approved 18 November 2021

DC/2021/01981 Non-material amendment to planning permission DC/2020/01853 approved on 01/07/2021 to amend the description to 63 new dwellings and associated infrastructure. Approved 19 August 2021

DC/2020/01853 Erection of 69 No. dwellings and associated infrastructure. Approved 30 June 2021

Consultations

Local Plans Manager

The Council's retained viability consultant (CP Viability) has reviewed the financial evidence and concluded that the site cannot viably secure the affordable homes and that external funding would be necessary. Therefore, the removal of condition 20 to secure affordable homes through the development of the site (rather than through funding) is justified.

Neighbour Representations

37 neighbouring properties were consulted by letter on 27.09.2022 and a site notice was posted at the site on 28.09.2022.

Two local residents have raised the following objections:

- The development should provide parking spaces for existing residents as parking is a serious problem especially when Buckley Hill playing fields are in use
- Vehemently opposed to this development and horrified to see the layout has changed without residents' consultation

Agenda Item 5a

- Noise during building works should be kept to a minimum with working hours restricted

These points are responded to under 'other matters'.

Policy Context

The application site lies within an area allocated for housing in the Sefton Local Plan which was adopted by the Council in April 2017.

Assessment of the Proposal

Background

This application seeks to remove condition 20 of planning permission DC/2021/02293. Application DC/2021/02293 involves a residential development of 63 dwellings considered by the Planning Committee on 17 November 2021 where it was resolved to grant planning permission with conditions.

Condition 20 secures a scheme of affordable housing on the site and states:

20. Prior to the first occupation of any dwelling a scheme for the provision of affordable housing on site shall be submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the requirements of Local Plan policy HC1 parts 3 and 4 (as amended by the application of paragraph 64 of the National Planning Policy Framework). The scheme shall include:

- i) the type and tenure of the affordable housing provision which shall accord with the identified units on the approved Site Layout Plan (Drawing No. 02-001 rev P16);*
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;*
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider;*
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and*
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.*

The development shall not be occupied until the approved scheme has been carried out and it shall thereafter be retained.

Reason: In order to accord with Local Plan policy HC1 in contributing to the supply of affordable housing in Netherton.

The approved layout shows that 13 of the 63 new homes will be affordable units comprising 6 one bed flats, 3 two bed flats and 4 two bed houses. The layout does not change under this latest application.

The application seeks to remove condition 20 which requires the affordable housing as the site is not viable to deliver the affordable homes. The applicant intends to deliver the affordable homes via external funding.

Issues

The sole issue to consider is whether the site is viable to secure any affordable housing. Local Plan policy HC1 'Affordable and Special Needs Housing' states at part 9 that:

Affordable and/or special needs housing will be provided in accordance with this policy unless a robust assessment of a scheme's economic viability confirms that this cannot be achieved.

The applicant has submitted a viability report to demonstrate that the scheme cannot viably deliver any affordable housing. This has been appraised by the Council's retained viability consultant who confirms that with grant funding of £1,050,000 and 11 policy compliant on-site affordable homes, but no Section 106 contributions, the scheme generates a residual land value of £161,974 which is slightly below the agreed benchmark land value of £166,000. Therefore, with the grant funding, the scheme is marginally viable but introducing any Section 106 contributions would result in the scheme being firmly unviable.

Our consultant goes on to advise that if the grant monies were not available, this would adversely affect the scheme's viability and would generate a financial loss of around £500,000 even with 100% market units and no affordable homes. The report concludes that the grant funding is crucial to the scheme's delivery.

The viability reports have confirmed that the site is not viable to provide any affordable housing. The proposal to remove condition 20 therefore complies with part 9 of Local Plan policy HC1.

Other Matters

Outside of the planning process, the applicant has advised that removal of the condition will enable grant funding to be sought for the affordable homes and this would not be available if the condition were retained.

Local residents have raised several concerns but these are not relevant to the current application which only seeks to remove the affordable housing condition. However, issues relating to parking

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and construction activities were taken into consideration during assessment of the previous applications for residential development on the site. Parking provision was considered acceptable and conditions were imposed to secure a suitable scheme of piling works, should piling be necessary, and compliance with the approved Construction and Environmental Management Plan. The recommendation below provides for the previously approved layout and these conditions to be retained.

In terms of the resident's question about changes to the layout, this current application does not include any changes to the site layout. The site layout shown on the first residential scheme, on application DC/2020/01853, did initially show the proposed houses at the northern end of Higher End Park with gables facing onto this road. The layout was changed during consideration of the application with amended plans submitted on 2 June 2021 showing plots 47-51 facing onto Higher End Park. Residents were notified on the amended plans on 3 June 2021 with responses due by 17 June 2021. The application was considered at the Planning Committee meeting on 30 June 2021.

The approved site plan for the most recent scheme, on application DC/2021/02293, shows the relevant plots 42-45 facing onto Higher End Park. Residents were sent letters from the Planning Department on 20 October 2021 and the application was considered at the Planning Committee meeting on 17 November 2021. Thus, residents have been kept informed of proposed changes to the planning layout.

Planning Balance and Conclusion

The applicant's viability report has been appraised by the Council's viability consultant and both confirm that the scheme cannot viably deliver any affordable homes. The proposal for the removal of the condition complies with Local Plan policy HC1 part 9 as it has robustly demonstrated that affordable housing cannot be delivered.

The primary matter for consideration is that removal of the condition is acceptable in terms of planning policy. However, members may consider it relevant that the applicant intends to secure grant funding for delivery of the affordable homes which they advise would not be available with the condition intact.

The approved housing layout will still identify 13 affordable units so a further planning application would be required should any changes be proposed.

The recommendation is therefore to issue a new planning permission subject to the conditions set out in the previous approval but without condition 20, the affordable housing condition. It also includes a slight change to condition 2, the approved plans condition, to incorporate the plans approved under the non-material amendment application DC/2022/01246 for minor changes to some of the house types.

Recommendation - Approve with Conditions

Time Limit for Commencement

1) The development hereby permitted shall be commenced before 1 July 2026.

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:

Drawing No. 01-001 rev P01 Site Location Plan and Existing Site Plan

Drawing No. 02-001 rev P16 Proposed Site Layout

Drawing No. 02-002 rev P05 Proposed Site Layout Parking Provision

Drawing No. 02-003 rev P04 Proposed Site Layout Refuse Storage and Collection

Drawing No. 03-001 rev P04 Apartment Block A Block Plans and Elevations

Drawing No. 03-002 rev P04 Apartment Block B Block Plans and Elevations

Drawing No. 03-201 rev P06 HT-2BT House Type Plans and Elevations

Drawing No. 03-301 rev P05 HT-3BS House Type Plans and Elevations

Drawing No. 03-302 rev P05 HT-3BT House Type Plans and Elevations

Drawing No. 03-401 rev P05 HT-4BS House Type Plans and Elevations

Drawing No. 03-402 rev P06 HT-4BD House Type Plans and Elevations

Drawing No. 90-001 rev P07 Proposed Private Amenity Boundary Treatment Plan Bird and Bat Box Locations

Drawing No. P19-2967_002 rev E Detailed Landscape Proposals

Drawing No. GM11200-006 rev A Tree Removal Plan

Construction Traffic Management Plan (Vectos September 2021)

Construction and Environmental Management Plan (Wardell Armstrong March 2021 Report No.007 version 2)

Flood Risk Assessment and Drainage Strategy Revision 02 dated 31 August 2021, the Drainage Strategy Plan Drawing BH-MGZZ-XX-DR-C-0201 Revision P2 and the SuDS Pro-forma by Marston & Grundy dated 26 August 2021

Reason: For the avoidance of doubt.

Before the Development is Commenced

3) No development shall commence, including any demolition, site clearance or ground works, until a full phasing plan has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved phasing plan.

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Reason: These details are required prior to the commencement of development in order to ensure that the phases of development are managed properly and in order to safeguard the living conditions of the surrounding occupiers.

4) Prior to construction works commencing should piling be necessary a methodology, which provides justification for the method of piling chosen and details of noise and vibration suppression methods proposed, must be submitted to and approved in writing by the local planning authority. The agreed scheme shall be implemented throughout the course of development.

Reason: In order to safeguard the living conditions of neighbouring residents during the course of construction.

5) No construction work shall take place until a programme of archaeological investigation work has been undertaken in accordance with the approved written scheme of investigation for archaeological work (Pegasus Group, September 2020). The work shall be carried out strictly in accordance with the approved scheme.

Reason: The details are required prior to development or site clearance commencing to ensure that recording takes place at an appropriate period during the development process.

6) No development shall commence until a remediation strategy to bring the site to a condition suitable for the intended use by removing unacceptable risks and the relevant pollutant linkages identified in the approved investigation and risk assessment, has been submitted to and approved in writing by the Local Planning Authority. The strategy must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and roles and responsibilities. The strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 on completion of the development. The remediation strategy must be carried out in accordance with the approved details at all times.

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

During Building Works

7) The approved Construction Traffic Management Plan (Vectos September 2021) shall be adhered to in full throughout the construction period.

Reason: To ensure the safety of highway users during both the demolition and construction phase of the development.

8) The approved Construction and Environmental Management Plan (Wardell Armstrong March 2021 Report No.007 version 2) shall be adhered to in full throughout the construction period.

Reason: To safeguard the living conditions of neighbouring/adjacent occupiers and land users, to protect the ecological interest of the area and to minimise waste during both the demolition and construction phase of the development.

9) The development hereby permitted by this planning permission, including all components of the sustainable drainage system, shall be carried out in accordance with the submitted Flood Risk Assessment and Drainage Strategy Revision 02 dated 31 August 2021, the Drainage Strategy Plan Drawing BH-MG-ZZ-XXDR-C-0201 Revision P2 and the SuDS Pro-forma by Marston & Grundy dated 26 August 2021. For the avoidance of doubt, surface water must drain at the restricted rate of 6.9 l/s when draining to the existing surface water sewer on Northern Perimeter Rd and 2.0 l/s to the combined sewer on Great Hey.

The approved scheme shall be fully constructed prior to occupation in accordance with the approved details, phasing and timetable embodied within the approved Sustainable Drainage Strategy, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To ensure satisfactory drainage of the site.

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

Following completion of the remedial works identified in the approved remediation strategy, verification of the works must be included in the verification report required by condition 17.

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

11) No development shall commence above slab level until a detailed scheme of highway works together with a programme for their completion has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

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- Upgrading and improvement of existing bus stops on Buckley Hill Lane if required via Merseytravel;
- Full reconstruction of footway fronting the site; and
- Provision of new tactile pedestrian crossing at Higher End Park junction of Northern Perimeter Road.

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

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

12) No development shall commence above slab level within a particular phase until a detailed scheme of street lighting on the proposed access roads within that phase has been submitted to and approved in writing by the Local Planning Authority. The scheme shall comply with the requirements of BS5489 and shall be implemented in full before the development on that phase is brought into use.

Reason: These details are required prior to commencement above slab level to ensure that acceptable lighting to the development is achieved and to ensure the safety of highway users.

13) No development shall commence above slab level within a particular phase until details of the materials to be used in the construction of the external surfaces of the dwellings within that phase are submitted to and approved in writing by the local planning authority.

Development shall be carried out in accordance with the approved details.

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

14) A minimum of 20% of new market properties shall meet Building Regulation Requirement M4(2) for accessible and adaptable dwellings.

Reason: To ensure an appropriate mix of homes on the site.

Before the Development is Occupied

15) Prior to the first occupation of dwellings within a particular phase a detailed scheme of external lighting designed to minimise impacts on bat habitat shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the development within that phase being first brought into use.

Reason: To safeguard conservation of species/habitats.

16) Prior to the first occupation of dwellings within a particular phase details of bird boxes to include number, type and location on an appropriately scaled plan as well as timing of installation, shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with those details.

Reason: To safeguard conservation of species/habitats.

17) Prior to the first occupation of any dwelling a verification report that demonstrates compliance with the agreed remediation objectives and criteria shall be submitted to and approved in writing by the Local Planning Authority.

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

18) Prior to the first occupation of any dwellings within a particular phase a validation report demonstrating that the drainage scheme has been carried out in accordance with the approved Flood Risk Assessment and Surface water Drainage Strategy Revision 02 by Marston & Grundy LLP, Consulting Engineers, dated 31 August 2021 for that phase shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be retained as such thereafter.

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

19) Prior to the first occupation of plots 01, 02, 03, 06, 07, 08, 11, 12, 13, 14, 16, 17, 20, 21, 24, 25, 27, 28, 29, 30, 31, 34, 35, 36, 37, 38, 39, 40, 41, 43 and 44 the gable elevation windows to each of these plots shall be fitted with obscured glazing, and any part of the window[s] that is less than 1.7m above the floor of the room in which it is installed shall be non-opening.

The windows shall be permanently retained in that condition thereafter.

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

20) The acoustic glazing and ventilation units must meet as a minimum the performance standard shown in Appendix E: Glazing and Ventilation Sound Reduction Performance Data and the locations identified in section 6.3 and Drawing Nos. GM11200-007, 008 and 009 of Wardell Armstrong (September 2021) Noise Assessment Report. Job Number: GM11200. Report Number: 0003. Version: V4.1 Status: Final.

The approved glazing and ventilation units must be installed before the dwellings become occupied and retained thereafter.

Reason: To safeguard the living conditions of occupiers of the site.

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21) Prior to the first occupation of any dwellings within a particular phase, a plan indicating the positions, height, design, materials and type of boundary treatment to be erected, including an acoustic barrier with a minimum height of 1.8 metres to be provided to all garden areas, shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed as approved before the dwellings become occupied and retained thereafter.

Reason: To ensure an acceptable visual appearance to the development, to protect the living conditions of future occupiers of the site and to ensure that the privacy of neighbouring occupiers/land users is retained at all times.

22) No dwelling shall be occupied until the electric vehicle charging point(s) for that part of the development have been installed and are operational in accordance with the approved details shown on the Proposed Site Layout Drawing No. 02-002 rev P05. The approved infrastructure shall be permanently retained thereafter.

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

23) Prior to the first occupation of any dwellings within a particular phase, details of full fibre broadband connections to all proposed dwellings within that phase shall be submitted to and approved in writing by the local planning authority. The infrastructure shall be installed prior to occupation and made available for use immediately on occupation of any dwelling in accordance with the approved details.

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

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

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

25) a) A scheme of works for the closure and reinstatement of the existing vehicular and/or pedestrian access on to Higher End Park shall be submitted to and approved in writing by the local planning authority.

b) No part of the development shall be brought into use until the existing vehicular and/or pedestrian access on to Higher End Park has been permanently closed off and the footway reinstated. These works shall be in accordance with the scheme approved under (a) above.

Reason: In the interests of highway safety.

26) a) A scheme of works for the proposed vehicular and/or pedestrian access shall be submitted to and approved in writing by the local planning authority.

b) No part of the development shall be brought into use until a means of vehicular and/or pedestrian access to the site/development has been constructed. These works shall be in accordance with the scheme approved under (a) above.

Reason: In the interests of highway safety.

27) Prior to the first occupation of any dwelling visibility splays of 2 metres by 25 metres at the new junctions shall be provided clear of obstruction to visibility at or above a height of 0.9 metres above the carriageway level of the new development. Once created, these visibility splays shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of highway safety.

28) Prior to the first occupation of any dwelling visibility splays of 2.0 metres x 2.0 metres measured down each side of the access and the back edge of the footway have been provided clear of obstruction to visibility at or above a height of 0.9 metres above the footway level of the new development. Once created, these visibility splays shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of highway safety.

29) Prior to the first occupation of any dwelling all areas required for vehicle parking, turning and manoeuvring for that dwelling shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and these areas shall be retained thereafter for that specific use.

Reason: In the interests of highway safety.

30) Prior to the first occupation of any apartment facilities for the secure storage of cycles shall be provided in accordance with details shown on the Proposed Site Layout Drawing No. 02-002 rev P05 and they shall be retained in perpetuity thereafter.

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

31) a) Prior to first occupation of any dwelling a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority.

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b) The provisions of the Travel Plan approved under (a) above shall be implemented and operated in accordance with the timetable contained therein.

Reason: In the interests of highway safety.

Informatives

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

2) The applicant is advised that all works to the adopted highway must be carried out by a Council approved contractor at the applicant's expense. Please contact the Highways Development and Design Team at HDD.Enquiries@sefton.gov.uk for further information.

3) The applicant is advised of the requirement for a "stopping up order" to the development site which forms part of the public highway. For further information please email the Highways Development and Design Team at HDD.Enquiries@sefton.gov.uk.

4) The developer is advised that agreements under Section 38 for internal works and Section 278 of the Highways Act 1980 will be required to ensure the implementation of the off-site highway improvements, and the requirement for a Traffic Regulation Order, and to contact the Highways Development and Design Team hdd.enquiries@sefton.gov.uk in this regard.

5) Bats may be present in your building. Bats are protected species. If you discover bats you must cease work immediately.

6) Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until condition 6 above has been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing, until condition 17 has been complied with in relation to that contamination.

7) The applicant is advised to contact SP Energy Networks in connection with the electricity network at <https://www.spenergynetworks.co.uk/pages/diversion.aspx> before works start on site.

Agenda Item 6

Report to:	Planning Committee	Date of Meeting:	Wednesday 14 th December 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

Agenda Item 6

The Executive Director of Corporate Resources and Customer Services (FD 7034/22) and the Chief Legal and Democratic Officer (LD 5234/22) 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 Council's website www.sefton.gov.uk/planapps

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Appeals Received and Decisions Made

Email: planning.department@sefton.gov.uk

Contact Officer: Mr Steve Matthews 0345 140 0845

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

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

Appeals received and decisions made between 31 October 2022 and 27 November 2022

Appeal Decisions

53 Halsall Road Birkdale Southport PR8 3DB

Reference: DC/2019/02423 (APP/HH/1921)

High Hedge Complaint

Procedure: Written Representations

Start Date: 07/12/2021

Decision: No Further Action

Decision Date: 15/11/2022

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: Allowed

Decision Date: 02/11/2022

New Appeals

50 Elm Road Seaforth Liverpool L21 1BL

Reference: DC/2021/02819 (APP/M4320/W/22/3302947)

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

Procedure: Written Representations

Start Date: 17/11/2022

Decision:

Decision Date:

Kilmarnock Kenyons Lane Lydiate Liverpool L31 0BP

Reference: DC/2022/01146 (APP/M4320/D/22/3306995)

Erection of extensions to the front and rear of the dwellinghouse, including raising of the roof to create an additional floor.

Procedure: Written Representations

Start Date: 22/11/2022

Decision:

Decision Date:

227A Stanley Road Bootle L20 3DY

Reference: DC/2022/00416 (APP/M4320/W/22/3306590)

Conversion of the first, second and third floors from 1 self contained flat to 2 self contained flats (C3).

Procedure: Written Representations

Start Date: 15/11/2022

Decision:

Decision Date:

14 Rosemary Lane Formby Liverpool L37 3HB

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Reference: DC/2021/02085 (APP/M4320/W/22/3304165)

Erection of a detached dwellinghouse within the rear garden of 14 Rosemary Lane, after demolition of garage, with access, landscaping, and all associated works

Procedure: Written Representations

Start Date: 18/11/2022

Decision:

Decision Date:

49 De Villiers Avenue Crosby Liverpool L23 2TH

Reference: DC/2022/01216 (APP/M4320/D/22/3307009)

Erection of a part single/part two storey extension to the front and side and a single storey extension to the rear of the dwellinghouse.

Procedure: Written Representations

Start Date: 22/11/2022

Decision:

Decision Date:

2 Stanley Park Litherland Liverpool L21 9JT

Reference: DC/2022/01085 (APP/M4320/W/22/3306975)

Change of use of the property from residential to a mixed use of residential and gym - commercial personal training facility (Reprospective).

Procedure: Written Representations

Start Date: 24/11/2022

Decision:

Decision Date:



Appeal Decision

Site visit made on 9 August 2022

by W Johnson BA (Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

Appeal Ref: APP/HH/1921

53 Halsall Road, Birkdale, Southport PR8 3DB

- The appeal is made under section 71(1) of the Anti-social Behaviour Act 2003 (the Act).
 - The appeal is made by Mr and Mrs Tinsley, hedge owners, against a Remedial Notice (RN) issued by Sefton Council.
 - The complaint, reference DC/2019/02423 dated 20 December 2019.
 - The RN is dated 5 January 2021.
-

Decision

1. No further action taken for the reasons set out below.

Preliminary Matter

2. The Council's representative was unable to attend the accompanied site visit. Nonetheless, I was granted access to both No's 51 and 53 Halsall Road, and I undertook the site visit on an unaccompanied basis in both instances.

Reasons

3. Section 66 of the Act defines a 'high hedge' as one that (a) is formed wholly or predominantly by a line of two or more evergreens; and (b) rises to a height of more than two metres above ground level.
4. The RN was initially issued by the Council in respect of a high hedge comprised of a mix of holly, variegated holly, Laurel and spotted laurel growing in the rear garden of No 53. This was on the basis that it considered the hedge to be affecting the reasonable enjoyment of the complainant's property at No 51. The hedge owner lodged an appeal against the RN on the basis that the RN went too far in its requirements.
5. However, at the site visit, it was clear that the high hedge as described in the RN was no longer present. This was also confirmed by both the hedge owners and the complainant at the site visit, where just a modest number of trees and shrubs are now located. Thus, the hedge can no longer be defined as a high hedge under Section 66 of the Act and therefore falls outside the scope of this legislation.
6. On this basis, I need not consider the effects of the hedge on the reasonable enjoyment of the complainant's property and/or whether the requirements of the RN are appropriate and reasonable. In light of the above, I conclude that no further action can be taken on the appeal.

W Johnson

INSPECTOR

Appeal Decision

Site visit made on 27 September 2022

by A Veevers BA(Hons) PGDip (BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 November 2022

Appeal Ref: APP/M4320/W/22/3297330

9 Cummins Avenue, Formby L37 7AL

- 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 Mark Richardson against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2021/01999, dated 4 August 2021, was refused by notice dated 21 October 2021.
 - The development proposed is a detached house.
-

Decision

1. The appeal is allowed and planning permission is granted for a detached house at 9 Cummins Avenue, Formby L37 7AL in accordance with the terms of the application, Ref DC/2021/01999, dated 4 August 2021, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have taken the description of development from the application form. Although different to that on the decision notice, no confirmation that a change was agreed has been provided.
3. At the time of my site visit, I noted that fences and gates had been erected on the boundaries of the appeal site and at 9 Cummins Avenue (No.9). For the avoidance of doubt, this appeal is determined on the basis of the plans as submitted with the planning application.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area; and,
 - Whether the proposal would provide acceptable living conditions for the occupants of 9 Cummins Avenue (No.9), with particular regard to private amenity space.

Reasons

Character and Appearance

5. The area in which the appeal site sits is located is typically suburban in character, with mainly detached, semi-detached dwellings of traditional appearance located in generously sized plots. Whilst the scale and appearance

of dwellings does vary, there is a general consistency of height, the use of red brick and render as main materials and slate roofs. Vernacular features such as projecting bays, chimneys and feature gables are also common. Boundary treatments in the area are of varying forms and materials. There are views over and between properties from roads surrounding Cummins Avenue of vegetation within and between gardens.

6. Properties along Cummins Avenue form a single sided row of traditional semi-detached properties. An unusual feature is that they front onto a narrow pedestrian pathway which adjoins the rear boundary of Queens Avenue properties. As a result, the frontages of the properties are somewhat obscured from public view. However, the rear elevations, gardens and parking areas of properties along Cummins Avenue back onto Gregson's Avenue and are a visible element of this thoroughfare.
7. Although wider in footprint than No.9, the height, depth and alignment of the proposed dwelling is reflective of properties in the row, particularly the detached dwelling at 1 Cummins Avenue. Proposed front and rear garden depths would imitate those along Cummins Avenue and a gap would be retained between the proposed dwelling and side boundaries of the plot. The design of the proposed dwelling would incorporate the bay features evident on properties along the row and whilst the roof would be hipped, this is not so significantly at odds with other roofs in the wider area, notably, at the adjacent property 10 Argarmeols Road.
8. Any additional unit would increase the density of development upon the site and remove an open parcel of garden land. Nevertheless, whilst the proposal would be clearly visible from properties immediately adjacent, and from Gregson's Avenue, only glimpsed views would be apparent from surrounding streets. The proposal would be seen in the context of a residential area with various building forms and vegetated gaps in between. As a result it would not have an overbearing appearance.
9. A previous application was refused for similar reasons (Ref DC/2020/02593). However, the design of the appeal scheme is significantly different. I have assessed the appeal scheme on its own merits and found that, given the degree of local variation and plot sizes, the proposal would respect the context in which it sits without being starkly at odds with the consistent form of Cummins Avenue or harming the varying appearance of the wider area.
10. Therefore, the proposed development would not harm the character or appearance of the area. Accordingly, I find no conflict with Policy EQ2 of A Local Plan for Sefton 2017 or Policy ESD2 of the Formby and Little Altcar Neighbourhood Development Plan 2012 to 2030 which together, seek to ensure, amongst other things, that development is of a design and layout that responds positively to the character, local distinctiveness and form of its surroundings.

Living Conditions for occupiers of No.9

11. The proposed private amenity space provided for the occupants of No. 9 would include front and rear gardens enclosed by fences and gates. Taken together, the amount of private amenity space would exceed the minimum requirement advocated in the Council's New Housing Supplementary Planning Document March 2016 (SPD).

12. However, No.9 is located at the end of Cummins Avenue, with its frontage served only by a pedestrian path, the use of which is limited to residents of this modest enclave. There is a gate part way along the path which advises the path is private with service access only. As the front garden to No.9 is surrounded by the gardens of neighbouring properties, it is not publicly visible. Indeed its locational character has greater similarity to typical rear garden areas.
13. The front gardens of other properties along Cummins Avenue, contain garden paraphernalia such as trampolines, a shed, tables and chairs. Due to the privacy of the location, front gardens along Cummins Avenue are clearly useable. The proposed front garden to No.9 would be particularly private and useable due to the proposed fence and location at the end of the row. It would still be possible to access the front door of No.9 without having to pass through the private area of the front garden. Similarly, the proposed rear private amenity space would only be accessible by occupants and visitors to the property and therefore also be private and useable, noting that it would also be set back behind the parking area.
14. I conclude that the proposal would provide acceptable living conditions for the occupants of No.9, with particular regard to private amenity space. I therefore find no conflict with the SPD which seeks to ensure, amongst other things, that high quality gardens are provided for dwellings.

Other Matters

15. Subject to the provision and retention of the proposed parking areas to both the appeal site and No.9, the scheme would provide parking at the standard required by the LP and incorporate an access with suitable visibility. Although the pedestrian access to the appeal site would be from Gregson's Avenue rather than Cummins Avenue, I find the proposed vehicular and pedestrian arrangements would provide for safe access and egress to/from the public highway without severe impacts on the road network. This is a view shared by the Council's highway advisor.
16. Concerns have been raised by third parties in respect of the effect of the proposal on the living conditions of occupants of neighbouring properties, with particular regard to privacy, light, outlook and noise. The SPD advises that an interface distance of 21m should be maintained between main room windows. Whilst there would be a slight breach of this distance between the appeal proposal and the rear main windows of 4 Argarmeols Grove (No.4), such relationships are not uncommon in this area. For example, a similar interface distance already exists between No.9 and No.4. The presence of intervening vegetation would also assist in moderating the effect of possible overlooking. Therefore, there would be no significant loss of privacy.
17. I acknowledge local concerns in relation to biodiversity. Subject to securing provisions for landscaping of the site, I am satisfied that existing biodiversity interests on the site could be protected and enhanced. Natural England comment that there would be no significant adverse impacts on statutorily protected nature conservation sites or landscapes.
18. The proposal would be constructed at a density accounting for the site constraints and with regard to the character and appearance of surrounding development.

19. Any effects from the construction period would be short-term and could be mitigated by careful construction management, which could be conditioned.

Conditions

20. I have considered the suggested conditions from the Council and had regard to Paragraph 55 of the Framework and the National Planning Practice Guidance in terms of the use of planning conditions. In addition to the standard condition limiting the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty.
21. A condition requiring details of construction vehicle access during construction is necessary having regard to the narrow nature of Gregson's Avenue in the interests of preserving highway safety on and about the site. A requirement for the construction phase of development to be carried out under the terms of a construction environmental management plan (CEMP) is necessary to protect the living conditions of nearby residents.
22. Conditions requiring details of highway works and also the provisions of parking spaces for the proposed and existing dwelling are necessary to avoid adverse effects on highway safety.
23. A condition requiring fibre broadband to be installed is necessary to ensure appropriate infrastructure is available for future occupiers of the proposed dwelling.
24. I consider a condition relating to surface water drainage is necessary to prevent flooding in the area. A condition requiring the implementation of landscaping works is necessary in the interests of protecting the character and appearance of the locality and to enhance biodiversity.

Conclusion

25. The proposal would accord with the development plan and there are no material considerations that indicate that a contrary decision should be taken. Therefore, for the reasons given, the appeal should be allowed.

A Veevers

INSPECTOR

Schedule of 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:

Location Plan, 1499/1 (Proposed Ground Floor Plan), 1499/2 (Proposed First Floor Plan), 1499/3 (Proposed Cummins Elevation), 1499/4 (Existing and Proposed Gregsons), 1499/5 (Existing & Proposed Left Side Elevation), 1499/6 (Existing & Proposed Right Side Elevation), 1499/7 (Proposed Site Plan), 1499/8 (Amenity Plan), 1499/9 (Application Outlines), 1499/10 (Proposed Section & Details).
- 3) No development shall commence until a Highways Construction Management Plan (HCMP) has been submitted to and approved in writing by the local planning authority. The approved HCMP shall be adhered to throughout the construction period.
- 4) No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include a scheme of piling methodology, which provides justification for the method chosen and details noise and vibration suppression methods proposed. The approved CEMP shall be adhered to throughout the construction period.
- 5) The development hereby permitted shall not be occupied until full fibre broadband has been installed at the premises.
- 6) The development hereby permitted shall not be occupied until space has been laid out in accordance with drawing number 1499/8 for vehicles to be parked and that space shall be retained for the parking of vehicles in perpetuity thereafter.
- 7) The development hereby permitted shall not be occupied until a detailed scheme of highway works together with a programme for their completion has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the vehicular access to the site. No part of the development shall be brought into use until the required highway works have been constructed in accordance with the approved details.
- 8) The dwelling hereby permitted shall not be occupied until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from

the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

b) include a timetable for its implementation; and,

c) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

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

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Visiting Panel Schedule

Date Monday 12th December 2022

Start: 10:30 am at Bootle Town Hall

Agenda Item	Time	Application Details	Ward
4A	11.05am	DC/2022/01276 5 And 5A Bury Road Birkdale Southport PR8 4EP	Birkdale
4B	11.35am	DC/2022/01189 Land To The Rear Of 19 College Avenue Formby Liverpool L37 3JL	Harington

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