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Sefton Council



MEETING: PLANNING COMMITTEE

DATE: 26th July 2023

TIME: 6.30 pm

VENUE: Bootle Town Hall

Member

Cllr. Daren Veidman (Chair)
Cllr. Brenda O'Brien (Vice-Chair)
Cllr. Mike Desmond F.R.C.A.
Cllr. John Dodd
Cllr. James Hansen
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. Leslie Byrom C.B.E.
Cllr. Janet Grace
Cllr. Anne Thompson
Cllr. Sinclair D'Albuquerque
Cllr. Laura Lunn-Bates
Cllr. Susan Bradshaw
Cllr. Dave Robinson
Cllr. Daniel McKee
Cllr. Linda Cluskey
Cllr. Mike Morris M.B.E.
Cllr. Liz Dowd
Cllr. Danny Burns
Cllr. Sinclair D'Albuquerque
Cllr. Janet Harrison
Cllr. Tom Spring

COMMITTEE OFFICER: Ruth Appleby / Ian Barton
Democratic Services Officer
Telephone: 0151 934 2181 / 2788
E-mail: ruth.appleby@sefton.gov.uk /
ian.barton@sefton.gov.uk

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 Previous Meeting (Pages 5 - 6)

Minutes of the meeting held on 28 June 2023.

4. Applications for Planning Permission - Approvals

A DC/2023/00540 - 201A Altway, Aintree (Pages 7 - 16)

Report of the Chief Planning Officer

B DC/2023/00952 - Streetworks at Gorse Lane, Liverpool (Pages 17 - 24)

Report of the Chief Planning Officer

C DC/2022/01702 - Summerhill Primary School Poverty Lane, Maghull (Pages 25 - 44)

Report of the Chief Planning Officer

5. Applications for Planning Permission - Refusals

A DC/2023/00548 - Porters Fuchsias Moss Side, Formby

(Pages 45 - 66)

Report of the Chief Planning Officer

6. Planning Appeals Report

(Pages 67 - 82)

Report of the Chief Planning Officer

7. Visiting Panel Schedule

(Pages 83 - 84)

Report of the Chief Planning Officer

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

PLANNING COMMITTEE

MEETING HELD AT BOOTLE TOWN HALL ON 28 JUNE 2023

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

Councillors Desmond, Dodd, Hansen, John Kelly,
Sonya Kelly, Richards, Riley, Roche,
Lynne Thompson, Tweed and Waterfield

99. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Spencer.

100. DECLARATIONS OF INTEREST

In accordance with Paragraph 9 of the Council's Code of Conduct, the following declarations of personal interest were made and the Members concerned remained in the room during the consideration of the item and took part in the discussion and voting thereon:

Member	Minute No.	Nature of Interest
Councillor Veidman	Minute No. 102 - DC/2022/02146 National Trust Car Park, Victoria Road, Formby.	Is a member of the National Trust
Councillor Desmond	Minute No. 102 - DC/2022/02146 National Trust Car Park, Victoria Road, Formby.	Is a member of the National Trust
Councillor Richards	Minute No. 102 - DC/2022/02146 National Trust Car Park, Victoria Road, Formby.	Had submitted a representation on the Planning Application but the matter referred to was not relevant to the consideration of the application.

101. MINUTES OF THE MEETING

RESOLVED:

That the Minutes of the meeting held on 7 June 2023 be confirmed as a correct record.

Agenda Item 3

PLANNING COMMITTEE - WEDNESDAY 28TH JUNE, 2023

102. DC/2022/02146 - NATIONAL TRUST CAR PARK, VICTORIA ROAD, FORMBY

The Committee considered the report of the Chief Planning Officer recommending that the above application for the relocation of the existing car park and restoration of frontal dune habitat be granted subject to the conditions and for the reasons stated or referred to in the report and late representations.

Arsing from the report Members discussed the matter in detail and the following issues were raised:

- removal of spoil including issues around the safety of walkers and the implications of the length of the construction period;
- the number of trees felled by the National Trust in the Formby and Ainsdale area over the past 5 years;
- issues surrounding parking in Formby during the construction period;
- access to the adjacent caravan park;
- alternative parking at the Lifeboat Road site;
- screening of the material within the site, particularly any contaminated material, and vehicle movements through Formby to remove any material which could not stay on site
- the likely amount of asbestos on the site;

On the invitation of the Chair the Committee received a response by representatives of the applicant.

RESOLVED:

That the recommendation be not approved and the application be refused for the reason that the significant loss of the trees, which are to be removed as part of the development, would cause visual harm to the area and as such would be contrary to Policy ESD7 in the Formby and Little Altcar Neighbourhood Plan and Local Plan Policy EQ9.

103. VISITING PANEL

The Committee considered the report of the Chief Planning Officer which advised that the undermentioned site had been inspected by the Visiting Panel on 26 June 2023.

Application No.	Site
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DC/2022/02146	National Trust Car Park, Victoria Road, Formby
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RESOLVED:

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

Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** Wednesday 26th July 2023

Subject: **DC/2023/00540**
201A Altway, Aintree, Liverpool, L10 6LB

Proposal: Change of use of ground floor from retail (E) to a bar/café with the provision of outdoor seating (Sui Generis)

Applicant: Mr Kieron Jamieson **Agent:**

Ward: Molyneux Ward **Type:** Full Application

Reason for Committee Determination: Called in by Cllr. Marion Atkinson

Summary

The proposal seeks to change the use of 201A Altway, Aintree, from a class E use to operate within a “sui generis” use class as a bar and café with a small outside seating area to the front of the premises. The main issues to consider are the acceptability of the use in principle and any impact on neighbouring residents and the general environment and matters relating to parking and highway safety.

The premises are fairly small and in a shopping parade where commercial activity is expected, and it is considered that subject to appropriate conditions any impacts can be managed. There are no highway safety concerns or unacceptable implications in terms of parking provision. There are no objections from any statutory consultees subject to appropriate conditions.

Recommendation: Approve with Conditions

Case Officer John Kerr

Email planning.department@sefton.gov.uk

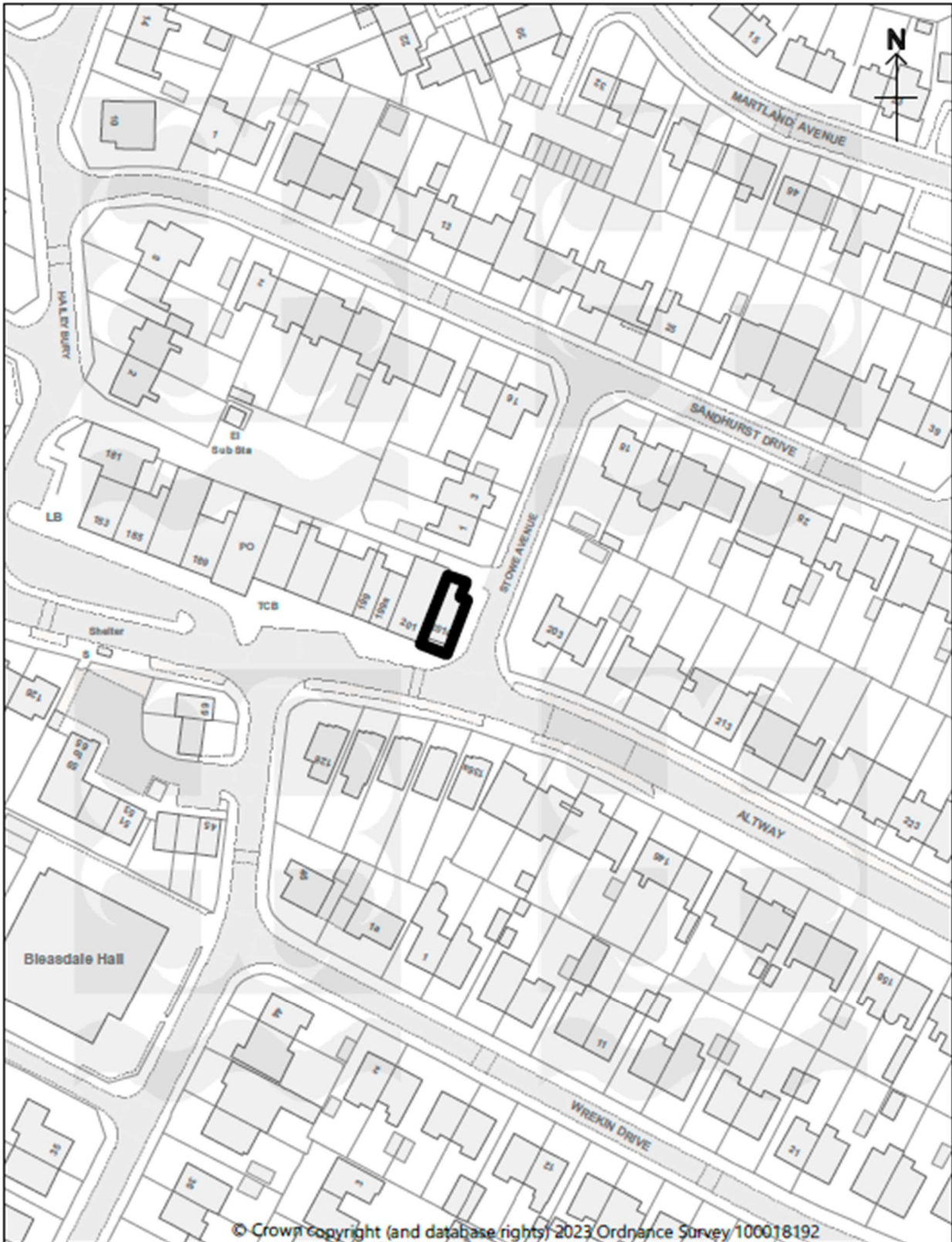
Telephone 0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RS6PPJNWFKK00>

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Site Location Plan



The Site

The application site comprises the ground floor and small external area to the front of 201A Altway which is located at the junction with Stowe Avenue in Aintree. The premises are located at the end of a shopping parade running between Haileybury Avenue and Stowe Avenue which accommodates a number of different commercial uses, and the Valentine public house is located beyond the parade on the opposite side of Haileybury Avenue. Altway is to the south of the site and the wider area is primarily residential.

History (Relevant)

There is no relevant planning history.

Consultations

Environmental Health Manager

Further information required regarding external plant and equipment and noise mitigation. If approved, it should be subject to conditions.

Highways Manager

There are no objections to the proposal as there are no adverse highway safety implications.

Neighbour Representations

11 individual representations have been received from 8 different properties within the locality objecting to the proposal on the following grounds:-

Living Conditions

- Late night noise and disturbance associated with comings and goings in a residential area
- Issues regarding antisocial behaviour, urination and littering smoking to the rear of premises
- Alcohol related rowdy behaviour and noise associated with emptying bottle bins
- Potential odour and smells
- Poorly kept area to the rear will likely attract vermin
- Numerous similar establishments in the area already

Highway Safety and Parking

- Increased demand for on-street parking worsening existing issues for residents and encouraging illegal parking

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Other Matters

- Impact on price of properties
- Area is home to many families
- Not a suitable use close to local residents

Policy Context

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

Assessment of the Proposal

1. Introduction

- 1.1 The proposal seeks to change the use of 201A Altway from a Class E use to operate as a “sui generis” use (i.e. a use of its own kind) as a bar and café with a small outside seating area to the front of the premises.
- 1.2 The main issues to consider are the principle of development, impacts on neighbouring residents and matters relating to parking and highway safety.

2. Principle of Development

- 2.1 The application site is situated within a Primarily Residential Area subject to Local Plan policy HC3 (Primarily Residential Areas), which only permits non-residential development when it can be demonstrated that an unacceptable impact will not be had on the living conditions of neighbouring properties and that the character of the area will not be harmed.
- 2.2 In terms of character, the shopping parade consists of various commercial uses at ground floor level including a restaurant and a hot food takeaway, a pub is also located west of the shopping parade. All of these uses have been established for some time. The proposal to change the property to a bar/café is considered to be consistent with the prevailing characteristics of the area. While there are similar businesses operating near to the site, there are no such bar/café uses. This indicates that there would not be an unacceptable grouping of similar uses and the proposal would contribute towards the vitality and viability of the immediate parade in which it sits.
- 2.3 The proposal is a non-retail development within a local shopping parade so is also subject to point 8 of Policy ED2 (Retail, Leisure and Other Town Centre Uses) and the proposal is considered to accord with the criteria. The proposal is to bring a vacant property back into use which would improve the appearance of the parade, it would also further diversify

what the parade has to offer. Subject to conditions it is considered that there would be no unacceptable impact on neighbouring uses. This is discussed further below.

3. Impact on Neighbouring Residents

- 3.1 The application site occupies a corner plot where Altway meets Stowe Avenue, Stowe Avenue itself is residential. The nearest property to the site is located to the rear on Stowe Avenue and its flank wall is 4.0m from the rear of the application site across the entrance to the rear alleyway. The nearest property to the site on Altway is to the east and is over 17.0m away.
- 3.2 The premises are small-scale with a seating capacity of approximately 40 people internally and 4-6 people externally. A key consideration is noise and disturbance associated with both internal and external activities.
- 3.3 Within the local shopping parade there are several established uses close to the site which operate outside of standard business hours including a public house, a restaurant and a hot food takeaway.
- 3.4 Noise, particularly fuelled by drinking and live entertainment, has been cited as a cause for concern. However, as conditions are available to manage the use (the hours of opening for example) such concerns in themselves are not usually reasonable grounds to refuse an application, particularly where there is not an over concentration of such uses. Outside of planning the licensing regime has the ability to alter opening hours and require management to address issues should they arise.
- 3.5 Due to the proximity to residential neighbours, it is considered important to ensure that noise levels are suitably controlled, and it would therefore be necessary to restrict live music, amplified and live entertainment from taking place outside the premises to reduce any potential or unwanted noise to nearby residents. A condition could ensure that any music within the property is not above a level of LAeq 65dB which would ensure that any entertainment within the premises does not cause disturbance for neighbouring occupiers. There is an open space to the rear that fronts an alleyway which serves the rear of the shopping parade. This area is not included within the red edge which defines this proposal; therefore, it would not be used by patrons as part of this application.
- 3.6 Following advice from the Environmental Health Manager, it is considered that opening hours of 08:00 – 23:00hrs Monday – Sunday inside the property and 08:00 – 22:00hrs outside the property would be reasonable. In terms of general comings and goings 23:00hrs is considered to be a reasonable cut off point through the week given the other late evening and night time uses in the immediate vicinity. A recent planning approval at the opposite end of the shopping parade which is used as a restaurant is subject to 23:00hrs closing times through the week, so this is established as acceptable. It is not considered that the proposal in combination with the nearby pub, restaurant and Hot Food

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Takeaway would lead to any unacceptable impacts on neighbouring amenity.

- 3.7 Neighbour representations relate to noise issues regarding bottle bins being emptied, it is noted that the premises have no external storage so bins would need to be kept inside until the time of collection. There is however a small store to the rear, accessed externally and near to the adjacent neighbour on Stowe Avenue. If this is used to store empty bottles, this activity could occur throughout the evening. Given the potential noise associated with bottles and the proximity of the neighbour, a condition would be required specifying the location of storage, times it will be used and how noise will be managed.
- 3.8 Overall, it is considered that the small-scale proposal would not have an unacceptable impact on neighbouring properties through noise and disturbance.

4. General Environmental Issues

- 4.1 Representations have been received relating to potential odours and smells being emitted from the property. A condition could ensure that no cooking takes place at the site unless appropriate extraction facilities have been installed and if any plant or equipment is to be installed on site, a written scheme would need to be submitted and approved by the Local Planning Authority. This would ensure impacts from unwanted odours is controlled in the interest of neighbouring residents.
- 4.2 Comments were also made in relation to the area to the rear attracting vermin if poorly kept, however good waste management practices would resolve this which can be secured by condition. If managed properly, there would be no unacceptable visual impacts. The Environmental Health Manager is able to intervene should this be causing harm or attracting vermin.

5. Parking and Highway Safety

- 5.1 The Council's Highways Manager has raised no objection to the proposal. While there may be high demand for parking given the busy commercial nature of Altway, it is considered that sufficient capacity exists within the area to accommodate parking during the hours for which permission has been applied. This also reflects there would generally be less demand for parking into the evening.
- 5.2 There are double yellow lines which encompass the junction at Altway and Stowe Avenue to prevent dangerous parking. The increase in vehicle movements associated with use of the premises as a small-scale bar/café into the evening would not be so significant as to cause disturbance to nearby residents. The majority of trips are likely to be made via Altway as opposed to Stowe Avenue which is the area's principal arterial road. This would blend with existing traffic and patrons of the nearby hot food takeaway and restaurant.

6. Other Matters

- 6.1 Representations have been received in relation to the proposal impacting on house prices within the locality. This is not a material planning consideration and therefore does not form part of this assessment.

7. Equality Act Consideration

- 7.1 Section 149(1) of the Equality Act 2010 establishes a duty for the Council as a public authority to have due regard to three identified needs in exercising its functions. These needs are to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - Advance equality of opportunity between people who share a relevant protected characteristic (age, disability, race, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion and belief, sex and sexual orientation) and people who do not share it;
 - Foster good relations between people who share a relevant protected characteristic and those who do not share it.
- 7.2 The decision to approve this scheme would comply with the requirements of the Equality Act 2010, that no one with a protected characteristic will be unduly disadvantaged by this development.

8. Conclusion

- 8.1 It is considered that, subject to conditions, the proposal would be acceptable in principle and would not cause unacceptable harm to neighbouring residents. The Highways Manager considers there are no issues with regard to parking and that the proposal can be accommodated without causing harm to highway safety. The application therefore complies with adopted local policy and is recommended for approval.

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Recommendation - Approve with Conditions

Conditions

This application has been recommended for approval. The following conditions and associated reasons apply:

- 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).

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

Site Location Plan (dated 09/05/2023)
OFS-201AA-PP-CI-04-2023-003 – Proposed Site Layout Plan

Reason: For the avoidance of doubt.

- 3) The outdoor seating plan shall be carried out in accordance with the Proposed Site Layout Plan ref. OFS-201AA-PP-CI-04-2023-003.

Reason: For the avoidance of doubt and to ensure control is maintain over the scale of the outdoor seating area to protect neighbouring residents.

- 4) The premises shall not be open for business outside the hours of 08:00 to 23:00.

Reason: To protect nearby residents from unacceptable levels of late evening and night time noise and disturbance.

- 5) The outdoor seating area shall not be open for business and shall be removed from the external pavement outside the hours of 08:00 to 22:00

Reason: To protect nearby residents from unacceptable levels of late evening and night time noise and disturbance.

- 6) No live, amplified or recorded music or entertainment shall take place within the premises above a level of LAeq 65dB, 10 minutes, measured 1 metre from any instrument, speaker or wall located within the premises.

Reason: To prevent noise and disturbance to nearby residents and to prevent the emission of noise above a level that would be detrimental to the aural amenity of the area.

- 7) No live music, amplified music, or live entertainment shall take place outside of the premises.

Reason: To prevent noise and disturbance to nearby residents and to prevent the emission of noise above a level that would be detrimental to the aural amenity of the area.

- 8) No cooking, with the exception of warming or reheating, shall take place on the premises without appropriate extraction facilities first being installed. Prior to the installation of any plant or equipment a written scheme of noise control, and detail of control of odours, for the proposed plant and equipment shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be operated and maintained in accordance with the approved details for as long as the use continues.

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

- 9) Prior to the change of use of the building hereby permitted, a waste management plan shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that that the refuse will be appropriately stored and collected from the site in the interest of protecting neighbouring residential.

Informative

- 1) Background music is not prescribed under the Licensing Act 2003 and is exempt from other activities regarded as regulated entertainment. It shall be defined as any amplified music, which has a music noise level not exceeding LAeq 10min 65dB. Measurements to determine the music level shall be made at a position not less than 1 metre from any loudspeaker, instrument or wall.

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Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** 26th July 2023

Subject: **DC/2023/00952**
Streetworks At Gorse Lane Gorse Lane Liverpool

Proposal: Installation of a 20m high mast supporting 6 antennas, 2no. 0.3m dishes and ancillary equipment, 2 equipment cabinets and development ancillary thereto.

Applicant: Cornerstone **Agent:** Miss Rowena Maslen
Sinclair Dalby Limited

Ward: Ford Ward **Type:** Full Application

Reason for Committee Determination: Called In by Council Lappin.

Summary

The proposal is for a 20-metre monopole with ancillary equipment located on Gorse Lane near Ford Cemetery. It is acknowledged that there are three masts within the vicinity, however permission exists through the prior approval process for a fourth 20 metre mast which has not been implemented. This application is an alternative location to the unimplemented permission and the applicant has confirmed that they would accept a condition to ensure that the unimplemented mast was not constructed. The proposal is, on balance, acceptable and is recommended for approval.

Recommendation: Approve with Conditions

Case Officer Catherine Lewis

Email planning.department@sefton.gov.uk

Telephone 0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RVIMGBNWGLE00>

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Site Location Plan



The Site

The application site comprises the grass verge on the eastern side of the B5422 Gorse Lane adjacent to Ford Cemetery, in Ford Litherland. Located just north of the junction with Kirkstone Road West and to the west of the site are residences separated from the proposed mast by a wide grass verge and trees a pedestrian footpath and a further grass verge and pedestrian footpath. To the south beyond the pedestrian footpaths and grass verges are the residential properties off Pankhurst Road.

There are three masts within the immediate vicinity.

History

Prior approval was granted in May 2020 for the installation of a 20m high street works column supporting 6no. antennas, 2no. 0.3m dishes and ancillary equipment including the installation of 2no. equipment cabinets and development ancillary thereto (app.ref: DC/2020/00477). This was proposed to be installed at the north side of Pankhurst Road adjacent to Ford Cemetery but is yet to be implemented.

A subsequent application was submitted for a similar installation as above which was subsequently withdrawn (app.ref: DC/2023/00562). For the reasons explained below.

There also 3 further installations close to the application site, which were previous granted permission 29 April 2008, 29 April 2013 and 17 January 2020

Consultations

Environmental Health

No objections

Highways Manager

No objections

Neighbour Representations

A Site Notice has been posted and neighbours notified. It must be noted, however, that the official notification period does not finish until 22nd July 2023. To date, a formal objection has been received from Cllr Lappin and supported by Cllrs Dowd and Moncur.

A further two written objections have been received from properties on Kirkstone Road West,

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objecting on the following grounds:

- Object to the installation of further masts in Gorse Lane stating that no more should be allowed.
- Concern about the health issues associated with this type of equipment.

An update on any further representation received by the Council will be provided as part of late representation.

Policy Context

The application site lies within an area designated as Primarily Residential in the Sefton Local Plan which was adopted by the Council in April 2017. Sefton Local Plan policy IN1 (Infrastructure and developer contributions) states that social, community, environmental and physical infrastructure will be protected, enhanced and provided where there is an identified need to support sustainable communities. This reflects the more detailed provisions of the National Planning Policy Framework (NPPF) which under paragraph 114 states ‘advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.’

Assessment of the Proposal

1. Background

- 1.1 Certain forms of telecommunication development, for example, mobile telephone masts, are known as ‘permitted development’ (i.e. they do not require planning permission) subject to ‘prior approval’ from the Local Planning Authority (LPA). The prior approval procedure means that the principle of development is not up for debate – this is already accepted. The Local Planning Authority can only consider the siting and appearance of the proposal, providing various conditions and limitations are met.
- 1.2 Prior approval was granted in 2020 for a similar proposal ref: DC/2020/00477 to the current application but to be located on the grass verge adjacent to the footpath on Pankhurst Road. The applicant has advised that they now wish to revise the location rather than implement DC/2020/00477. Initially, the applicant submitted the proposal for the revised location under the prior approval process in April of this year ref: DC/2023/00562. However, officers had concerns that due to the number of masts within the area there was a need to ensure that if the proposal was approved, both prior approval applications would not be implemented. Following discussions with officers, the applicant withdrew the prior approval application and agreed to submit a full application for planning permission so that this aspect could be controlled. This full application, therefore, seeks to provide for a

revised location and the applicant has confirmed that they would accept a planning condition to control and remove the right to implement the mast approved under DC/2020/00477.

- 1.3 The National Planning Policy Framework (NPPF) encourages the applicant to submit with any telecommunication applications the outcome of consultations with statutory bodies, evidence that existing sites containing masts have been considered and that the proposed equipment when operational complies with International Commission guidelines. The applicant's supporting statement sufficiently addresses these matters and advises that a description of the proposal and drawings was sent to the Ford Ward Councillors and also to Peter Dowd MP on 18th March 2023. The Headteachers and Chair of Governors of Hatton Hill Primary School and Our Lady Queen of Peace RC Primary School were also consulted but no responses received.

2. The Proposal

- 2.1. Full planning permission is sought for the installation of a telecommunications mast of 20m in height including 6 no. mounted antennas, 2 no. 0.3 metre dishes and 2 no. equipment cabinets. The mast and cabinets would be grey (RAL 7035) in colour.
- 2.2. The application site comprises the grass verge on the east side of the B5422 Gorsey Lane adjacent to the railings at Ford Cemetery. The mast would be approximately 30 metres south of the access to the cemetery adjacent to the pedestrian footpath to Pankhurst Road. The residential properties known as 2 and 4 Kirkstone Road West are located on the opposite (west) side of Gorsey Road with the properties on Pankhurst Road located to the south. There are three masts already in the vicinity of this part of Gorsey Road. One to the north of the access to the cemetery and two to the south of the proposed mast.

3. Siting and Appearance

- 3.1. The proposed mast at 20m in height would be sited at the back edge of the pavement on a grassed area adjacent to the railings of Ford Cemetery.
- 3.2. It is acknowledged that there are three other masts in the immediate vicinity, which have been granted permission for between 13.6 metres, 15 metres and up to a height of 20m.
- 3.3. The principal planning consideration in assessing proposals for telecommunication equipment is visual impact. The NPPF recognises that it is not always possible to utilise existing masts, buildings and structures when new sites are required however equipment should be sympathetically designed and camouflaged where appropriate. The principle of a mast at 20 metres in height has already been established in the immediate area therefore, the proposed height and design is acceptable in principle in this location.

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- 3.4. Paragraph 115 of the NPPF advises '*The number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion.*'
- 3.5. In the supporting statement the applicant has advised that '*Whilst it is the case that Cornerstone remains a jointly owned company, established by the two mobile network operators, Vodafone Limited and VMO2 (trading as O2), to establish and operate a shared single grid network to provide 2G, 3G and 4G coverage, this can no longer be the case with all sites for the provision of 5G service.*'
- 3.6. Therefore, the proposal is part of VMO2 continued network program to provide enhanced 3G, 4G and new 5G coverage in the area. An existing base station has been identified in the area; however, the applicant has advised that it cannot accommodate both operators' latest requirements. In order to fit into the operator's single grid network, an additional new greenfield style base station is required for this upgrade to VMO2's service in close proximity of the existing installation.
- 3.7. It is acknowledged that there are three existing masts within the vicinity, but permission does exist for a fourth one. This application would ensure that the masts are closer together and when viewed travelling north or south on Gorsey Lane would on balance be less conspicuous as a group than the mast that is subject of the extant permission which, if constructed, would provide for a greater spread of masts in a semi-circle. Given that the need for the technology has previously been established it is considered that the location of the mast is acceptable.

4. Living Conditions

- 4.1. As the application is for full permission consideration has been given to the impact of the proposal on the living conditions of no's 2 and 4 Kirkstone Road West (the nearest residential properties). As these properties are at an angle to the mast and on the opposite side of Gorsey Lane there would not be any direct overlooking from the main habitable windows on the front elevations. Further, there is a large, grassed verge with trees in between the properties on the west side of Gorsey Lane before the main road and then the mast. In terms of the properties known as no 1 and 3 Kirkstone West these properties have Kirkstone Road West, a grassed verge and Gorsey Lane in-between them and the application site. It is therefore considered that there would be no undue harm upon the living conditions of these residents.

5. Highway Safety

- 5.1. Initially, the description included reference to a meter cabinet, but the applicant has confirmed that this was an error. The Highways Manager has advised that there are similar existing installations on this section of the highway verge and the proposed installation

would not obstruct access or adversely impact visibility for pedestrians and motorists. The proposal would therefore not give rise to highway safety concerns.

6. Health Impacts

- 6.1. A Certificate has been supplied with the application confirming that the apparatus would be compliant with International Commission guidelines on radiation.
- 6.2. Chapter 10 of the National Planning Policy Framework (NPPF) states at paragraph 118 that:
- “Local Planning Authorities must determine applications on planning grounds only. They should not... set health safeguards different from the International Commission guidelines for public exposure”.
- 6.3. As the application has been accompanied by the relevant Certificate, the Local Planning Authority cannot refuse it on health grounds.

7. Conclusion

- 7.1. The installation would provide 5G coverage for the surrounding area, providing a substantial benefit to the area in terms of facilitating the growth of next generation mobile technology and improving existing coverage. This is recognised as being essential for economic growth and well-being in paragraph 114 of the NPPF.
- 7.2. The principle of a 20-metre mast and associated infrastructure has been established through the extant prior approval under DC/2020/00477 by the General Permitted Development Order. The revised location would not cause undue harm to the amenities of the surrounding residential properties and on balance would not have a detrimental appearance within the street scene.
- 7.3. Subject to a condition to ensure that the previously approved mast ref: DC/2020/00477 would not be implemented, the proposal is acceptable.

8. Equality Act Consideration

- 8.1. Section 149(1) of the Equality Act 2010 establishes a duty for the Council as a public authority to have due regard to three identified needs in exercising its functions. These needs are to:
 - Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - Advance equality of opportunity between people who share a relevant protected characteristic (age, disability, race, gender reassignment, marriage and civil

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partnership, pregnancy and maternity, religion and belief, sex and sexual orientation) and people who do not share it;

- Foster good relations between people who share a relevant protected characteristic and those who do not share it.

- 8.2. The decision to approve this scheme would comply with the requirements of the Equality Act 2010, that no one with a protected characteristic will be unduly disadvantaged by this development.

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 and documents:

CTIL30746000_TEF023514_VFNA_GA_REV_A_ Location Plan
CTIL30746000_TEF023514_VFNA_GA_REV_A_ Proposed Site Plan
CTIL30746000_TEF023514_VFNA_GA_REV_A_ Proposed Location Plan

Reason: For the avoidance of doubt.

Ongoing Conditions

- 3) The mast and associated equipment approved under DC/2020/00477 shall not be implemented.

Reason: To ensure that there is not a proliferation of masts in the area.

Traffic Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** 26 July 2023

Subject: [DC/2022/01702](#)
[Summerhill Primary School Poverty Lane Maghull Liverpool L31 3DT](#)

Proposal: Erection of a two storey extension classroom block, extending of existing hall to new kitchen area and raising of hall roof. Erection of single storey extension to form office with linking corridor extension, new playground area, expansion of car parking area, and installation of low level and perimeter fencing to match.

Applicant: Mr John Monk
Sefton Council **Agent:** Mr John Monk
Sefton Council

Ward: Sudell Ward **Type:** Full application - major

Reason for Committee Determination: Called in by Cllr Mckinley

Summary

This application seeks planning permission to provide a two storey and single-storey extension to the existing school buildings together with a playground, landscape mound, additional car parking and landscaping at Summerhill Primary School, on Poverty Lane, Maghull. Following representations from residents a number of amendments have been secured including the removal of the Multi Use Games Area, additional car parking within the site and planting to remain to the boundary with 86 Poverty Lane.

The site lies in an area subject to Policy HC7 'Education and Care Institutions' in the Sefton Local Plan. Summerhill Primary under Policy MN 3 'Land East of Maghull' has been identified for expansion to become a two form entry school, to accommodate the pupil increase from the neighbouring residential development.

The main issues to consider include the principle of the development, design and character, matters relating to access, transportation and highway safety, as well as landscaping, ecology, and drainage. There are no objections from any statutory consultees subject to appropriate conditions.

Recommendation: Approve with Conditions

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Case Officer Catherine Lewis

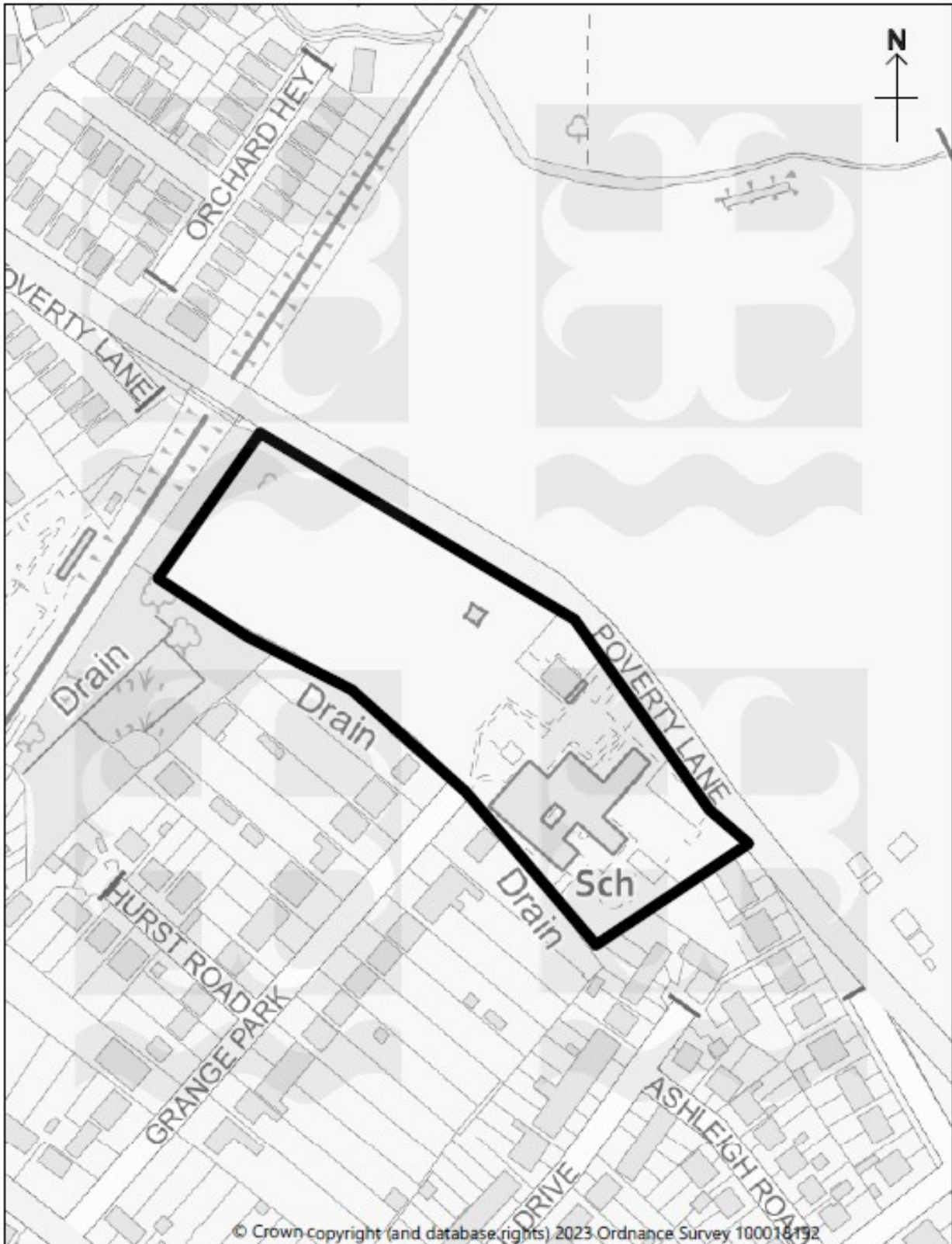
Email planning.department@sefton.gov.uk

Telephone 0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4EZLNW07M00>

Site Location Plan



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The Site

The application site is located on land to the south of Poverty Lane, Lydiate and comprises the building and grounds of Summerhill Primary School. The site comprises 2.2 ha of land and the school buildings including a small stand-alone nursery are located towards the eastern part of the site. The railway line forms the western boundary, and residential properties adjoin the site to the south and east.

Summerhill Primary is a one form entry primary school with 207 children on roll and a total of 34 staff. The school hours are 08:45am to 3:20pm but the gates open at 7.55 am and the school offers a breakfast club until 08.55 am and there is an afterschool club 3.20pm to 6.00pm.

There is a private nursery with places for 26 children maximum and they have 3 car park spaces. The nursery is open 8-6pm.

History

There are a number of applications relating to the site, but none are relevant to this proposal.

Consultations

Highways Manager

No objections -subject to conditions

Sport England

No objection

Initially objected but following the receipt of revised plans Sport England has no objection as the proposal is considered to accord with exception 3 of Sport England's Playing Fields Policy and with paragraph 99 of the NPPF.

Environmental Health Manager

No objections subject to conditions to control Construction Environmental Management Plan, Piling, Extraction details for kitchen equipment, external lighting and hours of working.

Merseyside Environmental Advisory Service

No objections subject to conditions to protect birds during the bird breeding season, enhanced biodiversity and an Informative should protected species be found on the site.

Flooding & Drainage Manager

No objections subject to conditions

Initially objected but following the receipt of additional information they support the proposal subject to a condition.

Environment Agency

No objection

United Utilities

No objections subject to a condition controlling foul and surface water.

Local Plans

No objections- the site is subject to Policy HC7 'Education and Care Institutions' and the principle of the expansion of the school has been accepted under Policy MN3 of the Sefton Local Plan. The policies within the Maghull Neighbourhood Plan are also relevant.

Network Rail

No objection subject to no works within 10 metres of the railway boundary,

Neighbour Representations

A site notice has been posted and an advert has been placed in the newspaper. Neighbours were notified on the 14.09.2022 in line with the Council's Statement of Community Involvement. Neighbour comments expressed concern that as Grange Park was a cul-de-sac other properties should be consulted on the scheme. Additional neighbours were notified on the 16th November 2022 and upon receipt of amended plans all neighbours were renotified on 16th December 2022. Neighbours were notified again on 31st January 2023 in case letters had not been delivered due to the postal strike. Neighbours were notified again on 24th May 2023 due to minor alterations.

A total of 47 properties have been notified. In total, objections have been received from 13 properties.

Five letters from four properties were received following the initial notification which make the following points.

Access and Parking

- Existing 'parent parking' in Grange Park is not only thoughtless and inconsiderate to residents regarding blocked access to driveways and parking on pavements; but is a serious potential danger to pedestrians especially young children who enter school via the pedestrian entrance.

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- Grange Park is a residential road unfit for the purpose of 'parent parking'. An urgent survey needs to be done.
- Has a traffic impact report been undertaken.
- No access point for vehicles or pedestrians near 86 Poverty Lane.

Need for the increase in school places.

- Concern about the consultation period undertaken by the school.
- Question the analysis with regard to the need to expand the school.
- Historically a number of children attend from outside the catchment area.

Landscaping

- Need to retain the existing hedges on the boundary with 86 Poverty Lane

Living Conditions

- Concern about the noise from the Multi Use Games Area (MUGA) which should be relocated to the other side towards Poverty Lane.
- Realistically a new building on the field should be undertaken.
- Proposed height of the building should be single storey and should be further away from 86 Poverty Lane

Following the amended plans on 16th December 2023 and the renotification on 31st January, 11 letters received which make the following summarised points:

- Concern about the proposed layby on Poverty Lane
- What is the justification for the acoustic mound to Grange Park?
- The consultation process should be increased due to the Christmas Period.
- Glad to see their earlier comments about the retention of the hedge has been incorporated.
- Efficient drainage system is required.
- Planting of trees will reduce the effect of looking at a blank wall.
- Concerned about the pedestrian gate on Grange Park which should be closed due to the antisocial behaviour from some parents including thoughtless parking and blocked drives,
- Opportunity to improve access to the school from Poverty Lane especially with the new housing developments.
- Concerned about the safety of children and residents due to the parent parking at drop off and pick up times.

A further letter was received following the most recent consultation which expresses concern about the noise, dust, vibration and construction traffic for both the proposed extension and the cumulative impact with the housing development upon their residential amenities. Concern that

there is a lack of a construction management plan or a construction traffic plan. Concern about noise and whether there has been an assessment of the noise from the playground on their property.

Policy Context

The application site lies within an area designated as an Education Institution under Policy HC7 of the Sefton Local Plan which was adopted by the Council in April 2017.

The site is also subject to Policy MN3 'Land East of Maghull'. The whole of the site is subject to Policy NH8 'Minerals' and lies in a Mineral Safeguarding Area and License area for onshore hydrocarbon extraction. A small part of the site adjacent to the western boundary and railway line is subject to Policy NH2 'Nature'.

The Maghull Neighbourhood Plan was 'made' (i.e. adopted) on 24th January 2019 and carries full weight in decision making. The site is located within an area designated as the Hall Road character area.

Assessment of the Proposal

1. Introduction

1.1 The proposal is to expand Summerhill Primary School from a one-form entry (210 places) to a two-form entry (420 places). The admission number of the school would be increased from 30 to 60 with effect from September 2024 and then the pupil numbers would increase gradually as the new admission number moves through the school year by year. The existing school building has a footprint of 1744m² and the new extensions would have a total area of 983m² internally.

1.2 The project has a two phased approach. Phase 1 is to construct a two storey seven classroom block and Phase 2 to modify the existing school area to provide an enlarged hall and new kitchen, improved circulation to existing classrooms (rather than through hall space) new classrooms and resources areas, new WC and store. Initially the scheme included a Multi-use Games Area (MUGA) but this has been omitted from the scheme. Revised plans demonstrate a playground area with a grass mound approximately 1.1m in height together with additional tree planting to provide an area of separation from the southern boundary.

1.3 Once Phase 1 has been completed this will allow places to become available with some of the classrooms/functions to be moved into the new block which will release the areas for Phase 2 works including improvements to the existing building.

1.4 The main issues to consider are the principle of development, design and character, matters relating to access, transportation and highway safety, sports provision and community use,

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residential amenity and general environmental impacts.

2. Land Use Designation

2.1 The application site is identified in the Sefton Local Plan under Policy HC7 'Education and Care Institutions'. This policy sets out that uses directly related to the existing use of the site or which sustain the viability of the existing use of the site are acceptable in principle. Therefore, the proposal to extend the existing school is acceptable in principle.

2.2 When Sefton's Local Plan was adopted in 2017, Policy MN3 'Land East of Maghull' (para 3a) stipulated that contributions would be sought from the housing developers of the site to expand Summerhill Primary School to provide a two-form entry to meet the increased demand for school places from families who move into the area.

2.3 At a meeting of the Planning Committee on 17th March 2021, it was resolved to approve two planning applications on the land East of Maghull allocated site for a combined number of 1,700 homes. Each of these approvals was subject to the signing of a Section 106 planning obligation that, amongst other things, secures a financial contribution towards the expansion of Summerhill Primary. The contributions secured towards Summerhill from these two applications will be up to £3,782,080. Therefore, the principle of expanding Summerhill Primary has been accepted by the Local Planning Authority.

2.4 In response to queries raised by residents about the expansion/justification for the increase at Summerhill Primary and potential for other schools to be considered, the Schools Support Team has advised that St Andrews Maghull Primary reduced its capacity in 2017 due to falling numbers on roll and the risk of huge financial difficulty this would have caused if the school had remained 2 form entry. The school became an academy in May 2018 and whilst the Local Authority does retain overall control over pupil place planning within the area, any decision to revert to the previously higher intake number would be a matter for the school governors/multi academy trust to make. To date, the school/trust has not approached the Local Authority to request this. With reference to St George's, this is also already operating at its net capacity.

2.5 The Schools Support Team has provided the table below which demonstrates the projections for the Maghull planning area (primary schools).

Year	Total PAN	R	Y1	Y2	Y3	Y4	Y5	Y6	Total
2021/2022	3255	458	490	461	480	477	509	502	3377*
2022/2023	3255	460	463	490	465	480	474	505	3337*
2023/2024	3255	503	463	467	498	468	480	477	3356
2024/2025	3255	500	507	465	469	499	467	480	3387
2025/2026	3465	491	505	511	468	470	498	468	3411
2026/2027	3465	491	496	509	514	469	470	499	3448

PAN = Pupil Admissions Number

*= Existing on roll

2.6 The table demonstrates the increase in pupil yield from housing developments as shown, rising from 3255 (in 2024/25) to 3465 (in 2025/26) which equates to the increase in numbers to be provided for at Summerhill. Therefore, the principle of the expansion of the school has been established in the Local Plan and is now necessary due to the increasing number of children in the immediate area.

3. Neighbouring Living Conditions

3.1 The eastern boundary of the school adjoins the side gardens of 24 and 25 Grange Park and initially the scheme included a Multi-Use Games Area (MUGA) and ball stop fencing to a height of 8 metres adjacent to this boundary. Concerns were raised by the neighbours about the proximity of the MUGA and associated noise and the proposal now omits the MUGA and fencing. Provision has been made for a playground in a revised location with a landscape mound to a height of 1.1m between the eastern boundary and the playground. The playground would be approximately 27m from the side elevation of no. 25 Grange Park. It is considered that this revision is acceptable and would reduce the impact of the proposals upon the residential amenities of these adjacent occupiers.

3.2 The side and rear garden of the bungalow known as 86 Poverty Lane is located on the south-eastern boundary together with the rear gardens of 49, 51, 53, and 55 Summerhill Drive. The most recent revised plans demonstrate that the two-storey rear extension which has a height of 10 metres would be located approximately 22m from the rear and side boundary of 86 Poverty Lane and some 17 metres from the rear boundary of no 55 Summerhill Drive. The extension has been designed to provide for a shallow pitched roof and there would be a small window at first floor level which would have obscure glazing. Subject to a condition controlling this aspect there would be no undue impact in terms of privacy, overshadowing or loss of outlook to these properties.

3.3 The north east elevation would be approximately 47.5 metres away from the side boundary of the rear garden of no 24 Grange Park. Although there are windows to the classrooms, due to the separation distance it is considered that there would be no undue impact in terms of

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privacy, overshadowing or loss of outlook to this property. Subject to the imposition of conditions the proposed development would meet the aims of Policy EQ2 'Design' Part 1 a. of the Sefton Local Plan.

4. Design

4.1 Summerhill Primary School is a one form entry, single storey 1970's system built, flat roof structure. The existing school building has a footprint of 1744m² on a site with total area of 2.27Ha. The proposed two storey seven classroom block would be located to the rear facing Poverty Lane and would be constructed to the southeast on an area currently used as a playground. The 2-storey classroom block extension would measure 19.6m x 22.1m and has been designed with a shallow pitch hipped roof to 10 metres to ridge and 7 metres to the eaves utilising metal roof tiles in a slate colour. The kitchen and office extensions are single storey height to match existing. The new extensions would have a total gross floor area of 983m² internally measured. The walls of the extension would use facing bricks and the scheme includes solar panels which meets the aims of Policy EQ7 'Energy Efficient and Low Carbon Design' a condition to control the materials is recommended.

4.2 Policy MAG 4 'Character Areas' of the Maghull Neighbourhood Plan sets out that development that respects the distinct characteristics in terms of the type of development, scale, design, open space provision and general layout, and improves but does not detract from its surroundings in the Local Character Areas in which it is located, will be supported. The site is located within an area defined as the Hall Road character area. The Character Area assessment for this area sets out that it is one of the oldest parts of Maghull with a mixture of established and imposing Victorian buildings. However, this specific part of the Hall Road Character Area, which includes the homes fronting Poverty Lane, and the school itself, is more modern. It is considered that the extension of a relatively modern school building along a road of modern buildings would not compromise the character of the Hall Road Character Area. This will become more apparent when the new housing estate is constructed directly opposite, which includes two storey homes.

4.3 Therefore, the design of the extension is considered acceptable and would meet the aims of Policy EQ2 design Part 1 a of the Local Plan which seeks to ensure that proposals respond positively to the character, local distinctiveness and form of their surroundings and Policy MAG4 of the Maghull Neighbourhood Plan.

5. Construction Works

5.1 A contract plan has been submitted which includes two new temporary site accesses. However, a Construction Traffic Management Plan (CTMP) would need to be submitted as the phasing and construction process would need to be carefully managed to ensure that the details are coordinated with new residential development opposite. A condition to ensure that the living conditions of the neighbours during the construction process is protected, in terms of noise and dust, would also need to be imposed.

6. Access Transportation and Highway Safety

6.1 As set out above the school extension is required to accommodate an increase in children living in the surrounding area due to the large residential development at the land East of Maghull. This is located to the north of the school and therefore it is expected that the majority of additional pedestrian/cycle/vehicle movements would come from the north. While this is considered likely the acceptability of the proposal is not reliant on this.

6.2 There is existing vehicular and pedestrian access from Poverty Lane with a separate pedestrian gate with access to the school from the cul-de-sac known as Grange Park. The existing car park provides for 30 car parking spaces for the school and nursery including 5 disabled bays.

6.3 The Highways Manager has advised that the parking standards require 54 spaces (30 existing spaces plus 24 new spaces based on 3 spaces per new classroom i.e., $3 \times 8 = 24$). The most recent layout provides for 47 car park spaces including 5 disabled bays which is a shortfall of 7 spaces ($54 - 47 = 7$).

6.4 However, the highway improvement works to be implemented in the vicinity of the site as a result of the approved residential development opposite the school will create better facilities for walking and access to public transport that could assist in reducing private car use. The improvements consist of:

- Three new pedestrian crossings on Poverty Lane, a signalised crossing outside the school and 2 zebra crossings, one to the north and one to the south of the school.
- A new 2m wide footway will be introduced along the north east side of Poverty Lane fronting the residential site and opposite the school where there is currently a narrow grass verge and no footway. The widening to 2m of a section of existing footway on the south west side of Poverty Lane east of the railway bridge.
- The existing Public Right of Way (Maghull No. 13 Footpath) to the south east of the school that runs alongside the M58 motorway alignment is to be enhanced to a shared cycleway/footway with lighting.
- Improved traffic calming measures will be introduced on Poverty Lane in the vicinity of the school.

6.5 The Highways Manager has also advised that as part of these highway improvements associated with the residential development the two new parking laybys totalling 8 spaces are proposed opposite the school which could also be utilised during school pick up/drop off. The proposed car parking is therefore deemed acceptable.

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- 6.6 Residents have suggested that more of the school grounds should be considered to provide additional car parking spaces and the applicant provided draft revised plans to increase the number of car park spaces, but Sport England raised an objection to the scheme as the car park extended into the playing field.
- 6.7 A number of other layouts have been considered including the provision of additional laybys; however, an objection was received regarding the construction of a two-space layby on Poverty Lane due to the impact upon a residential property. The applicant has submitted revised plans to omit this layby as further survey work has identified that this would impact upon a number of underground services, street lighting and the loss of a mature tree.
- 6.8 It is acknowledged that there is a need to provide adequate car parking whilst balancing the need to expand the school and provide adequate sporting facilities on a constrained site. The highway improvement works associated with the residential development will create improved pedestrian routes to the surrounding residential areas, Maghull rail station and the bus stops on Poverty Lane to encourage sustainable travel. On this basis, the parking provision is acceptable.
- 6.8.1 *Grange Park Entrance*
- 6.8.2 Objections have been raised regarding current issues associated with parents driving children to the school via Grange Park and that doubling the school numbers would exacerbate this situation.
- 6.8.3 To address this issue consideration was given to closing the pedestrian access point however this would remove options for parents and staff who wish to walk /cycle to school from the wider area to the south of the site and Maghull Station. The Highways team have checked their records and have advised that they have not had any complaints about parental parking in this road since their records started. Notwithstanding this they further advise that the Government and Local Authorities have a responsibility to encourage sustainable travel by reducing vehicle traffic and enabling children and parents to walk to school. The Grange Park gate provides this opportunity for those living on the southwest side of the school.
- 6.8.4 The Highways Manager has concerns about displaced and increased parking as a result of closing the pedestrian access to the school on Grange Park, particularly on Poverty Lane, Ashleigh Road and Molyneux Road. They are concerned that an increase in vehicle movements during the AM and PM peak period on these roads and surrounding road network would occur by preventing the use of the existing pedestrian access, both from diverted vehicles and from children who previously walked instead of being driven due to the added distance to the Poverty Lane entrance.
- 6.8.5 The head teacher has also noted that the school has families and staff who access the gate to walk through to Maghull station to use public transport to get to work; closure of this

gate would add unnecessary time onto their daily journey, cause punctuality issues and as a result increase traffic on Poverty Lane. Furthermore, some of their pupils with hidden disabilities also use this entrance as it allows for a calmer start to their day.

- 6.8.6 This gate is often used to access public transport for school trips as it provides a much safer route to the station due to lack of traffic and no busy roads to cross. The alternative route would include crossing a busy junction and an exceptionally narrow pavement only suitable for one person. They also use the gate for local trips to access the canal, St Andrews Church for their Christmas Service, the Baptist church, the Swimming baths, and the local area in general for Geography, History, Orienteering, Bikeability and the local library. Furthermore, the closure of the gate would also mean the children with physical and hidden disabilities would suffer due to the added complications and length of the alternative route e.g., 15 minutes in an electric wheelchair on the busy road would put stress and strain on children. They use the gate access to Grange Park when they are teaching road safety as it is quiet during the school day and is a safe place to teach key skills.
- 6.8.7 Officers are of the view that it is very important that a good quality management plan and travel plan are developed and provided to address the issues that these residents experience and the school has agreed to this. This will need to include details of how the school will communicate with parents and the work they will undertake to change the behaviours which lead to disruption for residents of Grange Park. It will also be important that this information is communicated to all new families attending the school to prevent the behaviour from the start. It is important to remember that the need to expand the school is to cater for the additional residential developments on Poverty Lane to the north of the school, meaning it is likely that the added intake will access the site from Poverty Lane rather than using Grange Park. Whilst this assumption is not absolute as proximity is not the only factor in choice of schools, it is a significant matter and weight should be given to this consideration. In combination, commitment from the school to a management plan and a travel plan, along with a limited number of additional children accessing the school via Grange Park mean that the proposal is unlikely to have any worse impact on that road and the travel plan and management plan could improve the situation.
- 6.8.8 Whilst not a requirement from a highway's perspective for the development, other options for improving the management of parking on and access to Grange Park have been considered though all include mechanisms which are outside of planning and could not be secured under this application. A new School Streets Initiative is being trialled across the country to address these types of issues and could be considered. A Traffic Regulation Order (TRO) would be needed to facilitate this to prevent access to Grange Park for unauthorised vehicles which would legally prevent school drop-off and pick-up on Grange Park. The TRO would be enforceable by the Police. However, the Council could apply to the Department for Transport in the near future for legal powers and funding to undertake the enforcement itself through the use of cameras to be erected on Grange Park. Traffic Regulation Orders are subject to a statutory process requiring consultation and there could

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be objections to be considered when determining whether or not to make the TRO, meaning there is no guarantee the TRO would be approved.

6.8.9 On balance therefore, the opportunity to ensure there are sustainable routes to the school through the continued use of the pedestrian gate on Grange Park is considered acceptable. Subject to the imposition of conditions the proposed development would meet the aims of Policy EQ2 'Design' Part 2 (a) of the Sefton Local Plan.

6.8.10 To conclude the highway section, there are no objections in principle to the proposals as there would be no adverse highway safety impacts, subject to conditions controlling the car park, motorcycle and cycle parking, a travel plan, mud on the road and a construction management plan.

7. Sport England

7.1 Initially Sport England objected to the scheme as the Multi Use Games Area and car park extension had an unacceptable impact on the current and potential playing pitch provision on the site. The revised plans which demonstrated the replacement of the MUGA with a hard surface playground and an extension of the existing car park are now acceptable. The siting of the proposed playground and car park extension would meet exception 3 of Sport England's Playing Field Policy in that the proposed development affects only land incapable of forming part of a playing pitch, does not reduce the sporting capacity of the playing field to accommodate playing pitches or the capability to rotate or reposition playing pitches to maintain their quality and would not prejudice the use of the remaining areas of playing field on the site.

7.2 Sport England has no objections to this application as it is considered to accord with exception 3 of Sport England's Playing Fields Policy and with paragraph 99 of the National Planning Policy Framework (NPPF).

8. Environmental Matters

8.1.1 Trees, Open Space and Landscaping

8.1.2 Following the comments from the neighbours the applicant has amended the landscape scheme to ensure that the existing hedge planting between the school boundary and 86 Poverty Lane and 55 Summerhill Primary remains. There are two existing large trees and five medium trees which would be affected by the works. The applicant has advised that the existing five medium size trees will be carefully reclaimed and re-planted within the site. A total of 24 new trees will be planted within the school site and a condition to control this aspect is recommended.

8.1.3 Ecology

- 8.1.4 The applicant has submitted an ecology report in accordance with Local Plan policy NH2 (Ecology Report, Kingdom Ecology, 28 September 2022). The report states that no evidence of bats or Great crested newt use or presence was found. An informative could be added to ensure that should contractors become aware of them as a legal requirement, work must cease, and advice must be sought from a licensed specialist. Section 5.2.2 of the report recommends several biodiversity enhancements to improve the ecological value of the site. These are welcomed and can be secured through a condition. A condition to ensure that birds during the bird breeding season are protected is required too.
- 8.1.5 The application site is within the Sefton Coast Red Squirrel Refuge and Buffer Zone which has been adopted by the Council. The revised landscape plan has included details of small seed-bearing species which encourage red squirrels and discourage grey squirrels in accordance with Local Plan policy NH2. Subject to conditions to control the above, the scheme is considered acceptable and meets the aims of Policies NH2 and EQ7 of the Sefton Local Plan.
- 8.1.6 Drainage and Flood Risk
- 8.1.7 Initially, concerns were raised about the drainage information and the applicant has undertaken additional survey work including a site investigation and test results to confirm infiltrations rates.
- 8.1.8 A drainage survey to check the existing system before finalising the drainage details. Conditions to control this aspect are recommended.

Planning Balance and Conclusion

The above assessment sets out how the scheme complies with the Sefton Local Plan and the Maghull Neighbourhood Plan. The expansion of Summerhill Primary school to provide a two-form entry school is considered acceptable and the principle has been established through Policy MN 3 of the Sefton Local Plan. It is now necessary to plan in detail for accommodating the expected increase in number of pupils.

Conditions to control the car park arrangements and cycle provision are required to provide a safe access and protect the living conditions of nearby residents. Ecological aspects can be controlled by condition to ensure that opportunities for biodiversity are provided. Drainage and environmental protection conditions will ensure that the development is acceptable for both the school and the surrounding residential properties. There are no outstanding objections from any statutory consultees.

Subject to the imposition of conditions the development is considered to be acceptable and accords with the policies in both the Local Plan and the Maghull Neighbourhood Plan.

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Equality Act Consideration

Section 149(1) of the Equality Act 2010 establishes a duty for the Council as a public authority to have due regard to three identified needs in exercising its functions. These needs are to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- Advance equality of opportunity between people who share a relevant protected characteristic (age, disability, race, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion and belief, sex and sexual orientation) and people who do not share it;
- Foster good relations between people who share a relevant protected characteristic and those who do not share it.

The decision to approve this scheme would comply with the requirements of the Equality Act 2010, that no one with a protected characteristic will be unduly disadvantaged by this development.

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 and documents:

ED133- 8 - P01 Location Plan
ED133 – 8 - P02 Existing Site Plan
ED133 – 8 - P03 Rev F Proposed Site Plan
ED133 – 8 - P06 Rev E Proposed Landscape Plan
ED133 – 8 - P20 Rev D Proposed Building
ED133 – 8 -21 Rev E Teaching Block
ED133 – 8 -22 Rev E Teaching Block First Floor
ED133 – 8 -23 Rev C kitchen Block
ED133 – 8 -24 Rev C Entrance

ED133 – 8 -25 Rev D Proposed Roof
ED133 – 8 - P30 Rev D Proposed Elevations
ED133 – 8 -P31 Rev C Sections/Elevations

Reason: For the avoidance of doubt.

Before the Development is Commenced

- 3) No development shall commence, including any works of demolition, until details of all wheel washing facilities have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall include provision for the wheel washing of every vehicle directly engaged in construction/demolition activity prior to it leaving the site and shall be implemented during the course of the entire demolition/construction period.

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

- 4) No development shall commence, including any works of demolition, until a Highways Construction Traffic Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the demolition and construction periods and shall include but not be limited to the following:

- the parking of vehicles of site operatives and visitors
- site access
- site operational hours and materials delivery times
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development.
- measures to control the emission of dust, dirt during demolition and construction.

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

- 5) No development shall commence until full details of a scheme for a surface water sustainable drainage scheme to serve the site, has been submitted to and approved in writing by the Local Planning Authority in consultation with Lead Local Flood Authority. The approved scheme shall be implemented in accordance with the approved details and timetable. Thereafter the surface water sustainable drainage system shall be managed and maintained in accordance with the approved scheme.

Reason: To ensure satisfactory drainage facilities are provided to serve the site in accordance with the National Planning Policy Framework, Paragraph 103 and Policy EQ8 in the Local Plan.

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- 6) No tree felling, scrub clearance, hedgerow removal, vegetation management, ground clearance or building works is to take place during the period 1 March to 31 August inclusive. If it is necessary to undertake works during the bird breeding season then all buildings, trees, scrub, hedgerows and vegetation are to be checked first by an appropriately experienced ecologist to ensure no breeding birds are present. If present, details of how they will be protected are required to be submitted for approval.

Reason: To protect birds during their breeding season.

- 7) No development shall commence above slab level until details of the materials to be used in the construction of the external surfaces of the extensions 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.

During Building Works

- 8) No piling shall take place until a scheme of piling methodology, which provides justification for the method chosen and details of proposed noise and vibration suppression methods, has first been submitted to and approved in writing by the local planning authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

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

- 9) Site working hours shall be restricted to the following times: Monday to Friday - 8am to 6pm, Saturday - 8am to 1pm. No work on site should be carried out on Sundays or Bank Holidays. Should there be any need to deviate from the hours of work proposed, notice should be given to the Local Planning Authority, and agreed, prior to this work taking place.

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

- 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 is subject to the approval in writing of the Local Planning Authority. Following completion of the remedial works identified in the approved remediation strategy, a verification report that demonstrates compliance with the agreed

remediation objectives and criteria will be required, which is subject to the approval in writing of the Local Planning Authority.

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

Before the Development is Occupied

- 11) The development shall not be occupied until facilities for the secure storage of cycles and motorcycles 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 In order to meet sustainable transport objectives including the increased use of public cycling.

- 12) The development shall not be occupied or brought into use until a Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use has been prepared, submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan Targets.

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

- 13) A scheme to control fumes, noise and odour for any proposed plant and equipment to be installed on site shall be submitted to and approved in writing by the Local Planning Authority before its use becomes operational and retained thereafter.

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

- 14) The new school building development shall not be occupied until a scheme detailing any proposed external lighting to be installed on the site shall be submitted to and approved in writing by the Local Planning Authority. All external lighting shall be installed and maintained in accordance with the agreed scheme. All lighting installations should be suitably positioned, angled and orientated so that light glare and overspill does not affect neighbouring properties.

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

- 15) No development shall be occupied until space has been hard surfaced and laid out within the site in accordance with drawing no. ED133- 8- P03 Rev F Proposed Site Plan for cars to be parked and that space shall thereafter 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.

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- 16) The extension shall not be first occupied until a scheme and appropriate scaled plan identifying suitable locations on the site for the erection of bird nesting boxes and bat boxes together with a timetable for implementation has been submitted to and approved in writing by the Local Planning Authority. The approved scheme of nesting and bat boxes shall be installed in accordance with the approved details and timetable.

Reason: To support ecological and biodiversity within the site.

- 17) Within the first planting/seeding season following first occupation of the new classroom/ classrooms all planting, seeding or turfing comprised in the approved details of landscaping shown on drawing no. ED 133-8-PO6 Rev E shall be carried out; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure an acceptable visual appearance to the development and to meet the aims of Policy NH2 of the Sefton Local Plan.

Informative

- 1) 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.
- 2) Should you become aware of any protected species present, works should cease immediately, and further specialist advise sought.

Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** 26th July 2023

Subject: [DC/2023/00548](#)
[Porters Fuchsias Moss Side Formby Liverpool L37 OAE](#)

Proposal: Demolition of all existing structures and erection of a Use Class E food store with new vehicular access from/egress to Formby Bypass (A565), new internal vehicular access road, car parking, servicing area, public realm, and hard and soft landscaping.

Applicant: Aldi Stores Limited **Agent:** Ms Helen Mansley
Avison Young

Ward: Ravenmeols Ward **Type:** Full application - major

Reason for Committee Determination: This is a major application with 5 or more representations on planning grounds.

Summary

The application seeks planning permission for the demolition of existing building and the erection of a new food store with a net sales area of 1,344 sq.m, along with access from a new signalised junction on the Formby Bypass, 121 car parking spaces (including 8 accessible, 9 parent and child spaces and 4 electric vehicle charging spaces), and associated landscaping.

The proposal involves the redevelopment of a previously developed site within the Green Belt. The site previously comprised several glass houses initially used for horticultural, and then for storage. Permission has been granted for 7 dwellings, and most of the glass houses were demolished in 2021. The existing development on site now comprises of one building and hardstanding.

The key issues for consideration relate to the principle of development in the Green Belt, retail Impact, highway safety, character and appearance of the area, living conditions of nearby residents, flooding and drainage, ecology and contaminated land.

The proposal would have a significantly greater impact on the openness of the Green Belt than the existing development and would amount to inappropriate development in the Green Belt failing to preserve Green Belt openness and conflicts with the purposes of including land within it.

In addition, insufficient information has been provided to demonstrate that the proposed development would not cause harm to highway safety, or that it meets the minimum requirements for accessibility.

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The proposal would not give rise to concerns to living standards of neighbouring residents, ecology, or flooding.

The proposal would divert some trade away from Formby centre, but this would not be so significant as to impact on the vitality or viability of the centre. Furthermore, the food store would offer a wider choice for the area.

In summary, the harm to the Green Belt, and other harm resulting from this proposal significantly outweighs the weight given to other considerations. Consequently, very special circumstances necessary to justify the development do not exist.

Recommendation: Refuse

Case Officer Mr Rob Cooper

Email planning.department@sefton.gov.uk

Telephone 0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RS8N8YNWFLD00>

Site Location Plan



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The Site

The application site is located to the east area of Formby, it is outside of the settlement boundary and falls within the designated Green Belt.

Historically the site was a former horticultural nursery, although more recently it has been used for storage purposes (Class B8) until most of the buildings were demolished in May 2021. One glass house remains centrally located within the site, the rest of the land around it is now devoid of buildings, with only their concrete bases remaining.

Vehicular access is currently gained from Moss Side. The access runs between two residential dwellinghouses at Number 25 Moss Side to the left-hand side and Greenacre to the right-hand side.

Bordering the site to the east is a golf driving range, to the north is open farmland, to the south are residential properties located along Moss Side. To the west the site is bound by the 60mph dual carriageway Formby By-Pass that separates this Green Belt area from the predominantly primarily residential area of Formby.

History

The site was historically used as a horticultural nursery, but obtained planning permission in 2015 to be used for storage (Ref. DC/20140675).

In 2017, outline permission (Ref. DC/2016/02196) was granted to redevelop the site for up to 7 houses with access approved from Moss Side. Reserved Matters was subsequently approved for 7 houses in 2019 (Ref. DC/2018/02294).

Since then, applications to vary (Ref. DC/2021/00313) and discharge (Ref. DC/2021/02360) conditions to the housing permission have been granted and most of the buildings have been demolished on site.

Consultations

Highways Manager

Objects, reasons outlined in section 3 of the assessment section below.

Environmental Health

No objection subject to conditions

Air Quality

No objection subject to conditions

Tree Officer - Mr Tom Skipworth

No objection subject to conditions

Local Plans

The proposal is inappropriate development in the Green Belt, and very special circumstances would be required.

With regards to retail impact the Councils retail consultants Nexus have advised that the proposal is generally consistent with the requirement of the National Planning Policy Framework and Local Plan Policy ED2 in respect of retail impact.

Contaminated Land Team

No objection subject to conditions

Flooding & Drainage

No objection subject to conditions

Merseyside Fire and Rescue Service

No objections

Ward Councillors

Councillor Catie Page has noted that she has received very positive responses from many people within the community. The only reservations some have had are that there would need to be suitable bus services to the site, to provide access to the many non-drivers in the community.

Neighbour Representations

Letters were sent to surrounding residents, a site notice was displayed as well as a press notice published in the local paper.

The planning department have received representations directly from 30 individuals, these include 13 objections and 17 in support.

A further 416 representations in support have been provided by a Communications and PR company working on behalf of the applicant, these comprise:

- An excel spreadsheet and copies of representations in support from 351 individuals which they received via their own web page, and
- Handwritten cards they collected from a further 65 individuals in support of the development.

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The objections received raise concerns in relation to:

Principle of Development

- Impact on the Green Belt.
- Urbanisation.
- A supermarket does not constitute very special circumstances.
- Retail development should be directed to town centres and designated shopping centres.

Highways

- Additional junction and traffic lights would restrict traffic flow, extend journey times and increase congestion.
- Highways safety concerns.
- More vehicles would turn down Moss Side to avoid the lights.
- Its location would encourage more short trips by motor vehicle and dissuade walking and cycling.
- Location on eastern side of bypass unsuitable for access by cyclist and pedestrians,

Living Conditions

- Harm to outlook from adjoining residential properties.
- Increase pollution from additional vehicles.
- Noise and disturbance from plant, car park, deliveries, and servicing

Character and Appearance

- Visual impact would harm the character of the area.
- Development is not in keeping with semi-rural character.

Other Matters

- Stray golf balls from driving range could cause damage to cars and injury to people.
- There are more suitable alternative sites.

Comments of support have been made in relation to:

Economic Benefits

- Jobs created at the store, in the supply chain, and through construction of the development.
- Would increase retail choice and competition, reducing the cost of food shopping.
- Significant investment in the local area.

Highways

- Won't impact on by-pass.
- There's plenty of proposed parking.
- Will reduce travel further afield and associated CO2 emissions.

Character and Appearance

- Would improve a derelict site and improve local environment.

Policy Context

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

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

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Assessment of the Proposal

The main planning issues for consideration include the principle of development (Green Belt and Retail Impact), highway safety, character and appearance of the area, living conditions of nearby residents, flooding and drainage, ecology and contaminated land.

Principle of Development

1. Green Belt

Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies.

1.1. Paragraph 149 of the National Planning Policy Framework 2019 (the Framework) sets out the categories of development that are regarded as not inappropriate in the Green Belt, subject to certain conditions, these include:

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

1.2. Policy MN7 of the Sefton Local Plan (LP)1 relates to the Green Belt with part 2 of the policy stating that the construction of new buildings is generally regarded as inappropriate development in the Green Belt, subject to the exceptions set out in national planning policy.

1.3. In addition, Policy GP1 of the Formby and Little Altcar Neighbourhood Plan designates a Formby and Little Altcar Settlement Boundary, for the purpose of directing future housing, economic and community related development in the Parish, to the town of Formby and Little Altcar, to enhance its role as a resilient and sustainable community; and containing the spread of the Town, by promoting infilling up to its settlement boundary, essentially the A565 (Formby Bypass).

1.4. The application site previously accommodated a commercial horticultural nursey and comprised several large glass houses. Following the closure of the nurseries in 2014, permission was granted to use the glass houses to store motor vehicles, motor homes and caravans (B8 Use Class).

- 1.5. Planning permission was later granted for the demolition of the glass houses and the provision of 7 dwellings. That permission has been implemented insofar that the majority of the glass houses have now been demolished with only their concrete bases remaining, however, the houses have not been constructed. In its current state, the site is now much more open in appearance, with the exception of one remaining glass house.
- 1.6. Paragraph 149 g) is relevant in this case, and assessment is required to determine whether or not the proposed development would have a greater impact on the openness of the Green Belt than the existing development described above.
- 1.7. The proposed development does not include affordable housing, so the second bullet point above is not relevant to these proposals.

The effect of the proposal on the openness of the Green Belt.

- 1.8. The fundamental aims of Green Belt policy are set out in paragraph 137 which are to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
- 1.9. The remaining glass house is 5.6m in height, has a footprint of approximately 673 Sq.m. and a volume of 4,200 m³. The building is set back from the Formby Bypass and positioned relatively centrally within the site. Its frame, glazed elevations and roof make for a relatively lightweight appearance, which reflects its countryside location. Its distance from the site boundary and existing hedgerow means it's not particularly prominent from public vantage points on the Formby Bypass and the edge of Formby Village.
- 1.10. With regards to established use, planning permission (DC/2014/01675) was granted for the storage of cars, caravans and mobile homes, however this was subject to conditions preventing the storage of goods and vehicles outside of the buildings. Given that most of the buildings have been demolished this has significantly opened the site and reduced the available internal storage space.
- 1.11. In contrast, the proposed new food store building would be solid form, elevation finished in brick and various types of cladding, typical of a building ordinarily found in an urban setting. In terms of scale, it would be taller with a mono pitched roof rising to a height of 6.4m on the front elevation, it would be 70m wide, have a substantially larger footprint of 1931 sq.m and a significantly greater volume of 11,400 m³. Overall, the building would be almost three times larger than the existing.

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- 1.12. Whilst it is acknowledged that the existing building does have some effect on openness, the net difference in scale and mass of the proposed new building is substantial. The proposed building would appear much more prominent and permanent when compared to the existing light weight building and the relative openness of the existing site, clearly leading to a material visual intrusion when viewed from public vantage point on the Formby Bypass, and from adjoining private properties.
- 1.13. The existing development on site is not particularly visible from the existing road network owing to the level of existing hedge and tree planting along its boundaries. As well as visually containing the existing development, it provides a softer green transition from the settlement to the west and the Green Belt to the east. The proposal is to remove a large section of this hedge along the Formby Bypass to create the new access junction. The loss of this boundary treatment, and provision of expansive new hard surfacing associated with the access would be highly visible and would appear as an encroachment into the Green Belt. It would also allow for views of the expansive car park area, and larger building.
- 1.14. Activity is also a factor in assessing the impact on openness of the Green Belt. A supermarket will, by its nature, attract a lot of customers and vehicles, each entering and egressing the site and many using the car parking area. This will be very apparent from the views created by the access into the site from the A565. This will undoubtedly result in far greater comings and goings than the existing use. It will also be illuminated much more than the existing development, and likely to be illuminated in the evening up to 10pm. These factors will undoubtedly have a greater urbanising effect and cause greater harm to the openness of the Green Belt than the existing development.
- 1.15. Whilst the proposal involves the re-development of previously developed land, it would clearly have a greater impact on openness than the existing development and would result in substantial harm to the Green Belt. It would also be contrary to the purpose of checking the unrestricted sprawl of large built-up area and safeguarding the countryside from encroachment. The proposal is therefore inappropriate development in the Green Belt, and it is contrary to Policy MN7 of the Sefton Local Plan and the National Planning Policy Framework.
- 1.16. The applicant has stated the glass houses historically comprised a greater volume and have also presented a fall-back argument in the form of an extant planning permission for 7 dwellings. However, the glass houses have been demolished so no longer exist, and the dwellings have not been constructed, therefore, neither can be considered as 'existing development' for the purposes of assessing the paragraph 149 g) of the NPPF but are other considerations to be considered.

1.17. Consequently, the proposal is inappropriate in the Green Belt and very special circumstances would be required. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations, these have been considered in a separate section below.

2. Retail Impact

2.1. The application is supported by a retail statement which includes a sequential test which looks at whether there are any alternative preferable sites and retail impact test which assesses the impacts on trade and the vitality and viability of the town centre. The information has been reviewed and assessed by the Councils retail consultants Nexus, whose conclusion and recommendations are below:

2.2. *'Planning application reference DC/2023/00548 provides for the erection of an 1,843 sq.m food store on land to the north of Moss Side and east of Formby Bypass. The site is located well approximately 1.3 kilometres from Formby district centre and is therefore clearly out of centre in retail planning policy terms.*

2.3. *Paragraph 91 of the NPPF indicates that planning applications for retail uses that are not in an existing centre and not in accordance with an up-to-date development plan should be refused planning permission where they fail to satisfy the requirements of the sequential approach or are likely to result in a significant adverse impact.*

2.4. *In respect of the sequential approach to development, we have reviewed all the sites identified by the applicant and do not believe that any are both available and suitable to accommodate the application proposal, even allowing for appropriate flexibility. We are unaware of any other sequential sites offering realistic potential to accommodate the proposal and, as such, find that it accords with the requirements of paragraphs 87 and 88 of the NPPF. It also accords with the sequential test set out at Local Plan Policy ED2.*

2.5. *The adopted Local Plan identifies that an impact threshold of 500 sq.m applies to the site. As such, there is a formal requirement to consider retail impact in determining the application. In respect of the first part of the impact test, we are unaware of any relevant in-centre investment which could be prejudiced by the application proposal.*

2.6. *In terms of the second part of the impact test, the principal in-centre trade diversion will occur from Formby district centre (and its Waitrose store most particularly). We have undertaken a revised 'sensitivity test' to understand the likely level of trade diversion from this store and have visited Formby to understand its general vitality and viability. Based on this, we are satisfied that there would be no 'significant adverse' impact arising as a consequence of the development.*

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- 2.7. *Notwithstanding this, we again note that applicant identifies at paragraph 8.4 of its Planning and Retail Statement that an adverse impact should be weighed in the planning balance in determining the application. On this basis, the Council can consider the diversion of trade away from Formby district centre to be a negative impact capable of being weighed in the balance. Conversely, it is also relevant that Formby currently has relatively limited choice in respect of main food shopping (with most main food shopping being undertaken at its Tesco or Waitrose stores) and a current need to travel some distance (to Birkdale or to Crosby) in order to access a discount food store. The improvement in customer choice is a positive consideration in accordance with paragraph 90 of the NPPF.*
- 2.8. *In conclusion, the application proposal is found to be generally consistent with the requirement of the NPPF and Local Plan Policy ED2 in respect of retail impact.*
- 2.9. *Local Plan Policy SD2 identifies that development should help support Sefton's town and local centres to diversify and thrive. However, there is no policy mechanism to indicate how this would be achieved or any clear guidance as to how the policy would be breached in practice (other than that set out at Policy ED2). Given the scale and nature of the application proposal, we also find no direct policy conflict with the requirements of Policy SD2.*
- 2.10. *Given the above, we conclude that the refusal of planning permission for this application proposal would not be supported on retail and town centre planning policy grounds alone (subject to conditions to ensure that the proposal continues to trade as a supermarket in the manner set out by the planning application documents, should planning permission be approved)'.*
- 2.11. Having regard to the above advice, the proposal is considered to be acceptable in relation to policies SD2 and ED2 of the Sefton Local Plan. It is also considered to be consistent with Policy WS4 of the Neighbourhood Plan. However, the negative impact of diversion of trade away from Formby district centre, and the positive impacts of consumer choice will be weight in the balance.

3. Highway Safety

- 3.1 Concerns have been raised by local residents in relation to the provision of a new junction, additional traffic impeding the flow of traffic along the Bypass and causing highway safety issues. The applicant has submitted a transport assessment (TA). The Local Highway Authority has been consulted and the Highways Manager objects, in summary the concerns are as follows:

Safety

- 3.2. Access to the site would be provided from the A565 Formby Bypass, in the form of a new signalised junction, this would not include pedestrian crossing facilities, as the applicant proposes a separate controlled toucan crossing to the south. The A565 Formby Bypass has a speed limit of 60mph in the vicinity of the site and as a result, the introduction of the separate signal-controlled crossing would not be acceptable. The proposed site access junction would need to be fully signalised and incorporate the pedestrian and cycle crossing facilities across all three arms with the crossings staggered for all three arms.
- 3.3. The pedestrian/cyclist facilities along the eastern side of the bypass are currently separated from the carriageway by a grassed verge. The plans show the verge being removed and the footways being directly adjacent to the carriageway. Given the speed limit and vehicle speeds along this section of the bypass having no separation would not be acceptable and do not meet the relevant standards. A Road Safety Audit (RSA) has not been provided, and the application fails to demonstrate that the highway proposals would be safe.

Traffic Impact

- 3.4. The transport assessment (TA) uses survey data from discount food stores which is unacceptable as Aldi stores now have a much larger share of the sales market than previously and do not reflect the definition of a discount food store. Some data used also comes from edge of town centre and neighbourhood centre sites, which do not reflect the location of this development. The TA also uses surveys undertaken during periods of covid restrictions. Therefore, the TA does not provide a satisfactory assessment.
- 3.5. The site layout drawings do not show the full extent of the 2 existing traffic lanes on the Formby Bypass that are proposed to go into 3 lanes and the tie-in points so the revised highway geometry proposed cannot be properly assessed against the junction modelling produced in the TA.
- 3.6. The TA does not take account of all the relevant committed development sites in the area. Notably it does not include the housing allocation on Liverpool Road (MN2.27) or the Strategic Employment Site (MN2.49) to the south. Furthermore, the traffic counts do not include queue surveys on all legs of the junctions, the proportion of new, pass-by and diverted trips in the TA is not based on any evidence.
- 3.7. As a result, the application fails to demonstrate that the proposals would not have a significant traffic impact on the highway network, nor that the proposals for the site access junction and toucan crossing would be appropriate in traffic capacity terms and suitably safe.

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Accessibility

- 3.8. The site fails to meet the minimum accessibility criteria. With regards to public transport, the 2 no. bus stops on Southport Road are approximately 600m and 700m away from the site which is contrary to Institute of Highways and Transportation 'Planning for Public Transport in Developments' (1999) guidance which recommends that the maximum walking distance to a bus stop should be 400 metres.

Other Highways Matters

- 3.9. Concerns are raised in relation to the sources of accident data uses, the tracking drawings not demonstrating that cars and servicing vehicles could safely manoeuvre within the site. Concerns also raised in relation to reversing of delivery vehicles and conflict with shoppers.
- 3.10. An additional note has been provided stating that the applicant would be prepared to fund improvements to open countryside and green belt connections from Formby and associated footpath routes. However, these would not address the shortfalls in accessibility of the planning application.

Highways Summary

- 3.11. In summary there is a lack of information to demonstrate that the proposed development would be safe. The site is not adequately sustainable as it fails to meet the minimum accessibility criteria of the MASA in the adopted 'Sustainable Travel and Development' SPD and has not proposed suitable mitigation measures to address the lack of accessibility. It is also contrary to both the National Planning Policy Framework, which states that developments must be sustainable, and Sefton Local Plan policy EQ3 (Accessibility). The proposal is also inconsistent with policies GA2 (Accessibility Audits and Travel Plans) and GA3 (Provision for Pedestrians and Cyclists) of the Neighbourhood Plan.

4. Design and Appearance

- 4.1. Policy EQ2 (Design) of the Local Plan and ESD2 (High Quality of Design) of the Neighbourhood Plan seek to ensure high quality design that development responds positively to the character of the area.
- 4.2. The proposed new building would be of a modern design and appearance, it would have a mono-pitched roof designed to slope up away from the properties on Moss Side at the rear up to the front elevation.
- 4.3. The facing materials on the front elevation would comprise of red brick at the lower levels, high level glazing, and vertical timber cladding on the upper parts. The western elevation would have full height glazing, wrapping slightly around the north elevation, creating an entrance feature on the north-western corner of the building. The rear would be predominantly blank and finished in a contrasting grey cladding material.

- 4.4. The design and appearance of the building in itself is considered to be of high quality, and the use of sustainable building materials, and energy saving features are considered to be consistent with Local Plan Policy EQ2 and Neighbourhood Plan Policy ESD2, in that specific regard.
- 4.5. However, this does not overcome the concerns highlighted above regarding the scale and mass of the development and the harm that would be cause to the Green Belt.

5. Living Conditions, Noise and Air Quality

- 5.1. The nearest residential properties are located at off Moss Side, two of these properties share rear boundary fences with the site, however they do have relatively long gardens, the rear elevations of the dwellings would be more than 35m away from the rear elevation of the proposed food store, with landscaping proposed in between. A third house is located next to the existing access and orientated at 90 degrees to the proposed food store. It does have two windows on the side, these are understood to be secondary and are approximately 10m from the rear elevation of the proposed food store. Consequently, impact on outlook could not be a justified reason for refusal.
- 5.2. The application is accompanied by a Noise Impact Assessment report, the Environmental Health Manager is satisfied with the methodology and associated mitigation measures and agrees that the impacts on nearby dwellings would be low. The report and associated mitigation measures could be secured by condition. Conditions are also recommended to restrict deliveries to between 06.00-23.00 hours, limitations on external lighting to protect the amenity of nearby residents, a Construction Environmental Management Plan, and detail of piling methods to be agreed if these are to be used.
- 5.3. The applicant has provided an air quality assessment report with the application, this considers impacts from the construction activities and from traffic during the operational phase. The associated modelling concludes that in the first year the impact of traffic related emissions would be negligible, and levels of nitrogen oxide and particulate matter would be within national air quality standards. The report also makes recommendations to mitigate potential impacts during construction. The Environmental Health Manager is satisfied with the conclusions of the air quality assessment. He has recommended a condition for the control of dust.

6. Trees and Hedgerow

- 6.1 Policy ESD7 (Trees and Landscape) of the Neighbourhood Plan states that Hedgerows should be preserved or enhanced with a view to achieving a soft transition between the urban area and the countryside. The proposal involves losing a substantial section of hedge to open up the entrance. The Tree Officer has been consulted and is satisfied that suitable replacements could be achieved onsite.

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- 6.2. Whilst this may compensate for the loss to some degree and would not justify a refusal on these grounds alone, there would still be some harm caused as the development would not maintain a soft transition between the urban area and the countryside, which needs to be taken into account in the overall balance.

7. Flooding and Drainage

- 7.1. The application lies within Flood Zone 1 defined by the Planning Practice Guidance as having a low probability of flooding. However, in accordance with policy and guidance, due to the scale of development the applicant has provided a Flood Risk Assessment and outline drainage strategy. The Lead Local Flood Authority (LLFA) has been consulted, whilst initial concerns were raised in relation to drainage details and compliance with the sustainable drainage hierarchy, they have no objections subject to outstanding matters being addressed by a planning condition. Therefore, is not a reason for refusal.

8. Habitats and Ecology

- 8.1. The applicant has provided an ecological survey report in support of their application, looking at onsite habitats and potential for various species. It found some semi-natural habitat would be lost on site but that this could be mitigated through appropriate landscaping. Amongst others, the survey found negligible ecological importance for amphibians, it's also found negligible potential for roosting bats, with some potential for some foraging. Recommendations in the report included pre-commencement checks for various species, avoidance of bird nesting season, lighting details, plan to remove invasive species as well as enhancements such as bird and bat boxes, hedgehog highways, and suitable planting. These matters could be suitably addressed by individual conditions or through a Construction Environmental Management Plan.

9. Contaminated Land

- 9.1. The application has been submitted with a phase 1 and 2 geo-environmental assessment report. The Contaminated Land Officer has raised no objections but has stated that further investigations are required in parts of the site previously used for vehicle storage and a workshop. These further investigations and remediation works could be controlled by way of planning conditions. Subject to these conditions the proposal complies with Policy EQ6 of the Local Plan.

10. Other Considerations

- 10.1. The site previously comprised of several larger green houses and poly tunnels associated with the previous horticultural use of the site. These covered much of the site and had a combined volume of 27,000 m³. However, most of these have been demolished, with only one (4,200 m³) building remaining. Given that these buildings no longer exist, little weight can be given to this matter, as they do not currently affect the openness of the Green Belt, and do not justify the harm that would be caused by the proposed food store.
- 10.2. Their removal was a significant factor in the justification for granting outline planning permission (DC/2016/02196) for up to 7 dwellings in the Green Belt. However, that was on the basis that the cumulative volume of the dwellings was a maximum of 8,500m³, this has been secured by a planning condition. The reserved matters (DC/2018/02294) have also been approved, and the permission has been implemented by virtue of the demolition works and the permission is now extant, therefore it does constitute a fall-back, and a comparison of the schemes must be considered.
- 10.3. The approved dwellings would have a volume of 8,461m³, they were also carefully designed to reflect the sites rural fringe location, their layout and form is like that of a farmstead, with the buildings laid around a central courtyard. The elevations of the dwelling utilise traditional materials and have similar appearance to brick farm buildings. Also, the rear gardens located between the buildings and the boundaries of the site, retaining a sense of openness, landscaping and greenery around the built form. The dwellings would also be detached with gaps in between allowing for separation and visibility through. Additional planting was also proposed around the boundaries of the site, the existing access onto Moss side would be used and the hedgerow along Formby Bypass would be retained.
- 10.4. In comparison the volume of the food store building would be 11,400m³, approximately 35% greater than the approved dwellings. And whilst the food store would be lower in overall height, it would have a larger footprint, and width of 70m, overall, its scale and mass would appear substantially larger having an obvious greater visual impact on openness. Due to its siting in the southern part of the site it would be much closer to existing housing on Moss Side and the Formby Bypass making it visibly more dominant to neighbouring occupiers and users of the bypass. The visual prominence would be worsened by the removal of the existing boundary hedgerow to create the new access junction, resulting in views into the site of the building, the extensive car parking areas and the activities within, along with the associated comings and goings of vehicles, signage, lighting and overall commercial appearance.

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10.5. Overall, the proposed food store would have a significantly greater impact on openness, and a greater sense of urbanisation and encroachment into the Green Belt east of the bypass when compared to the proposed housing. So, whilst significant weight should be attached to the fallback position as a material consideration, for the reasons stated above it would be much less harmful than the proposed food store.

10.6. The applicant has also provided the following list of benefits the scheme would provide, these have been addressed in turn:

- **The Aldi food store will significantly enhance consumer choice and competition in Formby's convenience goods retail sector by providing the first discount food store in the town. The Aldi offer is of particular benefit in this regard, given the 'cost of living crisis' that the UK is presently facing and the fact that Aldi is currently the UK's lowest-priced supermarket.**

Given the limited options currently available in the town, the introduction of an additional food store would inevitably provide consumers with more choice and increase competition between retailers. Particularly given the applicant specialises in low-cost shopping. Therefore, moderate weight should be given to this benefit.

- **The introduction of an Aldi food store in Formby will play a very important role in reducing residents' need to travel further afield to access discount food store provision. Indeed, based on empirical evidence of existing shopping patterns the proposed discount food store is anticipated to 'clawback' some £6.5m of convenience goods expenditure which leaks to existing discount food stores in Birkdale, Crosby and Burscough. Keeping more residents shopping locally will reduce car use, support more sustainable travel patterns and is evidently vastly more beneficial for Formby's local economy.**
- **In this regard, the Carbon Footprint Analysis submitted as part of this planning application has found that the discount food store's introduction, and its associated reduction in miles travelled by Formby residents by car for discount groceries, would result in the saving of an estimated 0.10 tonnes of CO2 emissions per day, or 32.73 tonnes of CO2 emissions per year. This sustainable travel and environmental benefit should be afforded significant weight.**

With regard to the two points above, a reduction in the length of car journeys made by local residents is a positive factor, and it is acknowledged that this would have a large effect on the carbon footprint of some local residents that choose to shop at that store. However, the proposed food store is out of the town centre, on the edge of Formby and on the opposite side of a busy dual carriage way away from the main settlement area, so it does also has the potential to encourage additional shorter car journeys when the residents may have otherwise walked. Overall, moderate weight should be given to this matter.

- **Aldi will create 40-50 quality full and part-time jobs; delivering further indirect jobs through services supporting the new food store, and also providing a range of temporary construction jobs. The vast majority of positions will be made available to local people via targeted work with organisations such as Job Centre Plus.**
- **The proposal offers the guarantee of deliverable economic development with Sefton by a multinational supermarket brand Aldi, which will help boost the local economy and will assist in attracting further investment in Formby. Indeed, the overall economic value of Aldi's investment is anticipated to exceed £5m.**

The proposed development would bring economic benefits to the area, through employment during construction and operation. There is no specific evidence that it would attract further investment, but it is not unreasonable to expect such a food store would. Full weight should be given to these economic benefits.

- **The proposal will bring about significant environmental and visual improvements to this prominent site on Formby Bypass. It will replace what is currently a derelict and partially demolished long term vacant site with a modern food store with active frontage to Formby Bypass set within attractive landscaping. Such development will improve the visual appearance of this derelict site to the overall benefit of the surrounding area.**

The development would indeed result in positive environmental enhancements to the site. However, much of the site is already well screened by hedgerow and existing residential properties, and not particularly visible from public vantage points. There would also be some negatives in the removal of mature hedgerow along the Formby Bypass to create the access, visually this would appear as encroachment and urbanisation. It must also be noted that the site benefits from an extant permission for residential purposes, in a lucrative area of Sefton where there appears to be a healthy demand. The applicant has provided no evidence to demonstrate why the housing development cannot be completed which, as demonstrated above, would bring improved environmental enhancements in any case. Therefore, on balance moderate weight should be attributed to this.

- ***Aldi's introduction will offer important sustainability benefits, including the provision of four car parking spaces that are equipped with Electric Vehicle Charging Points ('EVCP'). Furthermore, below ground infrastructure will be put in place to add further EVCPs in the future – future proofing the Aldi food store in terms of this emerging mode of private travel. Aldi will provide electricity free of charge to customers.***

Building Regulations would require the installation of at least one Charging Point (and 1/5 spaces must be provided with cable routes). Charging points would also be requirement required for new housing development on the site. Therefore, there would be some additional benefit which should be attributed moderate weight.

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- ***An important accessibility benefits offered by the proposed development is the new pedestrian crossing facility across the Formby Bypass in proximity to the junction with Moss Side, providing a safe crossing point for local residents.***

However, the site is not in the most sustainable location, and in any event a safe crossing facility would be necessary to make the development accessible and acceptable in highways and policy terms, therefore limited weight should be given to this.

- 10.7. The applicant has also provided a Technical Note that looks at nearby Public Rights of Way (PROW) and suggests that the applicant is prepared to make financial contributions to improve these. However no detailed schemes have been provided, and very little weight can be given to this.

11. Overall Planning Balance

- 11.1. The proposal would be inappropriate development in the Green Belt as it would not preserve the openness, and would not safeguard the countryside from encroachment, thereby conflicting with the purposes of including land within it. The proposal would also be outside of the settlement boundary as identified in Policy GP1 of the Neighbourhood Plan.
- 11.2. The application fails to demonstrate that the proposed development would not cause harm to highway safety, or that it meets the minimum requirements for accessibility. The proposal would also divert a small amount of trade away from Formby district centre, and result in the loss off hedgerow.
- 11.3. On the other hand, the proposal would provide economic benefits that are given full weight, it would provide retail choice, has the potential to reduce travel and air quality, would provide some environmental improvements and additional electric vehicle charging points which are all given moderate weight. Little weight is given to the pedestrian crossing, as accessibility is a policy requirement.
- 11.4. Little weight can be given to the glass houses that once stood on the site. Significant weight is attached to the fallback position as a material consideration, however, that development would be less harmful to the Green Belt than the proposed food store.
- 11.5. The National Planning Policy Framework states that inappropriate development should not be approved except in very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

11.6. As set out in the National Planning Policy Framework substantial weight must be given to the harm to the Green Belt. This harm would not be clearly outweighed by the other considerations set out above so as to amount to the very special circumstances required to justify the proposal.

12. Conclusion

12.1. For the reasons set out above, the proposal would be inappropriate development in the Green Belt and there are no very special circumstances to justify the proposal. The proposed development is contrary to Sefton Local Plan Policy MN7, and the National Planning Policy Framework.

12.2. The application also fails to demonstrate that the proposed development would not have a severe impact on the highway network, an unacceptable impact on highway safety, or that it meets the minimum requirements for accessibility and is therefore contrary to Policy EQ3 of the Sefton Local Plan, Policies GA2 and GA3 of the Neighbourhood Plan, and the guidance contained in the Council's adopted Sustainable Travel and Development Supplementary Planning Document.

12.3. The proposal is therefore considered unacceptable and should be refused.

Equality Act Consideration

Section 149(1) of the Equality Act 2010 establishes a duty for the Council as a public authority to have due regard to three identified needs in exercising its functions. These needs are to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.
- Advance equality of opportunity between people who share a relevant protected characteristic (age, disability, race, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion and belief, sex and sexual orientation) and people who do not share it.
- Foster good relations between people who share a relevant protected characteristic and those who do not share it.

The decision to approve this scheme would comply with the requirements of the Equality Act 2010, that no one with a protected characteristic will be unduly disadvantaged by this development.

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Recommendation - Refuse

Reason for Refusal

This application has been recommended for refusal for the following reasons:

- 1) The proposal would be inappropriate development in the Green Belt, by virtue of the harmful impact it would have on openness and conflict with the purposes of including land within the Green Belt, due to the scale and mass of the proposed building, construction of the access and car parking and the associated activities of the proposed use. This harm would not be clearly outweighed by the other considerations, consequently very special circumstances do not exist to justify the proposal. The development is contrary to Policy MN7 and the National Planning Policy Framework.
- 2) Insufficient information has been provided to demonstrate that the proposed development would not have a severe impact on the highway network, not have an unacceptable impact on highway safety, or that it meets the minimum requirements for accessibility. The development is contrary to Policy EQ3 of the Sefton Local Plan, Policies GA2 and GA3 of the Neighbourhood Plan, the National Planning Policy Framework, and inconsistent with the Sustainable Travel and Development Supplementary Planning Document.

Agenda Item 6

Report to:	Planning Committee	Date of Meeting:	Wednesday 26 th July 2023
Subject:	Planning Appeals Report		
Report of:	Chief Planning Officer	Wards Affected:	(All Wards)
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.

Agenda Item 6

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.	
Impact on Children and Young People: No	
Climate Emergency Implications: The recommendations within this report will	
Have a positive impact	N
Have a neutral impact	Y
Have a negative impact	N
The Author has undertaken the Climate Emergency training for report authors	N
There are no climate emergency implications.	

Contribution to the Council's Core Purpose:

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

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.7301/23.....) and the Chief Legal and Democratic Officer (LD.5501/23.....) 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 <https://www.sefton.gov.uk/planning-building-control/search-and-view-planning-applications-and-appeals/>

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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 12 June 2023 and 09 July 2023

Appeal Decisions

9 Birch Green Formby Liverpool L37 1NG

Reference: DC/2021/02292 (APP/M4320/D/22/3308137)

Erection of a first floor extension over the existing garage to the side of the dwellinghouse.

Procedure: Householder Appeal

Start Date: 10/02/2023

Decision: Allowed

Decision Date: 23/06/2023

1A Devonshire Road Brighton Le Sands L22 2AJ

Reference: DC/2022/00099 (APP/M4320/W/22/3305017)

Change of use from office (B1) to dwelling (C3). (Alternative to DC/2021/01669).

Procedure: Written Representations

Start Date: 30/03/2023

Decision: Dismissed

Decision Date: 20/06/2023

6A - 6B The Cloisters Halsall Lane Formby L37 3PX

Reference: DC/2021/01831 (APP/M4320/W/22/3311668)

Change of use of the existing first-floor commercial space from a gym (E) to 8 self-contained flats (C3) including external alterations.

Procedure: Written Representations

Start Date: 13/03/2023

Decision: Dismissed

Decision Date: 16/06/2023

New Appeals

18 Avondale Road Southport PR9 0ND

Reference: DC/2022/01460 (APP/M4320/W/23/3318186)

Variation of conditions 3, 4 and 5 pursuant to planning permission N/2004/0467 approved 22/06/2004 to allow up to 36 children/babies to attend the nursery, installation of a fire escape and reduction in the permitted hours of business.

Procedure: Written Representations

Start Date: 21/06/2023

Decision:

Decision Date:

1 Oulton Close Lydiate Liverpool L31 4JX

Reference: DC/2023/00147 (APP/M4320/D/23/3323991)

Erection of a single storey extension to the rear of the dwellinghouse.

Procedure: Householder Appeal

Start Date: 06/07/2023

Decision:

Decision Date:

Appeal Decision

Site visit made on 28 March 2023

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2023

Appeal Ref: APP/M4320/D/22/3308137

9 Birch Green, Formby, Liverpool L37 1NG

- 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 D Sixsmith against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2021/02292, dated 20 September 2021, was refused by notice dated 27 July 2022.
 - The development proposed is the erection of a first-floor extension over the existing garage to the side of the dwelling house.
-

Decision

1. The appeal is allowed, and planning permission is granted for the erection of a first-floor extension over the existing garage to the side of the dwelling house at 9 Birch Green, Liverpool L37 1NG in accordance with the terms of the application, Ref DC/2021/02292, dated 20 September 2021, and the plans submitted with it, subject to the following conditions:
 1. The development hereby permitted shall begin no later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the approved plans Ref: Location Plan, Proposed 1st Floor Plan (Rev A), Proposed Front West Elevation (Rev A), Proposed Rear (East) Elevation (Rev A), Proposed Roof Plan (Rev A), Combined Site and Block Plan (Rev A) and Proposed Side Elevation (Rev A).
 3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows shall be constructed on the side elevation of the extension hereby approved.

Main Issue

2. The main issue is the effect of the appeal proposal on the existing living conditions of the occupiers of No 7 Birch Green, with particular regard to outlook.

Reasons

3. The appeal property is located within the well-established 'Primarily Residential' part of Formby as defined by the Sefton Local Plan ("the Local Plan"). This area is characterised by a mixture of 2 storey houses and bungalows, some of which have previously been extended. Properties in this part of Birch Green are 2 storey detached houses, set back from the street within generous plots.
4. Neighbouring No 7 Birch Green has a large dormer in its roof plane facing the appeal site. This has been evidenced as being part of a side extension to that property. This dormer contains a couple of first floor bedroom windows. The existing outlook from both of these bedroom windows is directly onto the 2-storey brick wall and roof slope which forms the side elevation of No 9. The Council has calculated the existing intervening distance between these, and the first floor of the appeal property is around 8 metres. Consequently, the direct outlook from this part of No 7 is already heavily compromised. However, oblique views of No 9's garden areas and the properties beyond can be captured from these windows and provide some visual relief.
5. The appeal property has a ground floor flat roofed side extension which runs up to and along the boundary with No 7. The appeal proposal is a first-floor bedroom and en-suite addition above the front section of that extension. It would extend back to a mid-way point on that existing side elevation, with windows to the front and rear only. The proposed extension would incorporate a hipped roof at a right angle to and lower than the main roof of the house. The main parties have calculated that the intervening distance between the side elevations of Nos 7 and 9 would be reduced to approximately 3.7 metres.
6. The existing intervening separation distance falls short of the 12-metre distance specified in the Council's current House Extensions Supplementary Planning Document ("the SPD"). The appellant has provided other examples of where even lesser intervening distances exist in the locality. However, it is unclear whether these examples predate the current local policy framework. Furthermore, both Policy HC10 and the SPD rely on a site-specific assessment to be made of the effects of the particular proposal. Hence, I give no weight to these examples.
7. Following the erection of the appeal proposal, the direct outlook of the forward most dormer bedroom window of No 7 would remain as a brick wall and roof slope, albeit at a closer distance to that which exists currently. Crucially, the outlook from the rearward side dormer window would remain unchanged because of the offset position with the appeal proposal. Furthermore, the potential for oblique views towards the front and rear gardens of No 9 would remain.
8. Consequently, the level of change which would be experienced would be slight and not unduly overbearing in comparison to the existing situation. Furthermore, in line with paragraph 2.6 of the SPD, the appellant's evidence demonstrates that no unreasonable degree of further shadowing of No 7 would occur throughout the year. Moreover, subject to a planning condition to control the insertion of any windows in the proposed side elevation, existing levels of privacy between the 2 properties would not be reduced.

9. Overall, the proposed change to the existing level of outlook from these 2 existing dormer windows would not represent a significant reduction in the existing living conditions of the occupants of No 7.
10. Therefore, the appeal proposal would not harm the existing living conditions of the occupiers of No 7 Birch Green, with particular regard to outlook.
11. The SPD states that extensions that do not meet the 12-metre separation distance will only be permitted in exceptional circumstances. Paragraph 1.18 of the SPD confirms that the dimensions stated in it are guidance. At paragraph 2.4 the SPD states that there should be no significant reduction in living conditions of neighbouring properties. In view of the insignificant level of change which would occur, the particular appeal proposal does not conflict with the intent of this guidance to safeguard living conditions.
12. Policy HC4 of the Local Plan requires extensions and alterations are designed so that there will be no significant reduction in the living conditions of the occupiers of neighbouring properties. Amongst other things, it states that extensions must not result in a loss of outlook from main windows of neighbouring habitable rooms, cause a significant loss of privacy or light, or cause overshadowing or overbearing effects for neighbours. Given the proposed level of change that would arise, there is no conflict with this policy. Moreover, there are no other matters before me that indicate that the proposal conflicts with the development plan when taken as a whole.

Conditions

13. In the context of the tests set out in paragraph 56 of the Framework, in addition to the standard time limit condition, a condition specifying the approved plans would be necessary for the avoidance of doubt and in the interests of certainty. A condition requiring the use of matching materials would be necessary in the interests of attaining an acceptable appearance. A condition would also be necessary to control the insertion of any windows in the side elevation of the appeal proposal in the interests of safeguarding existing privacy levels.

Conclusion

14. For the reasons given above, subject to the above conditions I conclude that the appeal should be allowed.

C Dillon

INSPECTOR



Appeal Decision

Site visit made on 6 June 2023

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2023

Appeal Ref: APP/M4320/W/22/3305017

1A Devonshire Road, Brighton Le Sands L22 2AJ

- 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 Pete Tierney against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2022/00099, dated 18 January 2022, was refused by notice dated 29 March 2022.
 - The development proposed is change of use from office to two bed dwelling house.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in respect of this appeal is the effect of the proposed development upon the living conditions of future occupiers with particular regard to outlook, daylight and sunlight and the provision of outdoor amenity space, and existing neighbouring residents in respect of overlooking.

Reasons

Living Conditions of Future Occupants

Outlook, Daylight and Sunlight

3. The ground floor living space of the proposed dwelling would be open plan and served by a number of essentially existing openings. However, the window in the north-eastern elevation would be predominantly high-level, the glazed door and window to the south-eastern elevation would be beyond the enclosed hallway, and the window and glazed door within the south-western elevation would be in severe proximity to the boundary fence, and close to the 3-storey building beyond.
4. Whether or not the property would amount to a small starter home, the outlook from the proposed ground floor living space would be exceptionally dismal, with inferior and enclosed living conditions for the future occupiers. In the absence of any substantive evidence to the contrary, for example a daylight and sunlight assessment, I cannot be certain that the amount of daylight and sunlight received by the ground floor windows due to their position and orientation as described above, would be sufficient to prevent gloomy living conditions for the main living space. Direct sunlight is likely to be particularly limited, especially in winter months when the sun is lower in the sky, given the proximity of neighbouring development. Thus, the outlook and light levels

would be compromised, producing inadequate living conditions for the future occupiers.

Private Garden Space

5. Policy EQ2 of A Local Plan for Sefton 2017 (LP) requires new development to achieve a high quality of design that protects the amenity of those within the site. In addition, the National Planning Policy Framework (the Framework) advises that developments should create places that have a high standard of amenity for future users that promote health and well-being. It is therefore reasonable to expect that the occupants of a new dwelling, even one created through conversion, would have access to a good quality private outdoor area, enabling the proper functioning of its use.
6. The external garden area for the proposed dwelling at just 9sqm would be measly, particularly given that part of the space would be required for bin storage. This would be significantly below the 50sqm minimum standard required by the Council's New Housing Supplementary Planning Document 2018 (SPD), which provides detailed guidance on how Policy EQ2 of the LP is to be implemented.
7. The SPD advises that there may be instances where sufficient private outdoor space cannot be achieved, but that this would be in limited exceptional circumstances, including where site constraints mean it is not possible to achieve the standard. The options for the provision of private garden space are limited by the constraints of the site, given that the host building already exists on a severely restricted apron of land. Nonetheless, even if the quantum of private space could be considered acceptable due to the constraints of the site, the SPD is clear that attention should also be given to the quality of the garden space.
8. The limited dimensions and narrow shape would in this instance restrict the overall practicality and value of the outdoor space to the future occupiers. Little more than an alleyway, it would not provide a meaningful or pleasant space for typical domestic activities such as sitting out, drying washing and gardening. Hemmed in by neighbouring buildings and high boundary fences/structures it would be unlikely to receive much direct sunlight. Users of the proposed amenity space would therefore experience an oppressively enclosed environment and in this regard, it would be considerably different to a balcony. The proposed garden space would therefore not only be substandard in size, but it would be severely poor in quality and useability which would be harmful to the living conditions of the future occupiers.

Living Conditions of Neighbouring Occupiers

9. The existing building sits close together with other existing properties, namely those on Bridge Road which have a number of different sized outriggers and extensions to the rear. The rear facing bedroom window would provide an uninterrupted view down onto the private yard area to the rear of 39 Bridge Road. This area appears to have a domestic use, given the presence of a washing line and plant pots. Such views would be at very close range with the existing occupants likely to experience a significant and uncomfortable feeling of being watched when using this space. Bedrooms can be occupied for purposes other than sleeping, including working from home and studying. Blinds and curtains cannot be adequately enforced by planning condition and as

such, would not adequately mitigate the degree of overlooking that would occur to the neighbouring outdoor space. The rear ground, first and second floor windows of No 39 whilst close, would however be at such an oblique angle, that direct overlooking would be unlikely to occur.

10. The rear garden of 1 Devonshire Road would also be visible from the rear facing bedroom window, beyond the access to Bridge Road Motorcycles. However, the existing boundary fence would provide a reasonable degree of screening, such that the privacy afforded to the occupants of this property would not be significantly harmed.
11. Obscured glazing would be installed to the lower half of the first-floor windows serving the staircase/landing and bathroom which would be sufficient to protect the amenity of the residents living in flats above 41 Bridge Road. Sufficient distance would also be maintained between the first-floor bedroom within the front elevation and the dwelling and garden at 2b Devonshire Street, given that the street is an intervening feature. The ground floor windows due to being high-level, obscured by the boundary fence or facing onto the existing street would not give rise to any direct unacceptable overlooking of adjacent properties.

Conclusion on Living Conditions of Existing and Future Occupants

12. Whilst I have found that the proposal would not result in a loss of privacy to the occupants of neighbouring properties from overlooking of habitable windows, it would have an adverse effect on the living conditions of the occupants of the flats within No 39 through a loss of privacy to their private amenity outdoor space. It would also have an adverse effect on the living conditions of the future occupiers of the proposed dwelling with regard to outlook, daylight and sunlight and the provision of private garden space. It would therefore conflict with Policy EQ2 of the LP as set out above. It would also conflict with paragraph 130 of the Framework which seeks to ensure a high standard of amenity for existing and future users.

Other Matters

13. The Appellant considers that the Council's Flats and Houses in Multiple Occupation (HMO) Supplementary Planning Document (SPD) 2018 should be read in tandem with the New Housing SPD, with regard to the appeal proposal. That SPD enables factors such as the walking distance to a local centre and re-use of a vacant building that has wider significant community or regeneration benefits to be considered when determining whether a lower standard is acceptable. In this regard it is different to the New Housing SPD which does not make such provisions and which the Appellant considers to be inconsistent.
14. The description of development and submitted plans indicate that the proposal is for a 2-storey dwelling. As such, it is clear that the Flats and HMO SPD is not applicable to the scheme before me. Even if it were relevant, the Flats and HMO SPD is clear that the provision of outdoor space that is significantly below the standard would not normally be acceptable. The proposed poor quality and severely limited size of the outdoor space would not therefore be justified by any perceived flexibilities set out in the Flats and HMO SPD.
15. There are a number of nearby public spaces including Alexandra Park, Victoria Park and Crosby Coastal Park that the Appellant considers to be within

convenient walking distance to the appeal site. Whether or not this is the case, neither of the SPD's make any provision for the lack of private garden space to be offset or compensated for, by the presence of existing nearby public open space. Public spaces would not enable typical residential activities such as drying washing or socialising privately with friends and family and would not therefore provide an equivalent compensatory provision.

16. I have considered the various benefits put forward by the Appellant that the proposal would bring, including the re-use of a building in an accessible location where there are a range of local facilities. It is suggested that the proposed dwelling would add to the variety of local housing stock, appealing to first-time buyers, younger persons or couples not requiring or desiring private amenity space, that would be aware of the situation before taking up residency. Be that as it may, it cannot be assumed that occupants at the lower end of the housing market would not want or need the provision of quality outdoor space, or that the occupants' needs would not change over time. Adding to the range of local housing would be of little benefit given that it would do so in a poor-quality manner, to the detriment of future users. The suggested benefits would therefore attract no more than limited weight.
17. Reference is made to the current use of the property causing nuisance to local residents due to vehicle noise, movements and on-street car parking, and I note the signed proformas of support from interested parties. There is no substantive evidence before me that the existing office use generates a significantly larger number of vehicle movements and car parking demands than the proposed use, such that I could attach weight to this matter as a benefit. The office use is likely to largely occur during weekdays when residential occupiers may be out at work. The car parking demands from the different uses are thus likely to occur at different times, such that they are not wholly comparable.

Planning Balance and Conclusion

18. I have found that the proposed development would not result in the direct overlooking of adjacent habitable windows belonging to residential properties. Nevertheless, this lack of harm is neutral in the planning balance. Given that only limited weight is attached to the suggested benefits of the proposed development, namely the proximity to nearby shops and services, this would not outweigh the significant adverse effect to the living conditions of occupiers with regard to outlook, daylight and sunlight and private amenity space or neighbouring occupiers with regard to the privacy of their outdoor space. There are no material considerations that lead me to determine the appeal otherwise than in accordance with the development plan. The appeal is dismissed.

M Clowes

INSPECTOR

Appeal Decision

Site visit made on 6 June 2023

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th June 2023

Appeal Ref: APP/M4320/W/22/3311668

6A-6B The Cloisters, Halsall Lane, Formby L373PX

- 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 John Lawson [The Cloisters (Formby) Ltd] against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2021/01831, dated 28 September 2021, was refused by notice dated 31 October 2022.
 - The development proposed is change of use of the existing first-floor commercial space from a gym (E) to 8 self-contained flats (C3) including external alterations.
-

Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issues

2. The description of the proposed development is taken from the Council's decision notice as it more accurately and succinctly describes the development proposed.
3. The Council indicates that the principle of residential development in the upper floor of a building within a district centre is acceptable. Based on all that I have seen and read, I see no reason to disagree with this view. The main issue of this appeal has flowed from the Council's concerns. In addition, following consideration of the submitted plans and my visit, I have also included the effect of the proposal on the living conditions of future occupiers, with regard to noise and disturbance. The parties were given the opportunity to comment on this matter during the appeal process, and I have taken into account the responses received.
4. The main issue of this appeal is therefore, the effect of the proposed development upon the living conditions of future occupiers with regard to the provision of outdoor space, and noise and disturbance.

Reasons

Provision of Outdoor Space

5. The Council's Flats and Houses in Multiple Occupation Supplementary Planning Document 2018 (SPD) provides detailed guidance on how Policy HC4 of A Local Plan for Sefton 2017 (LP) is to be implemented. Amongst other things, this policy requires the conversion of buildings to flats to not cause significant harm to the living conditions for the occupiers of the property.

6. The SPD advises that proposals involving the creation of new flats should provide access to an area of private outdoor amenity space. The minimum standard for such space is 20sqm per flat, equating to 160sqm for the proposed development of 8 flats. The SPD advises that the space can be communal, private or a combination.
7. The scheme proposes a communal terrace of 20sqm for the whole development, as well as 17sqm of private outdoor space for Flat 7. Whilst the SPD provides flexibility to accept a lower amount of outdoor space based on site specific factors, it is clear that the provision of outdoor space that is significantly below the standard will not be accepted under any circumstances. 37sqm's of outdoor space for 8 flats would be exceptionally meagre, and significantly below the minimum standard of the SPD. Sandwiched between 2 flats, the proposed outdoor terrace would also be relatively narrow in composition, limiting its quality and useability. 20sqm's of communal space could not be considered to be a sufficiently sized space for typical domestic activities such as socialising with friends and family, children playing or drying washing, particularly if in use by the occupants of multiple flats simultaneously. Significant harm would therefore be caused to the living conditions of the future occupiers of the proposed development.

Noise and Disturbance

8. The proposed outdoor communal space would be located in a recessed area between Flat's 7 and 8. It would be positioned directly outside and within 1m of the windows serving the living area of Flat 7, as well as within close proximity to the windows serving the 2 bedrooms of this flat.¹ The use of this space by other residents for domestic activities and social gatherings is likely to result in significant noise and disturbance for the future occupants of Flat 7, from the sound of conversation and enjoyment, which may at times be loud. Noise is likely to be exacerbated by the small area of the communal space and amplified by its location within a recess between external walls. Given the arrangement of Flat 7, there would be no habitable rooms positioned away from the communal area that the future occupiers could go to, to escape any such noise. Whilst external patios or balconies may be located side by side in a new build property, the proposed scenario would in effect result in a neighbour's outdoor space being directly outside another occupants' windows to their main living area. As such, I do not find it to be a comparable scenario.
9. Fencing could provide acoustic attenuation and prevent overlooking from the communal space. However, it would need to be positioned directly outside the main living room windows to Flat 7 and be consistent with or above average head height to have any meaningful effect. This is likely to severely restrict the outlook from the main living space of Flat 7, creating inferior and claustrophobic living conditions for the future occupiers.
10. The Appellant suggests high-quality glazing units with acoustic vents could be used to mitigate noise from the outdoor communal area. Whilst the use of acoustic glass is likely to be of benefit, there is no substantive evidence before me that it would reduce noise to an acceptable level, given the very close relationship between the windows of Flat 7 and the communal space. Such glazing would not prevent noise being audible when the windows are open. Signage to restrict access to the terrace from 11pm whilst commendable, is

¹ As shown on proposed first floor unit and bedroom areas drawing, number 22124-0120 Rev P-02.

unlikely to be enforceable in practice without further measures to ensure the future occupants of the flats comply. Even so, the comings and goings and use of the outdoor space until 11pm potentially every day of the week is unlikely to be congenial to the living conditions of the future residents of Flat 7, given that a home should provide a place of peace and sanctuary, even when positioned within a local centre.

11. I have considered the Appellant's suggestion that acoustic detailing and calculations could be secured by a planning condition. However, the outcome of any assessment is currently unknown. So too is the extent of any required mitigation, and the further implications such mitigation may have on other aspects of the living conditions of the future occupants of Flat 7, namely outlook. Such a condition is unlikely to be reasonable or enforceable and it would not therefore, meet the tests set out in paragraph 54 of the National Planning Policy Framework (the Framework) and the Planning Practice Guide.²

Conclusion – Living Conditions of Future Occupiers

12. For the above reasons, the proposed development's failure to provide sufficient private outdoor space, and noise and disturbance to the future occupants of Flat 7 arising from the location of the proposed communal space, would cause significant harm to the living conditions of the future occupiers. Consequently, the proposal would conflict with Policy HC4 of the LP and the SPD as set out above, along with Policy ESD2 of the Formby and Little Altcar Neighbourhood Development Plan 2012-2030 (2019), which seeks amongst other things, high quality design that demonstrates consideration of residential amenity. Conflict is also found with paragraph 130 of the Framework which seeks a high standard of amenity for future users.

Other Matters

13. The SPD is clear that outdoor space that is significantly below the minimum standard will not be accepted under any circumstances. Lower amounts of space will only be considered in limited exceptional circumstances, where justified by a specific proposal. The appeal site is located above a parade of shops forming part of a wider local centre, that has a good range of facilities and services and access to public transport that would no doubt be of benefit to the future occupiers of the proposed flats. This would weigh modestly in the proposal's favour.
14. The Appellant suggests that the provision of 160sqm private outdoor space is unachievable for the conversion of an existing building in a central location. However, there is no substantive evidence before me to demonstrate that all opportunities to maximise outdoor space within the development have been considered, as required by the SPD. For example, it is not clear whether any existing extensions could be removed to provide additional space, whether adjacent land or roof space could be obtained, or alternative designs could incorporate additional communal space and/or private balconies.
15. A map indicates the availability of public open space within the wider Formby area including Duke Street Park, Bills Lane, Barkfield Park and Deansgate Park with Formby beach further afield. The Appellant considers these to be within a convenient walking distance to the appeal site. Nevertheless, they are public

² Paragraph: 003 Reference ID: 21a-003-20190723.

spaces that would not provide all of the functions associated with private residential space, including the facilitation of socialising at home, gardening and drying washing. Moreover, these existing areas of outdoor space are not necessarily conveniently located for families with children or people with mobility concerns, where even a short distance could be problematic for access. As such, the availability of public open space would not offset the need for private outdoor space that is readily accessible to the future occupiers of the proposed development.

16. Reference is made to the conversion of the existing building having a low environmental and CO² impact when compared to a new build development. This may well be the case, but no substantive evidence has been presented to corroborate this assertion. There may be other ways of achieving similar benefits through alternative schemes, that would avoid the harm identified above.

Planning Balance and Conclusion

17. The proposed development would result in significant harm to the living conditions of the future occupiers, with regard to the provision of outdoor space and noise and disturbance. This conflict with the development plan would not be outweighed by the modest benefit of the proximity to the shops and services of a local centre. There are no material considerations in this instance that lead me to find other than in accordance with the development plan. The appeal is dismissed accordingly.

M Clowes

INSPECTOR

Planning Committee
Visiting Panel Schedule

Date Monday 24th July 2023
Start: 10:00 am at BOOTLE TOWN HALL

Agenda Item	Time	Application Details	Ward
4B	10:15	DC/2023/00952 Streetworks At Gorsey Lane, Liverpool	Ford
5A	10:40	DC/2023/00548 Porters Fuchsias Moss Side, Formby	Ravenmeols
4C	11:15	DC/2022/01702 Summerhill Primary School Poverty Lane, Maghull	Sudell
4A	11:45	DC/2023/00540 201A Altway, Aintree	Molyneux

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