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MEETING: PLANNING COMMITTEE

DATE: 10th April 2024

TIME: 6.30 pm

VENUE: Bootle Town Hall

Member

Councillor
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. Lynne Thompson
Cllr. Paul Tweed
Cllr. Carran Waterfield

Substitute

Councillor
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. Sinclair D'Albuquerque
Cllr. Janet Harrison Kelly
Cllr. Tom Spring

COMMITTEE OFFICER: Ian Barton
Telephone: 0151 934 2788
email: 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.

AGENDA

1. Apologies for Absence

2. Declarations of Interest

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

Where a Member discloses a Disclosable Pecuniary Interest, he/she must withdraw from the meeting during the whole consideration of any item of business in which he/she has an interest, except where he/she is permitted to remain as a result of a grant of a dispensation.

Where a Member discloses a personal interest he/she must seek advice from the Monitoring Officer or staff member representing the Monitoring Officer by 12 Noon the day before the meeting to determine whether the Member should withdraw from the meeting room, during the whole consideration of any item of business in which he/she has an interest or whether the Member can remain in the meeting or remain in the meeting and vote on the relevant decision.

3. Minutes of the Previous meeting (Pages 5 - 10)

Minutes of the Meeting held on 13 March 2024.

4. Applications for Planning Permission - Petitions

A DC/2021/00924 - Land off Bankfield Lane, Churchtown Southport (Pages 11 - 36)

Report of the Chief Planning Officer

B DC/2024/00147 - 18 Wills Avenue, Maghull (Pages 37 - 46)

Report of the Chief Planning Officer

C DC/2024/00170 - 55 Kendall Drive, Maghull (Pages 47 - 56)

Report of the Chief Planning Officer

D DC/2024/00004 - 9 Chesterfield Road, Crosby (Pages 57 - 72)

Report of the Chief Planning Officer

Cont'd.

5. Applications for Planning Permission - Approvals

A DC/2023/01911 - Site Of Former Bootle High School Browns Lane, Netherton (Pages 73 - 96)

Report of the Chief Planning Officer

B DC/2024/00229 - 1 Harris Drive, Bootle (Pages 97 - 108)

Report of the Chief Planning Officer

6. Planning Appeals Report (Pages 109 - 134)

Report of the Chief Planning Officer.

7. Visiting Panel Schedule (Pages 135 - 136)

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 13 MARCH 2024

PRESENT: Councillor Veidman (in the Chair)

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

143. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors O'Brien and Spencer and Councillors Grace and Burns (Substitute Members).

144. DECLARATIONS OF INTEREST

In accordance with Paragraph 9 of the Council's Code of Conduct, the following declaration of interest was made and the Member concerned left the room during the consideration of the item:

Member	Minute No.	Nature of Interest
Councillor Richards	Minute No. 147 DC/2023/01055 - Formby Village Sports Club Rosemary Lane, Formby	Member of Formby Parish Council which has submitted an objection against the application and has objected against the application

Also in accordance with Paragraph 9 of the Council's Code of Conduct, the following declaration of interest was made and the Member 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 S. Kelly	Minute No. 146 DC/2023/00700- 12A Carlisle Road Birkdale	Had personally received e-mails in respect of this application from objectors but had advised the matter would have to wait for resolution at Planning Committee and did not express any opinion on the application.

Agenda Item 3

PLANNING COMMITTEE - WEDNESDAY 13TH MARCH, 2024

145. MINUTES OF THE PREVIOUS MEETING

RESOLVED:

That the Minutes of the meeting held on 7 February 2024 be confirmed as a correct record.

146. DC/2023/01865 - 12 CARLISLE ROAD, BIRKDALE PR8 4DJ

The Committee considered the report of the Chief Planning Officer recommending that the above application for the change of use from dwellinghouse to children's home, to provide care for up to 3 No. children, with the erection of a single storey and dormer extension to the rear (Part retrospective) (Alternative to DC/2023/00700 refused 03/10/2023) be granted subject to the conditions and for the reasons stated or referred to in the report.

Prior to consideration of the application, the Committee received a petition on behalf of objectors against the proposed development and a response by the applicant's agent.

RESOLVED:

That the recommendation be approved and, subject to signing of a Unilateral Undertaking that the application property shall only be used for residential accommodation for a maximum of 3 children and for children who are from, or with family, or have a long term connection to Sefton Borough, in consultation with Director of Social Care, the application be granted subject to the conditions and for the reasons stated or referred to in the report and in Late Representations. (The Unilateral Undertaking will replace condition 4 in the report submitted).

147. DC/2023/01055 - FORMBY VILLAGE SPORTS CLUB ROSEMARY LANE, FORMBY

The Committee considered the report of the Chief Planning Officer recommending that the above application for the erection of 1 No. Padel Court be granted subject to the conditions and for the reasons stated or referred to in the report.

RESOLVED:

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

148. DC/2024/00229 - 1 HARRIS DRIVE, BOOTLE L20 6LD

The Committee considered the report of the Chief Planning Officer recommending that the above application for the change of use from Class

E to a drinking establishment (Sui Generis) with the provision of outdoor seating and live music be granted subject to the conditions and for the reasons stated or referred to in the report.

Arising from the discussion, Members expressed concern in respect of highway safety, reporting that the shopping parade was used as short cut between Harris Drive and Hawthorne Road putting pedestrians at risk, and barriers on the site had to be replaced due to recent collisions from vehicles.

RESOLVED:

That consideration of the application be deferred to enable the Chief Planning Officer to hold further discussions with the applicant regarding how the proposal could be made safer both for the customers using the outdoor space and pedestrians using the shopping parade.

149. PLANNING APPEALS REPORT

The Committee considered the report of the Chief Planning Officer on the results of the undermentioned appeals and progress on appeals lodged with the Planning Inspectorate.

Appellant	Proposal/Breach of Planning Control	Decision
Mr & Mrs Williams	DC/2023/00634 (APP/M4320/W/23/3327849) - Becca's Bites 72 Moor Lane Thornton Liverpool L23 4TW - appeal against refusal by the Council to grant Planning Permission for the removal of condition 4 pursuant to planning permission DC/2018/00148 approved 09/03/2018 to allow an outdoor seating area to the rear of the coffee shop.	Dismissed 19/02/2024
Mr & Mrs Williams	DC/2023/00633 (APP/M4320/W/23/3327848) - 72 Moor Lane Thornton L23 4TW - appeal against refusal by the Council to grant Planning Permission for the variation of condition 5 pursuant to planning permission DC/2018/00148 approved 09/03/2018 to allow the coffee shop to be open from 08.00 to 22.00 Monday to Saturday and the outside seating area to be open from 09.00 to 18.00 daily.	Dismissed 19/02/2024

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Mr and Mrs Riley	DC/2023/00811 (APP/M4320/W/23/3328064) - Glenthorne 56 The Serpentine South Blundellsands Liverpool L23 6TB - appeal against refusal by the Council to grant Planning Permission for the reinstatement of the dwellinghouse following demolition with alterations and extensions, reuse vehicular access to the Serpentine and construction of a garage block, boundary fencing and gates to the perimeter (Alternative to DC/2022/01008).	Dismissed 15/02/2024
Mr and Mrs Sheils	DC/2023/01664 (APP/M4320/D/23/3334511) 10 Chestnut Avenue Crosby L23 2SZ appeal against refusal by the Council to grant Planning Permission for a replacement roof covering (Retrospective)	Dismissed 13/02/2024
	EN/2023/00532 (APP/M4320/C/23/3332915) 11 Davenhill Park Aintree L10 8LY - appeal against refusal by the Council to grant without planning permission and within the last four years the erection of a 2 metre-high fence to the side of the dwelling house.	Withdrawn 7/02/2024
Mr D. Riley	EN/2023/00344 (APP/M4320/F/23/3332396) - Flat 3 46 Promenade Southport PR9 0DX - appeal against refusal by the Council to grant Planning Permission for the appeal against the installation of UPVC windows at Flat 3, 46 Promenade, Southport, PR9 0DX;	Dismissed 29/01/2024
Mr S. Proffitt	EN/2023/00370 (APP/M4320/C/23/3327614) - Lunt Road Sefton Liverpool L29 7WB - appeal against refusal by the Council to grant without planning permission, the erection of a dormer extension with balcony to the rear of the dwellinghouse	Dismissed 29/01/2024

Cornerstone Telecommunications	DC/2022/01727 (APP/M4320/W/23/3320488) - College Road Crosby Liverpool L23 3AS - appeal against refusal by the Council to grant Prior notification application for the installation of a 17.5m high streetworks column supporting 6 no. antennas, 2 no. 0.3m dishes and 2 no. equipment cabinets and ancillary equipment	Allowed 24/01/2024
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RESOLVED:

That the report be noted.

150. VISITING PANEL SCHEDULE

The Committee considered the report of the Chief Planning Officer which advised that the undermentioned sites had been inspected by the Visiting Panel on 11 March 2024.

Application No.	Site
DC/2024/00229	1 Harris Drive, Bootle
DC/2023/01055	Formby Village Sports Club Rosemary Lane, Formby
DC/2023/01865	12 Carlisle Road, Birkdale

RESOLVED:

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

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Report to: PLANNING COMMITTEE **Date of Meeting:** 10th April 2024

Subject: [DC/2021/00924](#)
[Land Off Bankfield Lane Churchtown Southport](#)

Proposal: Erection of 9 houses, together with a new vehicular access and associated works (part alternative to application reference DC/2017/00821)

Applicant: See attached Applicants List sheet **Agent:** Mrs Helen Leggett
Emery Planning Partnership Ltd

Ward: Meols Ward **Type:** Full Application

Reason for Committee Determination: Petition endorsed by Cllr Lewis

Summary

This application was previously discussed by members of the Planning Committee on 29th June 2022, who deferred the application to enable further traffic surveys to be undertaken and review of the content of the Construction Traffic Management Plan to be carried out.

The applicant has since carried out a further traffic survey on Bankfield Lane to try and address the highway issues raised at the Planning Committee. This has been reviewed by the Council's Highways Manager who has raised no objections and is satisfied that the proposal would not give rise to highway safety concerns.

It is acknowledged that the proposed access under the current application would not fully comply with the site-specific requirements set out in Policy MN2.2 of the Local Plan. However, given the proposed access would serve a small number of units and not the wider development, and would not raise any other concern, it is considered that on balance the proposal is acceptable.

Recommendation: Approve with Conditions.

Case Officer Kevin Baker

Email planning.department@sefton.gov.uk

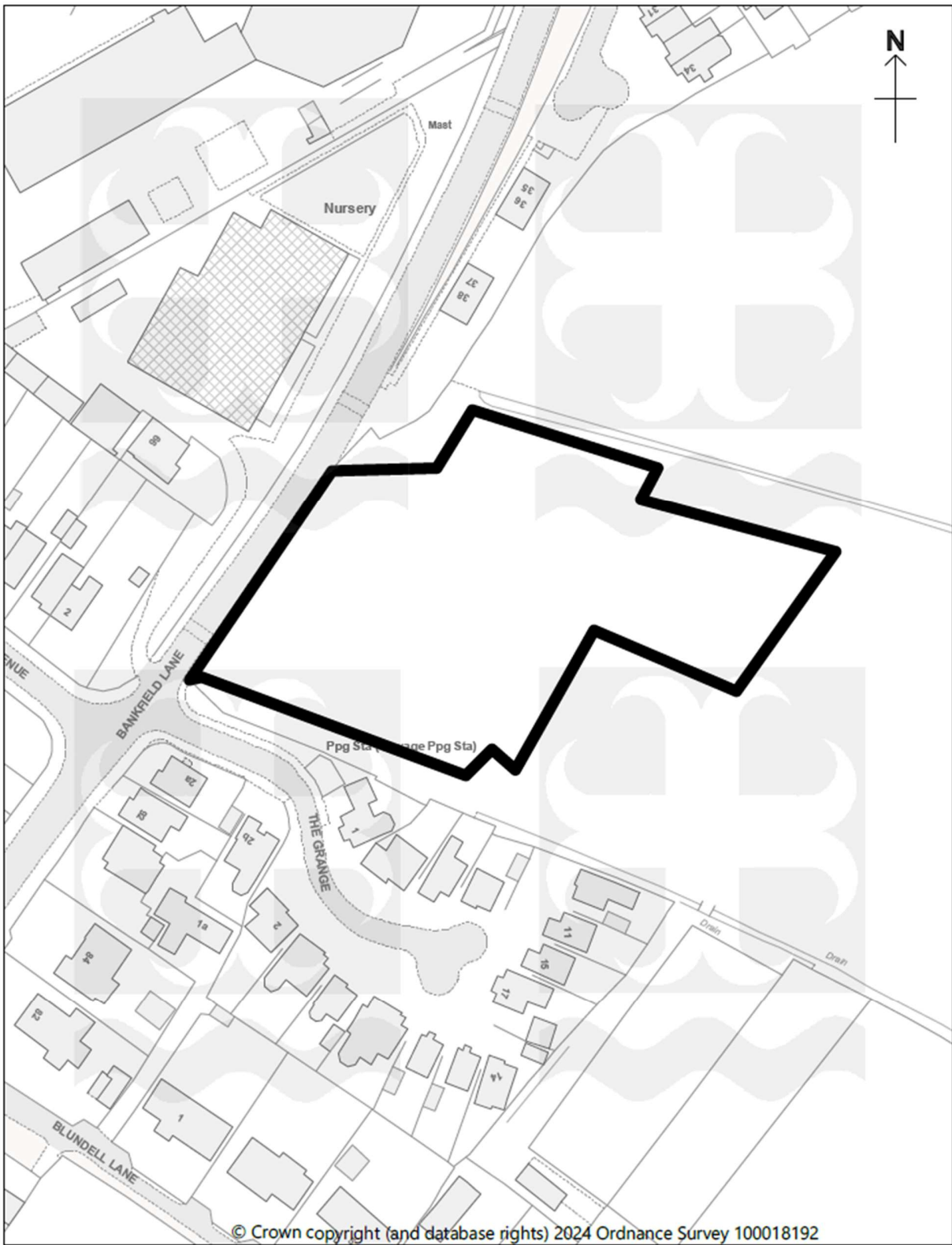
Telephone 0345 140 0845

Application documents and plans are available at:

<http://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QJWCKPNWN4E00>

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Site Location Plan



1. The Site

- 1.1 The site relates to a section of a larger residential development site comprising approximately 16.5 ha of arable land, with several small paddocks. The site is located to the west of the wider residential site, abutting Bankfield Lane and comprises approximately 0.32 ha of land.
- 1.2 The residential edge of Churchtown is located north and west of the site. A mix of modern and traditional residential properties are located to the north and west of the site, with housing and the former Phillips factory (now a development site for residential use, which is nearing completion) beyond on the opposite side of Bankfield Lane/Rufford Road. To the south and south east are open fields with the Three Pools waterway stretching along the eastern boundary of the wider residential site.
- 1.3 Two of the three open ditches which cut across the wider residential site, are located either side of the application site.
- 1.4 The site is relatively flat, although Bankfield Lane which sits to the west of the site increases in height in a south/north direction.

2. History

- 2.1 In 2018, members resolved to approve a hybrid planning application (i.e. an application for part full, part outline planning permission) for a residential development on land off Bankfield Lane subject to a section 106 legal agreement and various planning conditions (app.ref: DC/2017/00821). The Section 106 was formally signed and permission granted in October 2020.
- 2.2 The application granted full planning permission for 128 houses, with access taken from a widened Blundells Lane via Bankfield Lane, and the provision of 7.3ha of open space to the east of the site between the developable area and Captains Waterway. This element is referred to as Phase 1.
- 2.3 Alongside the full application, outline permission was granted for the erection of up to 200 houses, with access taken from Phase 1 and linking with the widened access off Blundell Lane. The outline permission granted details of access, with all other matters being reserved for subsequent approval. This element is known as Phase 2.
- 2.4 Reserved matters for the development of 156 houses was granted planning permission in December 2021 on the phase 2 land. A total of 284 houses has therefore been granted on the site. Both Phase 1 and Phase 2 have now commenced on site.

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- 2.5 This application relates to an area of land within Phase 1 and was presented to Planning Committee on 29th June 2022 but deferred to enable further traffic surveys to be undertaken and review of the content of the Construction Traffic Management Plan to be carried out. This is discussed further below.

3. Consultations

- 3.1 The following consultee comments have been received:

Local Planning Manager

No change to housing mix to that originally approved.

Environment Agency

No objection subject to flood mitigation measures being implemented.

Natural England

Do not object to the proposal but advise that further information is provided to demonstrate that there are no likely significant effects from the proposal and that the changes are assessed within an updated Habitats Regulations Assessment. Advise that advice previously provided on the original application (DC/2017/00082) still applies to this proposal.

Merseyside Environmental Advisory Service

No objection subject to condition. Have carried out an updated Habitats Regulations Assessment and advise that the Appropriate Assessment report concludes that, with mitigation/preventative measures, there will be no adverse effect upon the integrity of European sites.

Highways Manager

Advise that the proposals do not comply with the Local Plan policy because of the Appendix 1 requirement for all access to the development site to be from Blundell Lane. However, raise no objections on highway safety grounds, subject to various conditions.

Following Planning Committee's resolution in June 2022, the Highways Manager has reviewed the further traffic surveys to assess the impact of the development from the proposed show homes and associated secondary site access junction proposed onto Bankfield Lane. The Highways Manager concludes that the predicted number of vehicles visiting the show homes would not result in a significant impact on the operation of Bankfield Lane and the surrounding highway network, and there would be no highway safety impact arising from the proposals.

Department for Levelling Up, Housing & Communities

In May 2023, the Secretary of State confirmed that he had decided not to call in this application and was content that it should be determined by the Local Planning Authority.

4. Neighbour Representations

- 4.1 Neighbouring properties were first notified of the planning application in May 2021. As part of this process a petition containing 49 signatures and endorsed by Cllr Lewis was received objecting to the proposal on grounds that the proposed entrance would be dangerous and would not comply with the Local Plan. Also that the plan would be detrimental to residential amenity.
- 4.2 In addition, correspondence was received from local residents on Blundell Lane, The Grange, The Mallards, Bankfield Lane, Merlewood Avenue objecting to the proposed development. The grounds of objection can be summarised as follows:

Principle

- Goes against Sefton's own Local Plan which states that the only access to the proposed site should be via Blundell Lane. Goes against all common sense and continually ignore the well founded objections of local residents. Would have 3 new access if including the emergency access.
- Land is Greenbelt and should be protected

Flooding and Drainage

- No evidence that satisfactory disposal of surface water would occur or that a sustainable drainage system would be used.
- System would connect to existing drainage on Banfield adding to current problems

Living Conditions

- Increase in noise, dust and cosmetic damage from construction.

Design and Character

- Would destroy the charm and character of Churchtown and community by overpopulating the area, overburdening roads, increasing carbon emissions and further straining vital resources such as the NHS

Highway Safety

- New access is on a blind spot, already an accident hotspot, increasing risk to road users
- Speed humps play a minor role in reducing speed on this section especially for motorcyclists. Traffic continues to speed in excess of 50 mph.
- There has been a fatality in recent years, highway report fails to pick up on this
- Access would be on an angle which would be detrimental to easy access to the road

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- Cars overtake on the bridge and agricultural vehicles come and go from JA Jones opposite the proposed access
- Access would be an accident waiting to happen. Pedestrians, cyclists and cars would be put at risk
- Would add to congestion on the bridge
- Close to existing business entrance which has restricted visibility
- Traffic leaving the cul de sac directly onto the bridge would not have time to avoid a major collision
- Severely impacts and compromises the highway safety of all other road users and pedestrians
- Route Action Programme identified Banfield Lane with a history of accidents resulting with the introduction of extensive road calming measures, including a 20 mph speed limit, in an effort to reduce speeding traffic in an already over strained highway infrastructure
- Dual standards, despite being told original scheme could not have more than one access due to conflict with Local Plan, the proposal now introduces a second access contradicting the Local Plan
- Would be much safer to reconsider the emergency entrance and place it where the proposed cul-de-sac entrance is to be considered.
- Traffic has increased significantly along Bankfield Lane since initial survey carried out, in peak periods it is extremely hazardous
- Too many junctions close to each other
- Insufficient parking available, with overflow parking on Bankfield Lane, blocking driveways
- Junction cannot be safe
- Reconsideration should be given to further access points on other roads to support the development and provide safer access to the site.
- Roads are not big enough or wide enough
- Turnover of wagons up and down Bankfield Lane supplying materials will be dangerous

Ecology

- Wildlife would be destroyed

Other Matters

- Japanese Knotweed on site, but no justification provided for its containment or removal.
- Will create unbearable pressure on local amenities and infrastructure, with insufficient medical and educational resources to meet any future demand
- Will be detrimental to the environment in terms of pollution and carbon emissions

4.3 Neighbouring residents have been renotified of the additional information received because of the Committee's resolution in June 2022. Correspondence has been received from local residents on The Mallards, Bankfield Lane, Merlewood Avenue, Blundell Lane and The Grange who are objecting to the proposal for the following grounds:

Principle

- Goes against planning policy in that access should be taken from Blundell Lane.
- The access is in direct contravention of the approved Sefton Local Plan and violated the Planning Inspectorate directive appended to MN2.2.

Living Conditions

- Increased road noise
- More noise, mess, disruption and dust

Highway Safety

- Location of the access is dangerous, there have been numerous road accidents, including one fatality.
- Increased road congestions
- Will make crossing the road more difficult
- New access will give rise to a number of safety and hazard concerns
- Drivers are prone to exceeding speed limits, new access may exacerbate this leading to higher risk of accidents.
- Traffic survey not a true version of events, increase of heavy loaded lorries, farm vehicles, buses and class 1 lorries from Holland coming over the bridge and ignoring the weight restrictions.
- Large vehicles are already dangerously turning around in roads, causing damage, the development will result in more accidents.
- Access would have a blind spot, vehicles would have no time to avoid a collision.
- Traffic survey does not record speed of the traffic, unrealistic to assume all traffic travels at 20 mph and car speeding have been witnessed, given rise to concern associated with the safety of the access.
- Access for 200+ houses has not been well thought through, consideration should have been given to an access from the Crescent
- Traffic have been avoiding Bankfield Lane due to works on the storage tank.
- Busy bus route.
- Had the access been proposed originally there is little doubt that the residential development would have been refused on the grounds that's the development of this site must take all vehicular access from an expanded Blundell Lane.
- Road traffic survey is unrepresentative of the traffic that will be proceeding along Bankfield Lane once the development starts. The roads linking the Elan Homes Balmoral Gardens estate to Rufford Road & North Road have not yet opened. All traffic from that estate (157 homes) currently exits to Balmoral Drive. Once the alternative exit roads open, many of those residents will exit the estate onto Rufford Road which leads onto the Bankfield Road bridge. So, the traffic survey cannot be relied upon as accurate.
- Cannot understand why the Council are even giving consideration to the application for the cul-de-sac, given that it's clearly in contravention of the Government Inspector's conclusions

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- No consideration has been given to the existing business opposite which has expanded and uses Bankfield Lane.
- Access is unsafe, especially when an emergency entrance for blue light vehicles will be adjacent to this new entrance.
- If permission granted there would be 5 junctions within 60m, Grange, Merlewood, JA Jones entrance, emergency entrance and access to the 9 houses.
- Dual standards being applied regarding this 'second entrance' to the development site MN2.2
- Wainhomes suggest the development will take approximately 9 years to complete and the show homes will be available for most of this period. For this reason one cannot argue that this cul-de-sac is temporary
- Cyclist entrance onto Bankfield Lane has had to be moved further up the hill and will now utilise the Emergency Entrance, thereby increasing the risk of cyclists existing the site on front of many speeding vehicles travelling over the brow.
- The previous analysis included far greater detail such as duration of survey, speed of vehicles, weight of vehicles etc. all of which provide a greater wealth of data to be examined and considered by your highways experts in making their recommendations, whereas this doesn't! It doesn't mention any near-by activities which may affect the 'numbers' i.e. Rufford Road (a continuation of Bankfield Lane) having single lane traffic lights in operation at the time of the survey. It doesn't include the expected increase in vehicle numbers when the Elan Homes development on Balmoral Drive is complete nor does it mention the increase relating to the 280 dwellings by Wainhomes on Bankfield Lane.
- The Traffic Survey has lots of inaccuracies, and inconsistencies.

Other Matters

- Bridge has a weight restriction which poses a significant obstacle to the delivery of building materials by Heavy Goods Vehicles. This has implications both on structural integrity of the bridge and historic buildings if directed through Churchtown.
- Presence of Japanese Knotweed on site, no explanation given for containment or removal.
- On a flood plain with no evidence of the satisfactory disposal of surface water

- The Captains Waterway is the primary drain for the whole of the development area MN2.2 (approx.9ha) of which these 9 houses were originally included albeit now seeking an independent vehicle entrance! The 2017 report fails to identify that the Captains Waterway flows via an historic & old 'culvert' a river running underneath a river (The Three Pools); a culvert which is continuously blocked with debris & in need of restoration. Following UU construction works to build massive below ground concrete structures within the adjacent greenfield area, the locality has experienced the LOSS of permeable land & ground rainwater infiltration impacting surface water drainage in the area. The capacity of the local watercourses have been further compounded by UU introducing numerous land drains dispersing surface water into the local ditches which flow & has to be absorbed into the Captains Waterway, 'influencing' the overall capacity! The 2017 drainage statement is unsafe & current climate trends dictate updated run-off rates & projection/capacity 'modelling' based on the Captains Waterway to future proof residential homes from flooding!

5. Policy Context

- 5.1 The application site is allocated for housing (MN2.2 Land at Bankfield Lane, Southport) and proposed open space in the Sefton Local Plan which was adopted by the Council in April 2017.

6. Assessment of the Proposal

- 6.1 This current proposal would see an amendment to the house types and housing layout of 9 houses (of the 128 previously granted planning permission under phase 1) to incorporate a new access onto Bankfield Lane. This new access would serve 6 houses within the development, with the other 3 houses continuing to gain access from the approved highway network within phase 1, via a widened Blundell Lane.
- 6.2 At the June 2022 planning committee, members expressed concern regarding the access and the impact on highway safety. In particular, members acknowledged that the houses would be used as show homes and expressed concern regarding the impact this would have at the proposed traffic junction on Bankfield Lane. The applicant has since submitted further traffic surveys to address the concerns of the Planning Committee and this is addressed in detail below.
- 6.3 The main planning issues for consideration include the principle of development, highways impacts, flooding and drainage, potential impact on the living conditions of existing and future residents, open space requirements, ecological issues, affordable housing and housing mix, historic environment, design, and trees and landscaping requirements.

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Principle of Development

- 6.4 The land to which the planning application site relates is part of a wider allocation site for housing in the Local Plan, which was adopted by the Council on 20th April 2017. Policy MN2 'Housing, Employment and Mixed Use Allocations' refers to this site as MN2.2 'Land at Bankfield Lane, Southport.' Appendix 1 of the Local Plan sets out specific requirements for some sites allocated for housing, as noted below:

MN2.2 Land at Bankfield Lane, Southport

Development of this site must:

- *take all vehicular access from an expanded Blundell Lane;*
- *provide an additional pedestrian/cyclist access directly onto Bankfield Lane;*
- *provide new public open space, habitat creation, and Sustainable Drainage Systems on the adjacent land designated as 'Proposed Open Space'; and*
- *take account of the Local Wildlife Site designation in meeting the requirements of policy NH2.*

- 6.5 As can be seen from the planning history above, the principle of residential development has already been established on the site as part of the wider residential development. This includes 128 houses under phase 1 (to which this application sits within) and 156 houses for phase 2.
- 6.6 Under phase 1, the approved layout proposed the erection of 9 houses within the application site with a similar layout to that currently proposed under this planning application. The distinguishable difference with the current proposal is the introduction of a new vehicular access point directly onto Bankfield Lane to serve 6 of the 9 houses proposed under this application. The other 3 houses would continue to be accessed via the proposed internal road network approved as part of the wider residential development.
- 6.7 In this instance, whilst the principle of new housing on the application site is acceptable in principle, in terms of land use, it must be noted that it fails to comply with one of the site specific requirements set out in policy MN2.2, that being that the 'development site must ... take all vehicle access from an expanded Blundell Lane'. The development, when considered in combination with the wider residential development, would provide a secondary vehicle access onto Bankfield Lane, albeit to serve just 6 houses out of the 284 proposed.

Highway Impacts

- 6.8 The key difference with this proposal scheme, is the introduction of a new access road onto Bankfield Lane. This access road would serve 6 of the 9 properties to which the application relates as opposed to being accessed from within the new road network proposed as part of the wider residential development and accessed from a widened Blundell Lane. The other 3 houses would continue to be accessed from Blundell Lane through the internal road network.

The emergency access onto Bankfield Lane remains, although the layout of this has been amended to accommodate the alternative layout.

- 6.9 The applicant provided an updated technical note to address the amended access and road layout. This was assessed by the Council's Highways Manager along with the proposed layout, who raised no objection on highway safety grounds.
- 6.10 It is acknowledged that the proposed access point would be at the base of a slight hill rising upwards in a northern direction. It is also acknowledged that there are 3 other access points further west onto Bankfield Lane serving other residential estates and commercial premises.
- 6.11 However, Bankfield Lane is subject to a 20mph speed limit, which is controlled using speed bumps and road traffic signs. The proposed site layout plan shows that the width of the access road would be acceptable whilst vehicle 'swept path analysis' has been provided demonstrating that vehicles, including refuse vehicles, would be capable of entering and leaving the site safely. The Councils recommended visibility splays would be achievable for the proposed site access in both directions ensuring that vehicles leaving the application site would be able to have clear view of oncoming traffic in both directions.
- 6.12 It is predicted that up to 5 two-way vehicle movements in the peak hour would be generated by the development which equates to an average of 1 vehicle every 12 minutes. As a result there would be no significant traffic impact on Bankfield Lane from the proposals due to the small number of properties to be served from the proposed site access. The nearby junctions of The Grange, Merlewood Avenue and the access to JA Jones are sufficiently distanced to not cause any conflicts or queuing back from the development.
- 6.13 Notwithstanding this, members of the Planning Committee previously raised highway safety concerns, acknowledging that the homes associated with the development would act as the show homes for marketing purposes during the construction of the wider development. Their concerns were that a much greater level of traffic volume would be anticipated during this period which could give rise to highway safety concerns. Further traffic surveys were therefore sought to assess the impact of the development from the proposed show homes and the associated secondary site access junction proposed onto Bankfield Lane.
- 6.14 In response, the applicant has submitted a Traffic Survey Report to address the highway safety issues raised by members of the Planning committee. This has been reviewed by the Council's Highways Manager.
- 6.15 The Highways Manager has expressed concern with some of the data provided within the Traffic Survey and as a result have undertaken their own analysis of the full survey results. The Traffic Survey only contains a forecast of visitor numbers to the show homes, but states that during peak periods the highest number of visitors expected at a single time is 3 on weekend days, and visitors remain on-site between 30 minutes to an hour. On this basis, the TN predicts that the show homes will generate 6 vehicle trips an hour, 3 inbound and 3

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outbound. This is considered the worst case scenario. With no evidence to disagree with the forecast provided, and acknowledging that the applicant is an experienced housing developer, it is accepted that this is an accurate forecast.

- 6.16 Taking into consideration the highest volume of traffic during the busiest periods on the road both in the week and at weekend, alongside the worst case forecast of visitor numbers to the show homes, the Highways Manager is satisfied that the temporary use of the properties as show homes during the construction of the wider development would not result in a significant impact on the operation of Bankfield Lane and the surrounding highway network.
- 6.17 A minimum of 2 car parking spaces would be provided for each property, whilst the 4 bedroom houses would include garages. To ensure any additional parking does not spill onto the highway (thus reducing the safety of the access junction) the Highways Manager has recommended that double yellow lines be implemented along the Bankfield frontage towards the junction with the Grange.
- 6.18 The proposal would retain the approved emergency access, albeit the layout of this would slightly change to that approved to accommodate the amended layout of the development. Access for pedestrians and cyclists to the wider residential development would still be permitted across this emergency access, whilst the proposal would incorporate a new pavement to the eastern side of Bankfield Lane linking to The Grange. Dropped kerbs would need to be provided to ensure safe access for pedestrians towards the western side of Bankfield Lane and the wider area. This could be conditioned.
- 6.19 From a construction perspective, it has been demonstrated through the submission of a full Construction Environmental Management Plan as part of the wider housing development that the development can be appropriately accessed without causing significant harm to the surrounding highway network. This would see delivery/construction vehicles accessing the site from Blundell Lane. Whilst this application is a stand-alone application, it is reasonable to apply a condition to ensure that construction management of the site is consistent with that approved for the wider development.
- 6.20 Given the design of the proposed access and small number of houses to which it would serve, it is considered that the proposal would be acceptable from a highway safety perspective. The development would ensure that there is acceptable car parking provision within the site, whilst the layout would ensure that pedestrians and cyclists would be capable of accessing both this site and the wider housing site safely. The proposal therefore complies with Policy EQ3 'Accessibility' of the Sefton Local Plan.

Flooding and Drainage

- 6.21 The applicant has submitted the 'Flood Risk Assessment' (FRA) relating to the wider residential development as previously proposed (and accepted) under the original application. Whilst there have been slight amendments to the layout of the 9 proposed houses, there has been very little change to the site-specific circumstances in relation to flooding and drainage to that which was previously assessed for the wider residential development. The Environment Agency is satisfied with the proposed works and considers the measures previously agreed remain relevant to this application (i.e. that lend levels be raised and the development be constructed in accordance with the Floor Risk Assessment and proposed mitigation measures).
- 6.22 It is considered that, provided the development is consistent with the mitigation measures proposed in accordance with those agreed under the wider residential development in relation to flood risk and drainage, the proposed development would be acceptable in this regard and complies with Policy EQ8 'Flood Risk and Surface Water' of the Local Plan.

Living Conditions of Residents

- 6.23 The proposed layout and scale of housing would not be too dissimilar to that previously approved. The Councils recommended interface distance between the proposed houses and existing houses would be met, whilst each property would have an acceptable level of private outdoor amenity space.
- 6.24 The original planning application for the wider residential development proposed a condition seeking a scheme of acoustic insulation to properties fronting Bankfield Lane and this remains relevant to the current proposal. Similarly, any increase in noise and dust associated with the construction phase of the development can also be controlled by condition.
- 6.25 The proposal is considered acceptable in terms of living conditions for both the existing and future occupiers and complies with Policy EQ2 'Design' of the Local Plan.

Open Space Requirements

- 6.26 The proposed application would not affect the public open space being provided as part of the approved wider residential development, which meets the requirements set out in Appendix 1 of the Sefton Local Plan (site specific requirements) and housing allocation MN2.2.

Ecology and landscaping

- 6.28 As recognised in the determination of the wider residential development, the development site is close to several national and international sites and Policy NH2 of the Local Plan applies. Although the proposal is for 9 houses, it is part of a wider residential development which would result in increased visits (recreational pressure) to recognised sites of ecological importance.

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- 6.29 The wider residential development was subject to a Habitats Regulations Assessment. This has been updated to reflect the amended layout and to address up to date case law. The current application is in line with the previous approval and as such it is considered that likely significant effects identified for the previous approval remain unchanged. The Appropriate Assessment concluded that there would be no significant effects on the recognised sites subject to mitigation measures including the submission of a landscape and habitat management plan for the public open space (linked to the wider residential development) and provision of an advisory leaflet within the sale pack of each dwelling to promote the use of the public open space. The proposal therefore complies with Policy NH2 'Nature' of the Local Plan.
- 6.30 The provision of the open space and its landscaping was secured through the original permission by way of planning condition and section 106 legal agreement. The current proposal does not physically impact on the open space and as such the controls required by the wider residential development remain in force. The provision of a household leaflet, however, could be conditioned as this would be directly related to the 9 houses proposed under this application.
- 6.31 As is the case with the wider residential development, the proposal would not cause harm to local ecology subject to mitigation measures being put in place.
- 6.32 The applicant has submitted a detailed planting plan which includes planting with native hedgerows, tree planting and wildflower meadow creation, which would benefit on site biodiversity and would help soften the appearance of the development in the wider street scene.

Type of Housing

- 6.33 The proposed development would result in a change to house types, with more 3 bed houses being proposed (as opposed to 4 bed houses approved under the original application). However, this would not significantly impact on the housing mix or affordable housing provision approved under the original permission, which would still be compliant with Policy HC2 (Housing Type, Mix and Choice) of the Local Plan.

Design and Historic Environment

- 6.34 The layout, design and scale of the proposed housing would be similar to that previously approved and as such would complement the wider residential development. It would also be acceptable when viewed against the wider street scene, particularly along Bankfield Lane to which it would be most prominent, reflecting the modern housing which sits either side of the application site. Appropriate landscaping would also be introduced.
- 6.35 The proposal would not impact on the setting of the nearby Grade II listed Ravenmeols Farm or Churchtown Conservation Area.
- 6.36 The proposal would comply with Policies EQ2 'Design', NH11 'Works Affecting Listed Buildings', Policy NH12 'Conservation Areas', Policy NH14 'Scheduled Monuments and Non Designated Archaeology' of the Local Plan.

Impact on Services and Developer Contributions

- 6.37 Residents have raised concern regarding increased pressure on local services, including impact on local schools and health services.
- 6.38 This matter was previously addressed, both by the Inspector into the Local Plan (2017) and when considering the original application. The current proposal does not seek to increase the housing numbers. It is considered that the proposal would not have any greater impact on the local services.
- 6.39 Local Plan policy IN1 'Infrastructure and developer contributions' states that developer contributions may be sought to provide or enhance infrastructure to support new development. The Council intends to secure financial contributions towards primary schools' provision on developments of 11 homes or more. At 9 homes, the development falls outside of the threshold for financial contributions. However, it is linked to the wider residential development which secured a financial contribution for the 9 houses which this application would replace. The applicant has not sought to vary the section 106 legal agreement, which remains relevant. It is considered that the proposal satisfies the requirements of Policy IN1 of the Local Plan.

Trees and Landscaping Requirements

- 6.40 Local Plan Policy EQ9 'Provision of Public Open Space, Strategic Paths and Trees' is of relevance when considering the trees and landscaping requirements.
- 6.41 The application site does not impact on the public open space approved under the original permission or the more formal public areas throughout the wider development. The site

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layout plan illustrates tree planting within the garden areas, which would be managed by future residents.

- 6.42 Subject to a condition seeking full details of the proposed landscaping scheme, the proposal is considered to comply with Policy EQ9 of the Local Plan.

Other Issues

- 6.43 Concern has been expressed regarding the presence of Japanese Knotweed on site and the lack of information provided with the application regarding the containment or removal of such. The original planning permission was accompanied by a specialist Japanese Knotweed assessment. This identified 2 areas of Japanese knotweed, neither of which was in the area to which this current application relates. The original permission includes conditions which seek the treatment and eradication of the identified area of Japanese Knotweed, but also mitigation if any previously unidentified Japanese Knotweed is found. A similar condition could be attached to ensure the same level of protection continues to be provided.

7. Conclusion

- 7.1 The principle of residential development on the application site has previously been established on the site for 284 houses, under the original hybrid application and subsequent reserved matters.
- 7.2 The proposal would see an amendment to the house types and housing layout of 9 houses (of the 128 previously granted planning permission under phase 1) to incorporate a new access onto Bankfield Lane. This new access would serve 6 houses within the development, with the other 3 houses continuing to gain access from the approved highway network associated with the previously approved access from a widened Blundell Lane.
- 7.3 Subject to conditions, the development would not give rise to concerns relating to flooding/drainage, living conditions (of both existing and future residents), open space, ecology, housing type/mix, design, historic environment, local services, trees and landscaping.
- 7.4 However, the introduction of a new access road onto Bankfield Lane would be contrary to Local Plan policy MN2.2 which sets out a specific requirement to take all vehicular access from an expanded Blundell Lane. The proposed access would be an additional access onto Bankfield Lane, with the expanded Blundell Lane access remaining as part of the wider housing development.
- 7.5 Notwithstanding this, the Highways Manager has fully assessed the proposal, along with the additional details submitted to address members' concerns expressed at the June 2022 Planning Committee. The Highways Manager has concluded that the proposed access and

development would not give rise to highway safety concerns when in permanent use as houses or when being used as show homes for a temporary period, to assist with the sales of the houses whilst the development is being built.

- 7.6 It is acknowledged that the proposed access would therefore not comply with the site-specific requirement set out in Policy MN2.2. However, given that this access would serve a small number of units and not the wider development and noting the comments of the Highways Manager, it is considered that there are no strong grounds to refuse the application. It is therefore considered that on balance 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 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 hereby granted shall be carried out strictly in accordance with the following details and plans:-

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1328WHD/BLS-LP27 Rev.A;
1328WHD/BLS-PL01 Rev.KKv2;
3.113CB/P/BU/L10/300;
CLPD 013/P01;
BRU-P2;
HAV-P1;
TRE-P1
Newton House Type (dated Feb 2019);
SDG/SE/1.2/B.

Reason: To ensure a satisfactory development.

Before the Development is Commenced

- 3) No development shall take place until a site specific Construction Environmental Management Plan (CEMP) has been submitted to and been approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust, water pollution, ecology and site lighting. The plan should provide for:
- Procedures for maintaining good public relations including complaint management, public consultation and liaison
 - Proposed Construction hours
 - Proposed hours for deliver and removal of plant, equipment, machinery and waste from the site.
 - Measures to control the migration of mud from the site by vehicles during construction
 - Mitigation measures to minimise noise disturbance from construction works.
 - Procedures for emergency deviation of the agreed working hours.
 - Control measures for dust and other air-borne pollutants, including a dust management plan in order to minimise the impacts of construction dust.
 - Measures to prevent pollution of control waters during construction.
 - Measures for controlling the use of site lighting whether required for safe working or for security purposes.
 - Locations for the storage of all plant, machinery and materials including oils and chemicals to be used in connection with the construction of the development;
 - the control and removal of spoil and wastes;
 - Adequate provision for contractor parking
 - Mitigation measures for the protection of water vole, breeding birds, water courses, hedgerows and retained vegetation;
 - A lorry routing schedule
 - Measures to control flooding on site during construction

The development shall be implemented in accordance with the approved CEMP.

Reason:

To ensure the impacts of the construction phases onto the environment are minimised.

- 4) No development shall commence until a preliminary investigation report has been submitted to and approved in writing with the Local Planning Authority. The report must include:
- Desk study
 - Site reconnaissance
 - Data assessment and reporting
 - Formulation of initial conceptual model
 - Preliminary risk assessment

If the Preliminary Risk Assessment identifies there are potentially unacceptable risks a detailed scope of works for an intrusive investigation, including details of the risk assessment methodologies, must be prepared by a competent person (as defined in the DCLG National Planning Policy Framework, March 2012). The contents of the scheme and scope of works are subject to the approval in writing of the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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

- 5) No development shall commence until the approved scope of works for the investigation and assessment has been undertaken by competent persons and a written report of the findings shall be submitted to and approved in writing by the Local Planning Authority. The report shall include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. Remediation shall proceed in accordance with the approved details.

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

- 6) Prior to commencement of development a detailed remediation strategy to bring the site to a condition suitable for the intended use by removing unacceptable risks and the relevant

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pollutant linkages identified in the approved investigation and risk assessment, must be prepared and is subject to the approval in writing of the Local Planning Authority.

a) The strategy must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and roles and responsibilities. The strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 on completion of the development and commencement of its use.

b) In the event that the proposed remediation scheme involves the provision of a ground cover system a plan indicating the existing and proposed external ground levels on the application site shall be submitted for approval to the Local Planning Authority.

c) The development shall proceed in accordance with the external ground levels approved under (b) unless the Local Planning Authority gives its prior written approval to any variation.

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

- 7) Prior to commencement of development above ground level, a scheme of works for the proposed vehicular access onto Bankfield Lane shall be submitted to and approved in writing by the Local Planning Authority

No dwelling unit shall be occupied until the vehicular access to the site has been constructed. These works shall be in accordance with the approved scheme.

Reason: In the interests of highway safety.

- 8) Prior to commencement of development above ground level, a scheme (and full construction details) for the construction of the site access and the following off-site improvement works has been submitted to and approved by the Local Planning Authority:

- Traffic Regulation Order to deliver 'no waiting at any time' restrictions on the southern side of Bankfield Lane between the emergency access and The Grange, including junction protection markings on both sides of the proposed site access junction and The Grange
- Introduction and upgrading of pedestrian crossings with dropped kerbs and new tactile paving at Bankfield Lane and Blundell Lane, The Grange, Merlewood Avenue and Verulam Road
- Introduction of emergency access from Bankfield Road, which should be a minimum of 3.7m wide with appropriate provisions to prevent unlawful vehicular access. This should also

have a 2m wide pedestrian access leading to The Grange for pedestrian permeability including installation of dropped kerbs across Bankfield Lane.

No part of the development shall be brought into use until a timetable for the required highway improvement works have been agreed. The works shall then be constructed in accordance with the details approved and the agreed timetable of works.

Reason: In the interests of highway safety and the satisfactory development of the site.

- 9) Prior to commencement a noise report shall be submitted to the Local Planning Authority to identify which plots are likely to breach both the 50dB and 55dB noise levels for the private outdoor amenity space and a suitable scheme of appropriately designed acoustic barriers for plots that exceed these levels shall be agreed in writing with the Local Planning Authority. The approved scheme shall be implemented before the dwellings become occupied and retained thereafter.

Reason: In the interest of residential amenity.

- 10) Prior to the commencement of development, the details of a foul water drainage scheme shall be submitted to and approved by the Local Planning Authority. The following foul water drainage details shall be agreed with the local planning authority in liaison with the public sewerage undertaker:
- The location of the point of connection for foul water to the existing public sewer;
 - The timing arrangements for the pumped foul discharge;
 - The storage requirements for the pumped foul discharge; and
 - The rate of discharge for the pumped foul discharge.

There shall be no connection of foul water to the public sewer other than in accordance with the agreement reached with the local planning authority in liaison with United Utilities.

Prior to occupation of the first dwelling, the development shall be implemented in accordance with the approved details.

Reason: To secure proper drainage and in order to manage the risk of flooding and pollution from the public sewerage system, it is necessary to agree the specific details of the approach to foul water drainage for each phase. This shall include agreeing the location of the point of connection to the public sewer and the approach to foul water pumping.

- 11) No excavations shall commence on site until a detailed strategy and method statement for minimising the amount of construction waste resulting from the development has been submitted to and approved in writing by the Local Planning Authority. The statement shall include details of the extent to which waste materials arising from the construction activities will be reused on site, and demonstrating that as far as reasonably practicable, maximum use is being made of these materials. If such reuse on site is not practicable, then details shall be given of the extent to which the waste material will be removed from the site for reuse,

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recycling, composting or disposal. All waste materials shall thereafter be reused, recycled or dealt with in accordance with the approved strategy and method statement.

Reason: To ensure appropriate waste management and recycling measures.

- 12) No development shall commence above slab level until a sustainable surface water drainage scheme (including timetable for implementation), has been submitted to and approved in writing by the local planning authority. No surface water shall discharge into the public sewerage system either directly or indirectly. Any surface sustainable drainage features interacting with sewers offered for adoption should be designed in accordance with CIRIA C753 'The SuDS Manual'. The scheme shall be implemented in accordance with the approved details and timetable and retained thereafter in perpetuity.

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

- 13) No development shall commence above slab level until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. Those details shall include: i) a timetable for its implementation, and ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime. The sustainable drainage system shall be implemented and thereafter, managed and maintained in perpetuity in accordance with the approved details.

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

During Building Works

- 14) a) The approved remediation strategy must be carried out in accordance with its terms prior to the commencement of development other than development required to carry out the remediation.
- b) 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 must be produced, and is subject to the approval in writing of the Local Planning Authority, prior to commencement of use of the development.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological

systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 15) a) 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.
- b) Following completion of the remedial works identified in the approved remediation strategy, verification of the works must be included in the verification report required by Condition 20.

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

- 16) Notwithstanding the details show on the approved plans, no final finish to any external elevation shall be applied unless it has previously been agreed with the Local Planning Authority.

Reason: To ensure that the finishing to external elevations is to the satisfaction of the LPA.

- 17) The mitigation and management of water vole shall be carried out in accordance with the recommendations as outlined in the Water vole survey and mitigation strategy [ERAP (Consultant Ecologist) Ltd: ref: 2020-324c] dated October 2021.

Reasons: To protect the Water vole habitat during the lifetime of the scheme.

- 18) a) No dwelling shall be constructed until full details of the existing and proposed ground levels (referred to as Ordnance Datum) within the site and on land and buildings around the site by means of spot heights and cross sections, and proposed finished floor levels of all buildings and structures, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved level details.

b) Prior to the construction of external elevations above finished floor levels (FFL) on plots adjoining existing residential properties, the FFL shall be subject to a topographical survey to be submitted to and approved in writing by the Local Planning Authority. No property adjoining any existing residential property shall be occupied until cross sections based on a

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topographical survey of the level of rear gardens as completed have been submitted to and approved in writing by the Local Planning Authority.

In the event that the surveys identified in (b) and (c) fail to confirm that the FFL and site levels correspond to the levels as approved, or are not within 100mm of those levels, a new planning application shall be submitted for those plots to which the variation relates.

Reason: In order to safeguard the living conditions of nearby occupiers and to safeguard the character and appearance of the area.

- 19) In the event that any previously unidentified Japanese Knotweed 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 with immediate effect in that area and within a 7m buffer of the area. A remediation strategy shall be submitted to the Local Planning Authority for approval. The approved strategy must be applied to the affected area.

A validation report confirming that the remediation treatment has been carried out and that that part of the site has been free of Japanese Knotweed for 12 consecutive months shall be submitted to and approved in writing by the Local Planning Authority. No works shall take place within a 7m buffer of the affected area, until the validation report has been approved by the Local Planning Authority.

Reason: To eradicate Japanese Knotweed from the development site and to prevent the spread of the plant through development works.

Before the Development is Occupied

- 20) All hard and soft landscaping works shall be carried out in accordance with the details hereby approved. All landscaping applicable to each relevant plot shall be completed within the next planting season following the plot occupation.

Reason: In the interest of visual amenity.

- 21) No dwelling unit shall be occupied until details in respect to the proposed street lighting for has been first submitted to and approved in writing by the Local Planning Authority, and thereafter each development phase shall be implemented in full accordance with the approved details.

Reason: To ensure the preservation of visual amenity, highway safety and residential amenity.

- 22) No dwelling unit shall be occupied until visibility splays of 2.4 metres by 43 metres have been provided clear of obstruction to visibility at or above a height of 1 metre above the

carriageway level of Bankfield Lane. Once created, these visibility splays shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of highway safety.

- 23) No dwelling unit shall be occupied until the associated areas for vehicle parking, turning and manoeuvring have been laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and these areas shall be retained thereafter for that specific use.

Reason: In the interests of highway safety

- 24) The development shall not be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The provisions of the approved Travel Plan shall be implemented and operated in accordance with the timetable contained therein unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of highway safety and to promote sustainable means of transport.

- 25) No dwelling shall be occupied until a scheme for the provision of measures to reduce greenhouse gas emissions, including a timetable for implementation, has been submitted to the Council for approval. The scheme shall include, as a minimum, details of electric vehicle charging points to be installed on each dwelling with a dedicated parking space and for communal parking areas. The development shall be implemented in accordance with the approved details and agreed timetable.

Reason: To promote energy efficient within the development.

- 26) A suitable scheme of acoustic glazing for all dwellings shall be agreed in writing with the Local Planning Authority. The approved scheme shall be implemented before the dwellings become occupied and retained thereafter.

Reason: In the interest of residential amenity.

- 27) A suitable scheme of acoustically treated ventilation for all dwellings shall be agreed in writing with the Local Planning Authority. The approved scheme shall be implemented before the dwellings become occupied and retained thereafter.

Reason: In the interest of residential amenity.

- 28) No dwelling shall be occupied until details in respect to the proposed boundary treatment has been first submitted to and approved in writing by the Local Planning Authority, and thereafter the development shall be implemented in full accordance with the approved details.

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Reason: In the interest of visual amenity.

- 29) Finished floor levels of the development hereby approved shall be set no lower than 3.01m above Ordnance Datum (AOD) or lower than 0.15m above adjacent ground level.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

- 30) Prior to occupation of the dwellings hereby approved, a colour copy of a leaflet, produced by MEAS and approved by Natural England, to inform residents about the Sefton Coast and the importance of the European sites, and responsible user code and the locations of suitable alternative natural greenspaces shall be included in the sales pack.

Reason: In order to comply with Habitat Regulations Assessment and protect the ecological interest of the area.

Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** 10th April 2024

Subject: [DC/2024/00147](#)
[18 Wills Avenue Maghull L31 OAX](#)

Proposal: Change of use from a dwellinghouse (C3) to a children's home (C2) for up to 3 children

Applicant: Ncube **Agent:** Mr Clement Dirawu
FLORA CARE SOLUTIONS (1) LTD.

Ward: Sudell Ward **Type:** Full Application

Reason for Committee Determination: Petition endorsed by Cllr. Phil Hart

Summary

The proposal seeks planning permission for the change of use from a dwellinghouse to a children's home to provide care for up to 3 no. children aged 8 – 18 years.

The main issues to consider are the principle of development, the impact on the living conditions of future occupiers and neighbouring properties, the impact on the character of the area and highway safety. The applicant has agreed to a condition to provide enhanced soundproofing to the party walls. Subject to this condition, the proposal would not cause significant harm to the character of the area or the living conditions of either the future occupiers or neighbouring properties. The proposal complies with the policies set out within the Sefton Local Plan and is recommended from approval subject to conditions.

Recommendation: Approve with conditions

Case Officer John Kerr

Email planning.department@sefton.gov.uk

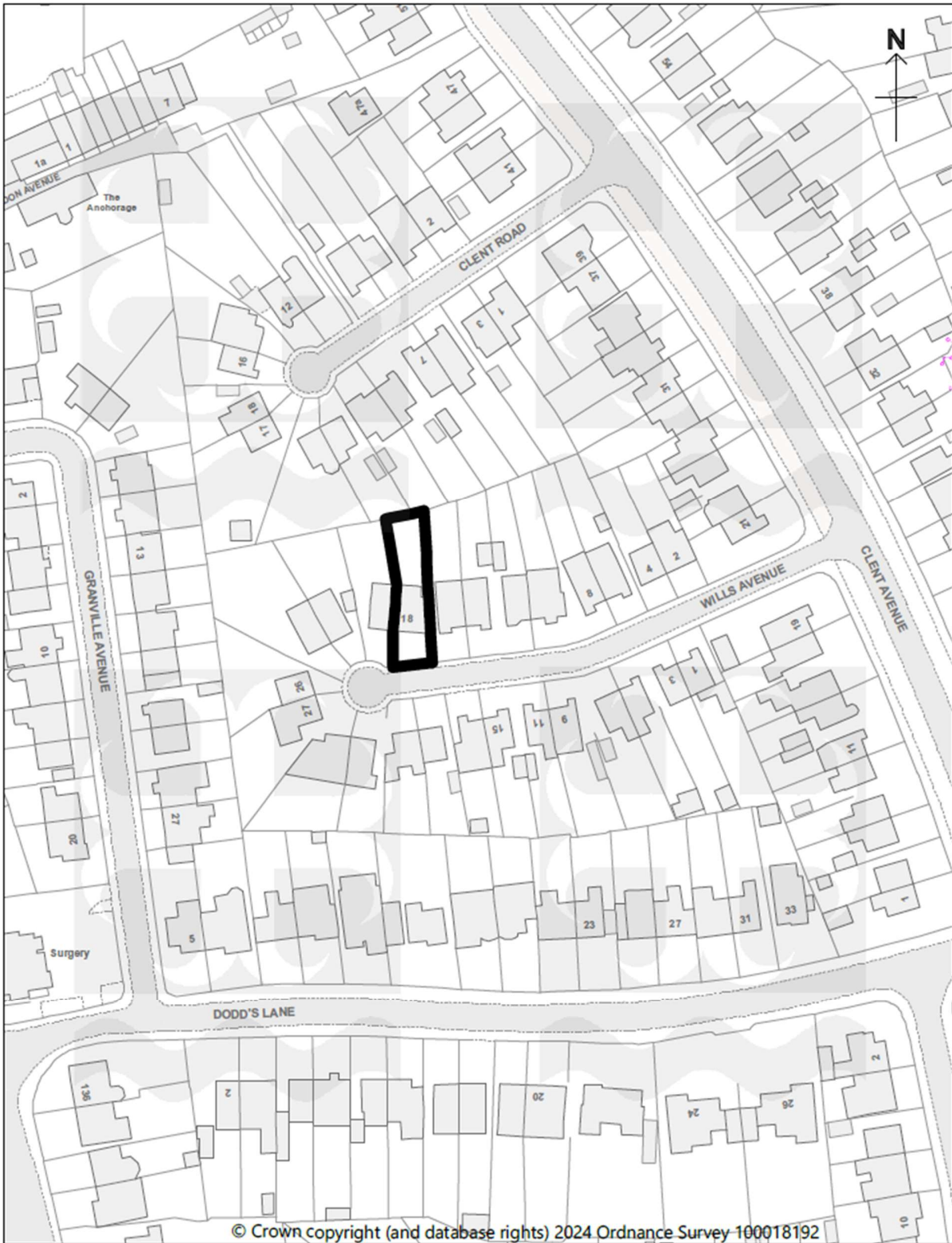
Telephone 0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=57032DNWJA800>

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Site Location Plan



The Site

The application relates to a semi-detached two storey dwelling located at the end of a cul-de-sac on the north side of Wills Avenue. The surrounding area is primarily residential and made up of similar sized properties.

History

None of relevance.

Consultations

Environmental Health Manager

No objection subject to condition.

Highways Manager

No objection subject to condition.

Director of Childrens Services

No need for 3 bed homes to be used as Children's Homes in Sefton

Neighbour Representations

Following an initial neighbour notification procedure, a total of 30 letters of objection were received.

This application has been called in by Cllr. Phil Hart and Cllr. Judy Hardman. A petition containing 44 signatures has also been received, endorsed by Cllr. Phil Hart.

The issues raised in relation to the petition include:

- Restricted traffic flow and parking issues already exist in small cul-de-sac
- Noise impacts
- Anti-social behaviour
- Impact on elderly residents and families
- Unsuitable premises

The individual objections received can be summarised as follows:

Living Conditions

- Additional noise impacts from the use
- Proposal will impact on neighbours mental health by way of stress and anxiety

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- The proposal could result in anti-social hours being worked by staff impacting on residents
- The property is not fit for purpose for modern living
- Children could be awake of a night impacting on residents
- Overlooking of garden spaces
- Bins being missed could lead to vermin

Character

- Area is already oversaturated with this type of use
- Not the correct of area for this type of use in a quiet cul-de-sac
- Would lead to an overcrowded street scene from additional parking

Highway Safety

- Cul-de-sac already overcrowded with cars which limits access to properties as well as emergency services
- Street parking could lead to road becoming inaccessible
- Availability for 3 car parking spaces is misleading and incorrect
- Bin lorries already struggle to access the road due to parking in the road
- It would be difficult to manage workers using public transport
- Cars already park illegally on the street impacting on pedestrians
- The property only has a dropped vehicle for one car
- 8am changeover time is the busiest time in the street for parking
- Would lead to driveways being blocked

Other Issues

- Devaluation of properties
- There are locks on the doors which is similar to a House in Multiple Occupation use
- Sefton Council statement of accounts highlights an overspend on child services
- Recent Ofsted reports read that Sefton Child Services is poor as there is a reliance to recruit overseas and agency staff
- Previous applications have been refused due to an oversaturation of children's homes
- Fire safety issues with regard to the layout of the property
- What qualification will staff have to manage this type of home
- Potential impact on vulnerable people in the area

A total of 7 letters of support were also received. In relation to the individual comments received in support of the proposal, such comments can be summarised as follows:

- Every child has right to receive appropriate and necessary support
- These types of homes are well managed to a high standard

- The children are the main priority providing a safe environment for them
- Providing less fortunate members of the public a chance of stability
- A similar application was refused in the local area
- No reason why parking would be an issue
- Children's Homes should not be stereotyped
- There is a need for this these types of homes in Sefton

Policy Context

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

The Maghull Neighbourhood Plan was 'made' (i.e. adopted) on 24th January 2019 and carries full weight in decision making.

Assessment of the Proposal

1. Introduction

- 1.1 The proposal seeks planning permission for the change of use of the premises from a dwellinghouse to a children's home to provide care for up to 3 no. children.
- 1.2 The main issues to consider are the principle of development, the impact on the living conditions of neighbouring properties, the impact on the character of the area and the impact in terms of highway safety.

2. Principle

- 2.2 Policy HC3 (Residential Development and Primarily Residential Areas) of the Local Plan advises that new residential development will be permitted in Primarily Residential Areas were consistent with other Local Plan Policies.
- 2.3 Although classified as a Residential Institution (Class C2) use, the use does have similarities to a dwelling, albeit the house would be more intensively used as opposed to a typical family home. It is therefore considered that Policy HC4 (House Extensions, Houses in Multiple Occupation and Flats) of the Local Plan is also of relevance. This permits the change of use of a house into multiple occupation where the proposal would not cause significant harm to the character of the area or the living conditions for either the occupiers of the property or for neighbouring properties.
- 2.4 It is considered that the principle of development is acceptable in land use terms, provided that the proposal meets other planning policies and material considerations.

Agenda Item 4b

3. Living Conditions

3.1 Consideration has to be given to the impact on living conditions of neighbouring residents as a result of noise and disturbance associated with the proposed use.

Change of Use

3.2 The proposal seeks permission for the use of the premises for 3 children between the ages of 8 – 18 years.

3.3 A Planning Statement has been provided which sets out how the premises would be managed; this includes details of the staff rota. The rota would work on the basis of two days on, four days off, and would include a core team of 6 staff members. There would be a minimum of two staff present 24 hours a day, 7 days per week, with a registered manager also on site between 9am-5pm, Monday to Friday. Staff handover would be at approximately 8am, every third day. As a result, the level of staff movement would mean that there would be a maximum of four staff cars present at the property every three days and limited to an hour in the morning.

3.4 While external visits to the premises would also be occasional, the working schedule is considered to be acceptable and due to the number of children and carers; it is not considered to be too dissimilar when compared to a family situation. It is therefore unlikely to give rise to unacceptable impacts on the surrounding neighbours. However, to lessen the potential for any disturbance within the property itself across the party wall to no. 20 Wills Avenue, it is considered reasonable to require a scheme of noise attenuation to be submitted to and approved by the Council prior to the use commencing. The applicant has agreed to the condition and therefore the proposal is considered acceptable and meets the aims of policy EQ2, Part 2(c) of the Sefton Local Plan which seeks to protect the amenity of those within and outside the development. The proposal also meets the aims of Policy HC3 which seeks to ensure that development protects the residential character and the living conditions of the residents in those areas.

3.5 While the proposal would see the introduction of additional bedrooms over and above the requirement for the proposed use, a condition could be attached to restrict the number of children who could reside in the premises at any one time. In addition, a legal agreement is recommended to ensure that Sefton Council has first refusal for any room available at the premises. This would give a greater level of control to the Local Authority, in that the management of the premises and care for the children could be monitored more effectively by Sefton Children's Services. Should there not be a need in Sefton at that time the occupancy would not be geographically restricted.

3.6 Concern has been raised regarding a fear of crime; however, whilst this is a material consideration, there is no evidence to substantiate such a claim.

4. Character

4.1 Policy EQ2 (Design) of the Local Plan seeks to ensure that proposals respond positively to the character and appearance of the area.

4.2 The use of the premises would likely result in an intensification of the use of the property. However, given the proposed number of children expected to reside at the premises, this is not considered to be significant. Given the property is a medium sized semi-detached property in an area characterised by properties of a similar scale, it is not considered that the proposed use would harm the character and appearance of the area in this regard.

5. Highways

5.1 Policy EQ3 (Accessibility) of the Local Plan seeks to ensure that proposals do not cause any harm in terms of highway Safety.

5.2 The proposal includes 3 off-street parking spaces. The parking layout would require the provision of a repositioned or a new vehicle dropped crossing which would include reinstating the existing dropped crossing.

5.3 The level of proposed parking is acceptable. The site is also accessible by walking, cycling and the use of public transport with bus stops within acceptable walking distances on Liverpool Road North where frequent and regular services are available to local destinations.

5.4 Given the level of staff turnover and the level of parking provided, it is considered that the proposal would not cause any harm in terms of highway safety.

5.5 While it is acknowledged that there would be limited powers for the applicant to ensure that external visitors to the premises use public transport, the option would be available and would provide sustainable modes of transport to and from the site. Given that there are no parking restrictions to Wills Avenue, the Councils Highways Manager confirms that the proposal would not cause harm in terms of highway safety.

6. Other Matters

6.1 The Director of Children's Services has advised that they do not currently have a specific need for 3 bed homes; however, they do have a need for placements for children and it cannot be demonstrated that there is an oversupply in general. The applicant is willing to work directly with Children's Services and to accommodate children from Sefton. Concern regarding an oversupply in these circumstances would not be a valid reason for which planning permission could be refused.

6.2 The lack of experience for the operators is not a material planning consideration. The premises are proposing to be registered with Ofsted.

Agenda Item 4b

6.3 The needs of the individual children resident at the premises would be a requirement for the operators and is not a planning matter.

6.4 The devaluation of properties is not a material planning consideration.

6.5 Fire safety issues are a matter separate from planning permission and are secured under separate building regulations

6.6 There are no other matters raised that give rise to concern associated with the development.

7. Planning Balance and Conclusion

7.1 The proposal demonstrates that the proposed use as a children's care home for 3 children can be accommodated within the premises without causing significant harm to the living conditions of neighbouring residents. A condition limiting the number of children to be cared for at the premises could further ensure the impacts on neighbour living conditions is protected. A condition to require a scheme of noise attenuation with regard to the party wall with no. 20 Wills Avenue can also help to reduce the impacts on neighbouring living conditions.

7.2 In addition to the above, a legal agreement could help to ensure that Sefton Council has first refusal with regard to occupancy of the premises, giving a greater level of control to the Local Authority, helping Sefton Childrens Services to monitor the management of the premises more effectively.

7.3 It is considered that the proposal is acceptable and is therefore recommended that planning permission be granted, subject to conditions.

8. 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

- 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 is hereby permitted in accordance with the following approved plans and documents:

1934.100 – Site and Site Location Plans
1934.102 – Proposed Floor Plans and Elevations
Planning Statement (submitted 25/01/2024)

Reason: For the avoidance of doubt.

- 3) Prior to first occupation
 - a) A scheme of sound insulation to protect the adjoining residential dwelling at Number 20 Wills Avenue from the proposed children's home shall be submitted to and approved in writing by the Local Planning Authority.
 - b) The soundproofing shall be carried out in accordance with the scheme approved under (a) and shall be retained for the lifetime of the development.

Reason: To prevent unreasonable noise and disturbance to neighbouring occupants in the interests of residential amenity.

- 4) The use hereby approved shall not commence until a vehicle crossing to the front of the property has been constructed in full and space has been laid out within the curtilage of the site for cars to be parked. The car parking spaces shall thereafter be kept available for the parking of vehicles for the life of the development.

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

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

Agenda Item 4b

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

Informative

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

Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** 10th April 2024

Subject: **DC/2024/00170**
55 Kendal Drive Maghull L31 9AX

Proposal: Change of use from a dwellinghouse (C3) to a children's home (C2) for up to 3 children and associated works

Applicant: Ncube **Agent:** Mr Clement Dirawu
FLORA CARE SOLUTIONS (1) LTD

Ward: Sudell Ward **Type:** Full Application

Reason for Committee Determination: Petition endorsed by Cllr. Phil Hart

Summary

The proposal seeks planning permission for the change of use from a dwellinghouse to a children's home to provide care for up to 3 no. children aged 8 – 18 years.

The main issues to consider are the principle of develop, the impact on the living conditions of future occupiers and neighbouring properties, the impact on the character of the area and highway safety. The applicant has agreed to a condition to provide enhanced soundproofing to the party walls. Subject to this condition, the proposal would not cause significant harm to the character of the area or the living conditions of either the future occupiers or neighbouring properties. The proposal complies with the polices set out within the Sefton Local Plan and is recommended from approval subject to conditions.

Recommendation: Approve with conditions

Case Officer John Kerr

Email planning.department@sefton.gov.uk

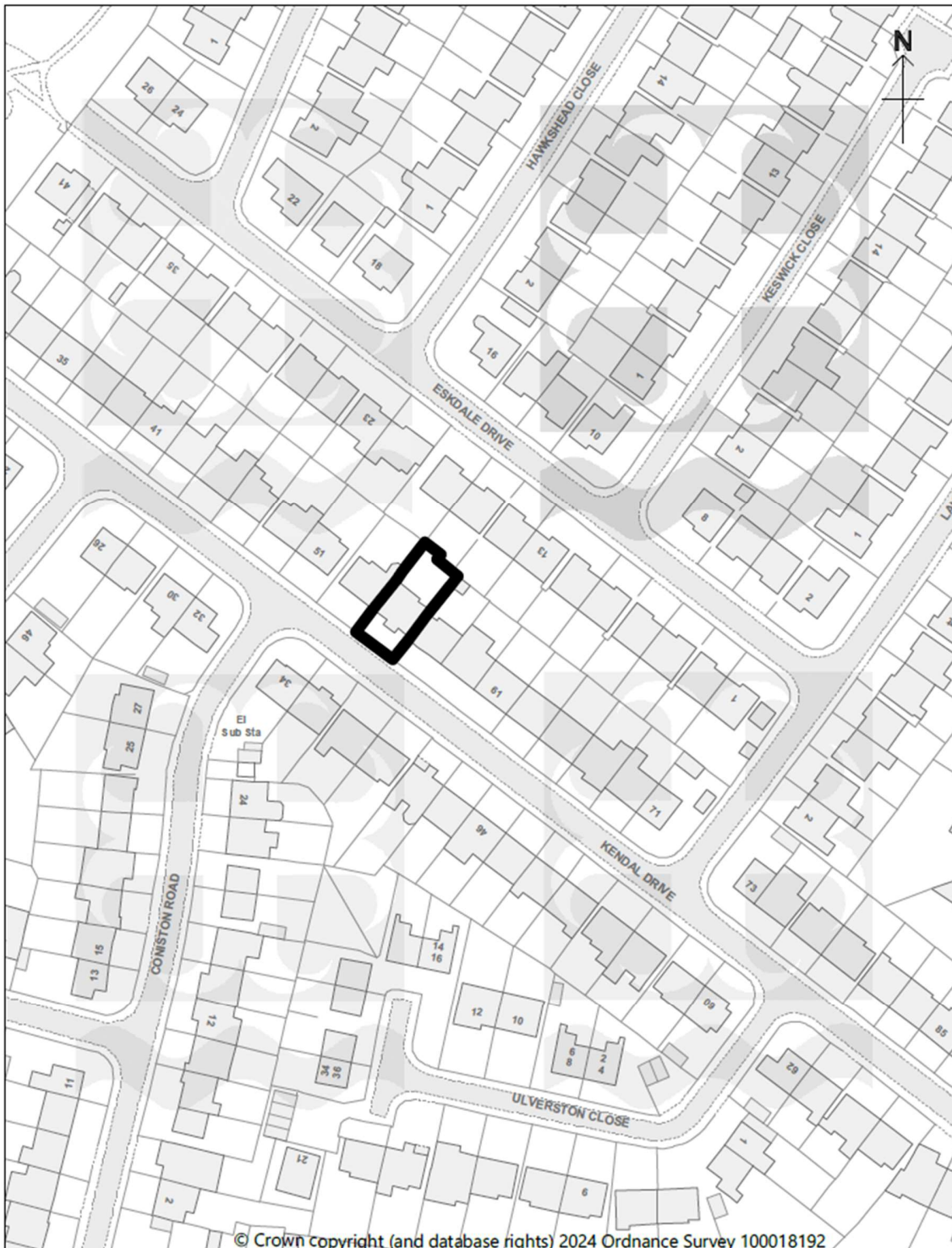
Telephone 0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S7TCLONWJBQ00>

Agenda Item 4c

Site Location Plan



The Site

The application relates to a semi-detached two storey dwelling located on the north side of Kendal Drive. The surrounding area is primarily residential and made up of similar sized properties.

History

None of relevance.

Consultations

Environmental Health Manager

No objection subject to condition.

Highways Manager

No objection subject to conditions.

Director of Childrens Services

No need for 3 bed homes to be used as Children's Homes in Sefton

Neighbour Representations

Following an initial neighbour notification procedure, a total of 21 letters of objection were received.

This application has been called in by Cllr. Phil Hart and Cllr. Judy Hardman. A petition containing 39 signatures has also been received, endorsed by Cllr. Phil Hart.

The issues raised in relation to the petition include:

- Out of keeping with the residential area
- Impact on parking
- Noise impacts
- Anti-social behaviour
- Oversupply of children's homes within the area

The individual objections received can be summarised as follows:

Living Conditions

- Additional noise impacts from the use
- Potential overlooking issues into gardens
- The proposal could result in increased anti-social behaviour and crime within the area

Agenda Item 4c

- High turnover of residents with different complex needs

Character

- Out of keeping with residential area
- Not an appropriate area for children
- Area is already oversaturated with this type of use

Highway Safety

- Potential access issues which could limit emergency services
- Impact on parking issues within the area
- Increase of traffic and congestion

Other Issues

- Security issues and impact on mental health and wellbeing of residents
- Previous applications have been refused due to an oversaturation of children's homes
- Lack of information
- Could set a precedent for commercial uses within a residential area
- Devaluation of properties
- Private companies exploiting the social care system driven by profit
- Do the staff have the correct qualifications
- The use would not offer a stable family situation for children
- School placements already on short supply
- No proof that it is a reputable company

A total of 7 letters of support were also received. In relation to the individual comments received in support of the proposal, such comments can be summarised as follows:

- No harm in this area to house vulnerable children in this
- Gives children a chance to thrive
- No difference from a typical family of 5
- Too many children are being let down by the system, this will benefit children
- There is a need for this type of use in Sefton
- Ideal place for children

Policy Context

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

The Maghull Neighbourhood Plan was 'made' (i.e. adopted) on 24th January 2019 and carries full weight in decision making.

Assessment of the Proposal

1. Introduction

- 1.1 The proposal seeks planning permission for the change of use of the premises from a dwellinghouse to a children's home to provide care for up to 3 no. children.
- 1.2 The main issues to consider are the principle of development, the impact on the living conditions of neighbouring properties, the impact on the character of the area and the impact in terms of highway safety.
- 1.3 Amended plans were received to show that there is parking space for at least three vehicles on the private driveway. Neighbours and consultees were re-consulted of these amended plans.

2. Principle

- 2.1 Policy HC3 (Residential Development and Primarily Residential Areas) of the Local Plan advises that new residential development will be permitted in Primarily Residential Areas were consistent with other Local Plan Policies.
- 2.2 Although classified as a Residential Institution (Class C2) use, the use does have similarities to a dwelling, albeit the house would be more intensively used as opposed to a typical family home. It is therefore considered that Policy HC4 (House Extensions, Houses in Multiple Occupation and Flats) of the Local Plan is also of relevance. This permits the change of use of a house into multiple occupation where the proposal would not cause significant harm to the character of the area or the living conditions for either the occupiers of the property or for neighbouring properties.
- 2.3 It is considered that the principle of development is acceptable in land use terms, provided that the proposal meets other planning policies and material considerations.

3. Living Conditions

- 3.1 Consideration has to be given to the impact on living conditions of neighbouring residents as a result of noise and disturbance associated with the proposed use.

Change of Use

- 3.2 The proposal seeks permission for the use of the premises for 3 children between the ages of 8 – 18 years.

Agenda Item 4c

- 3.3 A Planning Statement has been provided which sets out how the premises would be managed; this includes details of the staff rota. The rota would work on the basis of two days on, four days off, and would include a core team of 6 staff members. There would be a minimum of two staff present 24 hours a day, 7 days per week, with a registered manager also on site between 9am-5pm, Monday to Friday. Staff handover would be at approximately 8am, every third day. As a result, the level of staff movement would mean that there would be a maximum of four staff cars present at the property every three days and limited to an hour in the morning.
- 3.4 While external visits to the premises would also be occasional, the working schedule is considered to be acceptable and due to the number of children and carers; it is not considered to be too dissimilar when compared to a family situation. It is therefore unlikely to give rise to unacceptable impacts on the surrounding neighbours. However, to lessen the potential for any disturbance within the property itself across the party wall to no. 53 Kendal Drive, it is considered reasonable to require a scheme of noise attenuation to be submitted to and approved by the Council prior to the use commencing. The applicant has agreed to the condition and therefore the proposal is considered acceptable and meets the aims of policy EQ2, Part 2(c) of the Sefton Local Plan which seeks to protect the amenity of those within and outside the development. The proposal also meets the aims of Policy HC3 which seeks to ensure that development protects the residential character and the living conditions of the residents in those areas.
- 3.5 While the proposal would see the introduction of additional bedrooms over and above the requirement for the proposed use, a condition could be attached to restrict the number of children who could reside in the premises at any one time. In addition, a legal agreement is recommended to ensure that Sefton Council has first refusal for any room available at the premises. This would give a greater level of control to the Local Authority, in that the management of the premises and care for the children could be monitored more effectively by Sefton Children's Services. Should there not be a need in Sefton at that time the occupancy would not be geographically restricted.
- 3.6 Concern has been raised regarding a fear of crime; however, whilst this is a material consideration, there is no evidence to substantiate such a claim.

4. Character

- 4.1 Policy EQ2 (Design) of the Local Plan seeks to ensure that proposals respond positively to the character and appearance of the area.
- 4.2 The use of the premises would likely result in an intensification of the use of the property. However, given the proposed number of children expected to reside at the premises, this is not considered to be significant. Given the property is a medium sized semi-detached property in an area characterised by properties of a similar scale, it is not considered that the proposed use would harm the character and appearance of the area in this regard.

5 Highways

- 5.1 Policy EQ3 (Accessibility) of the Local Plan seeks to ensure that proposals do not cause any harm in terms of highway Safety.
- 5.2 The amended proposal includes 3 off-street parking spaces. The parking layout would require the provision of a repositioned or new vehicle dropped crossing which would include reinstating the existing dropped crossing.
- 5.3 The level of proposed parking is acceptable. The site is also accessible by walking, cycling and the use of public transport with bus stops within acceptable walking distances on Eastway where frequent and regular services are available to local destinations.
- 5.4 Given the level of staff turnover and the level of parking provided, it is considered that the proposal would not cause any harm in terms of highway safety.
- 5.5 While it is acknowledged that there would be limited powers for the applicant to ensure that external visitors to the premises use public transport, the option would be available and would provide sustainable modes of transport to and from the site. Given that there are no parking restrictions to Kendal Drive, the Councils Highways Manager confirms that the proposal would not cause harm in terms of highway safety.

6 Other Matters

- 6.1 The Director of Children's Services has advised that they do not currently have a specific need for 3 bed homes; however, they do have a need for placements for children and it cannot be demonstrated that there is an oversupply in general. The applicant is willing to work directly with Children's Services and to accommodate children from Sefton. Concern regarding an oversupply in these circumstances would not be a valid reason for which planning permission could be refused.
- 6.2 The needs of the individual children resident at the premises would be a requirement for the operators and is not a planning matter.
- 6.3 There is nothing to substantiate that this proposal would impact on security issues within the area.
- 6.4 The devaluation of properties is not a material planning consideration.
- 6.5 The lack of experience for the operator is not a material planning consideration. The premises are proposing to be registered with Ofsted.
- 6.6 There are no other matters raised that give concern associated with the development.

Agenda Item 4c

7 Planning Balance and Conclusion

7.1 The proposal demonstrates that the proposed use as a children's care home for 3 children can be accommodated within the premises without causing significant harm to the living conditions of neighbouring residents. A condition limiting the number of children to be cared for at the premises could further ensure the impacts on neighbour living conditions is protected. A condition to require a scheme of noise attenuation with regard to the party wall with no. 53 Kendal Drive can also help to reduce the impacts on neighbouring living conditions.

7.1 In addition to the above, a legal agreement could help to ensure that Sefton Council has first refusal with regard to occupancy of the premises, giving a greater level of control to the Local Authority, helping Sefton Childrens Services to monitor the management of the premises more effectively.

3.7 It is considered that the proposal is acceptable and is therefore recommended that planning permission be granted, subject to conditions.

8. 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

- 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 is hereby permitted in accordance with the following approved plans and documents:

1952.100 – Site and Site Location Plans
1952.102 – Proposed Floor Plans and Elevations
Amended Planning Statement (submitted 25/01/2024)

Reason: For the avoidance of doubt.

- 3) Prior to first occupation
 - a) A scheme of sound insulation to protect the adjoining residential dwelling at Number 53 Kendal Drive from the proposed children's home shall be submitted to and approved in writing by the Local Planning Authority.
 - b) The soundproofing shall be carried out in accordance with the scheme approved under (a) and shall be retained for the lifetime of the development.

Reason: To prevent unreasonable noise and disturbance to neighbouring occupants in the interests of residential amenity.

- 4) The use hereby approved shall not commence until a vehicle crossing to the front of the property has been constructed in full and space has been laid out within the curtilage of the site for cars to be parked. The car parking spaces shall thereafter be kept available for the parking of vehicles for the life of the development.

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

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

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

Agenda Item 4c

Informative

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

Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** 10th April 2024

Subject: [DC/2024/00004](#)
[9 Chesterfield Road Crosby L23 9XL](#)

Proposal: Change of use from a three-storey building comprising flats to a House in Multiple Occupation (HMO) (19 units - 19 persons) (Sui Generis), a single storey extension to the rear, alterations to elevations and roof including conversion of existing lean to roof to hip roof to match existing roof

Applicant: Miss K Lock **Agent:** Mr Nketia
Novus Haus

Ward: Manor Ward **Type:** Full Application

Reason for Committee Determination: Petition endorsed by Cllr Carragher

Summary

The proposal would convert the existing vacant building into a 19 Bed House in Multiple Occupation. The principle of the development is acceptable within the existing residential area.

The bedrooms and communal areas would offer sizeable accommodation in excess of the minimum standards set within Sefton's Conversion of Flats and Houses in Multiple Occupation Supplementary Planning Document. Adequate private amenity space would also be retained to the rear of the dwelling. The proposal would fall slightly below the Council's recommended standard in relation to the outlook of 5 of the bedrooms. However, given the range of communal space available, these minor shortcomings are not considered significant in the context of the overall scheme.

Satisfactory distance would be retained between this and existing development to preserve the privacy and outlook of the surrounding residential properties and the development would not raise any highway safety concerns.

On balance the development is considered acceptable and can be recommended for approval.

Recommendation:

Approve with conditions.

Agenda Item 4d

Case Officer Louise Everard

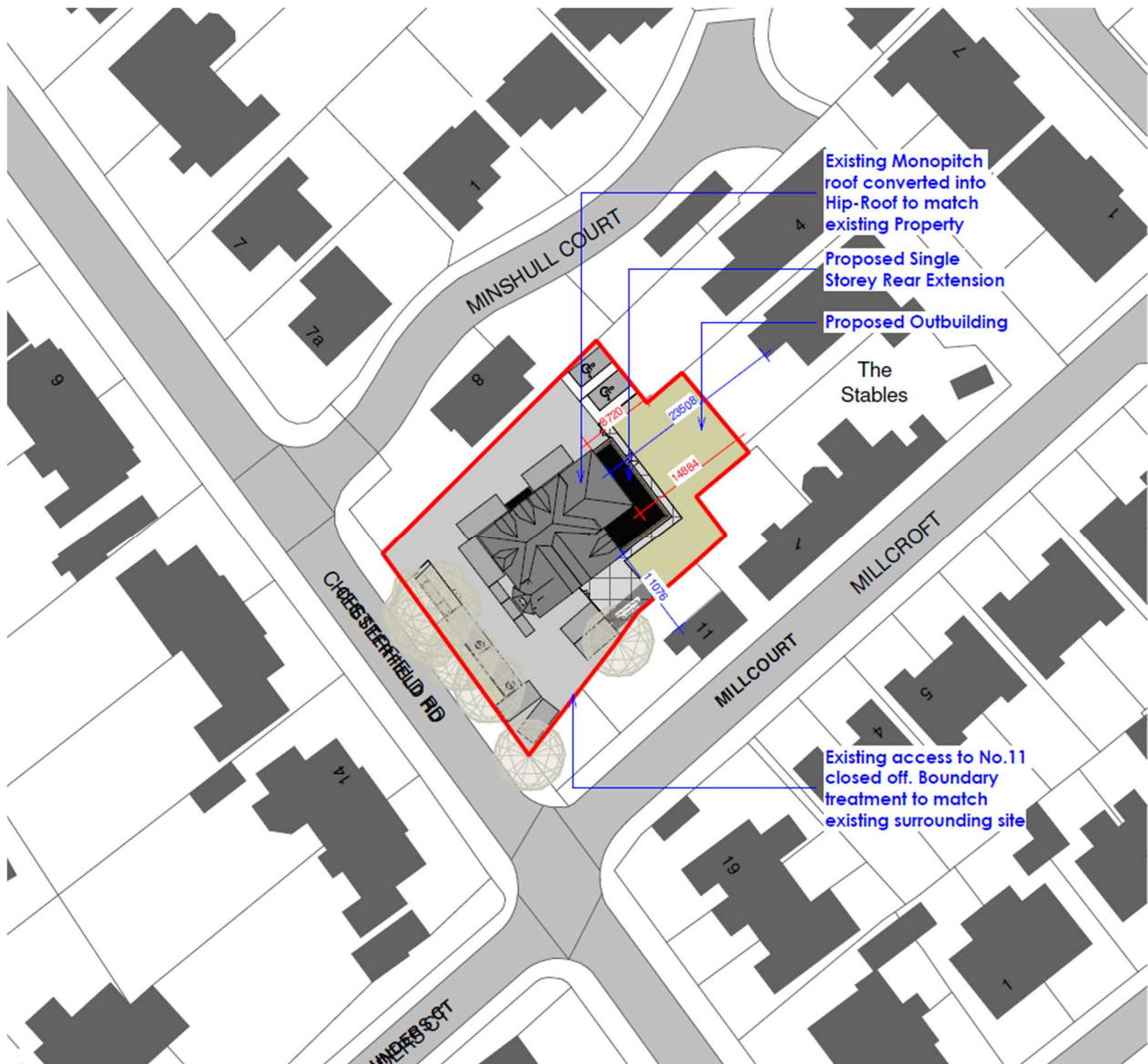
Email planning.department@sefton.gov.uk

Telephone 0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S6OLXYNWJ3000>

Site Location Plan



Agenda Item 4d

The Site

The site is approximately 0.11 hectares in size, on the eastern side of Chesterfield Road, Crosby. It comprises a large three storey detached building, formerly used as flats. There is an existing vehicular access point from Chesterfield Road and private garden space to the rear of the building. The site is surrounded by residential properties, made up of a mix of detached and semi-detached dwellings.

History

S/1992/0369 - Conversion of the premises into eight flats – Approved 13/08/1992

Consultations

Highways Manager

No objection

Environmental Health Manager

No objection

Local Planning Manager

The site is not within the Article 4 area for Homes in Multiple Occupation and, therefore, there is no restriction to the number of conversions to HMOs (or flats) that can be converted in the local area.

Neighbour Representations

32 neighbours were notified on 25/01/24 and following an amendment to the description to clarify the number of occupants, the neighbours were re-notified on the 7/02/24. A site notice was also displayed in front of the site on the 06/02/24.

Following this, amended plans have been received, reducing the scale of the development, the number of windows and removing the outbuilding originally proposed in the rear garden. The neighbours were again renotified of these changes on 20/03/24.

As a result, to date a total of 59 objections have been received from a total of 49 addresses. The issues raised are summarised below.

Impacts on character of area

- HMO use is not appropriate for the area and would cause harm to the character.
- Over intensified use of the building
- Insufficient infrastructure to support the level of occupation

Living conditions of neighbours and future residents

- Overlooking concerns to surrounding dwellings
- Roof terrace would impact on privacy of neighbours.
- Noise/disturbance and antisocial behaviours
- Inadequate living accommodation for occupants
- Insufficient amenity space

Parking and Road Safety

- Insufficient parking and overspill parking within surrounding streets
- Concerns on road safety and congestion within surrounding road

Procedure Issues

- Discrepancies in the documents regarding the number of occupants
- Inadequate consultation process

Other matters

- Concerns the property will be used to house ex-prisoners.
- Impact on trees
- Too close to schools
- Negative impact on the house prices

The application was called in by Cllr Clare Carragher on the 21/02/24. A petition with 84 signatures has also been submitted, objecting to the proposal on the grounds of inadequate consultation, overdevelopment, detrimental impact to residential amenity and insufficient parking, endorsed by Cllr Carragher.

One letter of support was received which welcomed the redevelopment of the building to improve the appearance and offer affordable housing options within the area.

Policy Context

The application site lies within an area designated as a Primarily Residential Area in the Sefton Local Plan which was adopted by the Council in April 2017 and therefore Policy HC3 (Residential Development and Primarily Residential Areas) is applicable. The building is currently empty but has most recently been used as flats. An application in 1992 granted permission for 8 flats while council tax records show 6 flats at the address.

The proposed use as a House in Multiple Occupation (HMO) would be residential in nature and is therefore acceptable in principle within the existing residential area subject to complying with all other relevant policies and guidance. The main issues to consider are the impact on living conditions of both future occupiers and surrounding residents, design, highway safety and recreational pressure.

Agenda Item 4d

Assessment of the Proposal

1. Introduction

- 1.1 The application seeks permission to convert the building into a House in Multiple Occupation (HMO,) with 19 single bedrooms, all containing an ensuite. The works would involve creating four internal floor levels, plus the existing basement, a single storey extension to the rear, plus the building up of the rear lean-to roof to create a hipped roof, tying in to the main roof structure. The accommodation would comprise the following rooms at each level.

Basement – Co-working space, laundry and 2 games rooms

Ground floor – 7 bedrooms, 1 kitchen and 1 living/dining room

First floor – 5 bedrooms, 1 kitchen/diner and 1 living room

Second floor – 5 bedrooms, 1 kitchen/diner and 1 living room

Third Floor – 2 bedrooms and 1 kitchen/diner/living space

- 1.2 Private garden space would be retained to the rear of the building. 11 parking spaces would be provided to the front and side, including 2 electrical charging points and 2 disabled spaces. 3 motorbike bays would also be provided and a two tier cycle shelter at the side.

2. Impact on the Living Conditions of Future Occupiers

Internal accommodation

- 2.1 The Conversion to Flats and Houses in Multiple Occupation Supplementary Planning Document (SPD) recommends minimum room sizes to ensure suitable levels of accommodation are provided.
- 2.2 All proposed bedrooms would have access to a communal living space and kitchens and, as they are proposed for single occupation, the bedrooms would be expected to have a minimum internal dimension of 10m². The proposed bedrooms would range from 13 – 29m² (not including the ensuite). Therefore, they would all exceed the minimum dimensions, some by a considerable degree.
- 2.3 The SPD also includes minimum sizes for communal rooms. The shared spaces would all exceed the minimum dimensions within the guidance, again by a considerable margin. In addition, the residents would also have access to further communal space in the basement, including a work space, for those working from home, plus a separate laundry and two large games rooms amounting to approximately 50m².
- 2.4 As such the proposal would comply with all recommended internal dimensions and would

provide spacious accommodation for future occupiers.

Outdoor Amenity space

- 2.5 The recommendation for outdoor amenity space in the Council's guidance on HMO's is 10m² per occupant. As the proposal is for 19 single rooms, the requirement is for outdoor amenity is 190 m².
- 2.6 The private amenity space to the rear of the building would be approximately 260m² and therefore exceeds the requirement. As such a good level of outdoor amenity space would be available to future residents.

Outlook/privacy

- 2.7 The guidance on HMOs seeks to ensure that any conversions would provide/retain adequate levels of outlook and privacy to both the future occupiers and the surrounding residents. To achieve this, the guidance states that there should be a minimum distance of 12m between a main habitable window on the ground floor and a blank wall (or a window of a non-habitable room) of a property opposite. Between two main habitable windows a minimum distance of 18m is expected.
- 2.8 The rear elevation of the building is stepped in an L-shape. The proposed single storey extension would wrap around the rear elevation and as a result would be set back approximately 21m at ground floor level from the dwellings to the rear. The upper floors would be set back further from the boundary, with the closest point of the first and second floors being approximately 23.5m to the dwellings to the rear. The new rear windows in the upper floor would be approximately 17m to the rear of 1 The Stables at the closest point, which is a 1m shortfall. However, these elevations are set at 90 degree and are not directly facing. Given the oblique angle it is not anticipated that this shortfall between these windows would have a significant effect on the outlook or privacy from the rear of this dwelling.
- 2.9 The scheme has been amended such that all the upper floor windows in the southeast elevation would be obscurely glazed en-suite windows. Two ground floor windows would serve bedrooms on this elevation and only one of these would overlap with the dwelling to the southeast no.11. This window would be approximately 11.2m from the side elevation of no.11, which is slightly short of the recommended 12m. However, the window would align with the front section of no.11 and as such some relief to the outlook would be provided by the area to the front of no.11 which is not built on.
- 2.10 The other side elevation faces towards the side elevation of no.8 and would measure approximately 9.6m, an approximate 2.4m shortfall. The first-floor windows in this dwelling are obscurely glazed and are to remain as such due to a condition on the original permission. Amendments have also been made to the window layout on this northwest facing elevation,

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removing many of the habitable windows which were originally proposed as secondary windows to the communal spaces. The remaining windows proposed would be located towards the front section of the elevation and, due to the staggered nature of the buildings, there would be minimal overlap between some of the bedroom windows (6, 7, 12 and 17) and the side elevation of no.8. Again, some relief would be provided by the non-private garden space to the front of no.8.

- 2.11 The guidance on HMOs does acknowledge that in many urban parts of Sefton these standards may not be achievable and, in these instances, consideration must be given to the outlook and prospect of the accommodation as a whole. The proposed habitable windows that fall slightly below the recommended distances are located in similar positions to existing windows within the building and therefore would not be dissimilar to the existing arrangement. Additionally, the occupants would also have access to a range of spaces and communal rooms, plus outdoor amenity space. Therefore, it is anticipated that these minor shortcomings would not have a significant affect on the outlook and overall living conditions of the future residents of these particular rooms. Furthermore, the limited windows which fall below the guidance, would not face habitable room windows in the surrounding properties and therefore the shortfall would relate only to outlook not the privacy of these dwellings.
- 2.12 The kitchen window at the third floor would also be located in this side elevation, however, give the elevated height it would not look directly on the gable elevation of no.8 and therefore would have a reasonable outlook.
- 2.13 In conclusion, it is acknowledged that there are some shortcomings in the recommended distances between existing properties and the proposal, however these situations are within the original elevation which already have existing openings in similar locations. The occupants would also benefit from a range of communal rooms and amenity spaces. It is considered that all the habitable rooms would experience a reasonable outlook, prospect and level of light. Overall, the development would provide a good standard of living accommodation for future occupiers in accordance with Policy HC4 (House Extensions, Houses in Multiple Occupation and Flats).

3. Impact on surrounding residents

Outlook/privacy

- 3.1 As mentioned above, there would a slight shortfall, of approximately 1m between the new proposed rear windows and the rear elevation of no.1 The Stables. However, the rear elevations of the application property and no.1 are not directly facing and sit at 90 degrees to each other. Therefore, given the orientation, the shortfall is not considered significant in terms of privacy of these windows. The applicable distances in the Council's guidance are met in relation to all other habitable rooms window within the surrounding dwellings.

- 3.2 The works would also involve an extension to the rear of the building and consideration has been given to the separation distances recommended in the Council's guidance on House Extensions, to consider the impact from additional built form. This guidance states that for two storey extensions there should be a minimum of 7m from the habitable room windows in the extension and the boundary fence/wall of the property opposite. This distance is expected to be increased by 3m for each additional floor.
- 3.3 The building up of the lean-to section to the rear would involve the creation of additional windows in the first and second floor level. The proposal has been amended to remove the third floor level window within this rear section. Therefore, the guidance only relates to the first and second floor, which should be set 7 and 10m from the boundary respectively. The boundary to the properties to the rear, 4 and 7 Millcroft is stepped. This part of the extension would be set approximately 14.5m from the common boundary with no.7, which complies with Council guidance. A small section of the extension would overlap and face towards the boundary with no.4, which is at a lesser distance, approximately 9m. This distance would be acceptable at the first floor level but would fall 1m short of the required distance of 10m at second floor level. However, the windows that would face towards the section of boundary with no.4 are proposed to be obscurely glazed to ensure appropriate levels of privacy to the outdoor amenity space of the adjoining dwelling. These windows would serve the kitchen/dining room at first and second floor, which would also benefit from a second clear glazed window and therefore the outlook from these rooms would not be significantly compromised by doing so.
- 3.4 The single storey extension would be approximately 12m from the rear boundary. Given the distances to be retained to the boundary, plus the measures to obscurely glaze some of the windows at a shorter distance, it is not considered that the extension would appear overbearing or unduly affect the outlook of privacy of the surrounding residents.

Noise and disturbance

- 3.5 When the surrounding properties were originally notified, there was conflicting information within the planning statement on the number of residents, with it originally stated there would be up to 35 people. Clarification was sought from the agent who confirmed all rooms would be single and the document was updated to state 20 people as per the original layout. This was also included within an amended description of the development and the surrounding residents were renotified. A large number of the objections received were based on the conflicting details and the concerns of potential numbers of residents being up to 35.
- 3.6 Further amendments to the scheme have reduced the number of bedrooms to 19, resulting in the building potentially being occupied by a maximum 19 residents at any one time. Permission was previously granted for use as 8 flats, although there are only 6 flats listed on the council tax banding. Given there is no requirement for these flats to be in single

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occupancy, it is possible that they each could have been occupied by 2 people, which would equate to potentially 12 or 16 total occupants. Taking this into account, it is not considered that the number of residents that would utilise the HMO and the outdoor amenity space would be significantly different to the numbers that could lawfully inhabit the building under flatted accommodation.

- 3.7 The originally proposed outbuilding, with co-working area and games room has been removed from the scheme and those uses relocated within the existing basement away from the neighbouring boundaries.
- 3.8 There is currently an existing access point between the area to the front of the building and no.11 Chesterfield Road which leads into the vehicular access onto the highway for this neighbouring dwelling. This is proposed be blocked up, to avoid the neighbour's vehicular access being used by the proposed HMO and the existing access point further to the north on Chesterfield Road will be retained and utilised for the site. This could be secured by condition.
- 3.9 The application has also been reviewed by the Council's Environmental Health Officer, who has raised no objections to the proposal. A Construction Environment Management Plan has been recommended due to the proximity to residential dwellings, which could be secured by condition.
- 3.10 Given the detached nature of the building, it would provide a degree of separation between the proposed HMO and the surrounding dwellings. Also given the existing lawful use, it is not anticipated that the development would have any significant affect in term of coming and going or noise levels when compared with how the site could currently operate. A management plan has been submitted to support the application, detailing how the property would be managed to limit any potential disturbance. This could be secured by condition.

Other Matters

- 3.11 Concerns have been raised that the property would be used to house ex-offenders and generally how it will be used. However, the agent has confirmed this is not the intended use and the applicant wishes to create a high-end HMO within the area. The agent has also suggested the confusion may be due to a similarity in their company name to that of an education programme catering for ex-offenders and has confirmed there is no affiliation. In addition, a management plan has been submitted in support of the application and details how the property would be managed. This document would be listed within the approved documents if the proposal were to be approved.
- 3.12 A number of the objections also raised concerns around the impact on property prices. However, this is not a material planning consideration.
- 3.13 In conclusion, the development would not cause significant harm to the living conditions of

the neighbouring properties, nor would it unduly affect the overall character of the area. As such it would comply with the aims of Policy HC4 ((House Extensions, Houses in Multiple Occupation and Flats)

4. Design

- 4.1 The main form of the building fronting the highway would remain largely similar. The most notable alterations would be to the window style and layout. The proposal would increase the number of windows in all elevations, with those proposed appearing more modern and in a more vertical linear placement than the existing windows. Horizontal composite cladding would be proposed between rows of windows. There is a range of property styles within the surrounding area and it is not considered the alterations would be harmful to the overall character or appearance of the area.
- 4.2 The proposed extension would be located to the rear of the dwelling. Given the staggered building line along Chesterfield Road, there may be limited views of the extension when approaching from Moor Lane. It is not anticipated that the extension would be prominent within the street scene and the design would reflect the host building. The design is considered acceptable with regards to Policy EQ2 (Design).

Bin stores

- 4.3 The HMO guidance recommends states that a suitable space for refuse and recycling bins should be provided, and it should be within 25m of a publicly accessible pavement for the ease of collection. A bin store is proposed along the front boundary of the site, which would be conveniently located for collection from Chesterfield Road. Further details of the proposed screen could be secured by condition to ensure the design is acceptable within the street.

5. Highway Safety

- 5.1 The area to the front and side of the building is currently hardstanding, although no parking spaces are marked out. The existing site access which has a vehicle dropped crossing is not proposed to be altered and a total of 11 off-street parking spaces is proposed, comprising 7 regular spaces, 2 disabled spaces and 2 electric vehicle charging spaces. In addition, 3 motorcycle parking spaces and storage for 30 cycles are to be provided.
- 5.2 The proposal has been reviewed by the Council's Highways Manager who has advised that while the off-street parking provision is less than the 1 space per unit required, Chesterfield Road, which fronts the site is a bus route with bus stops located outside the site and within a short walking distance to the north. They have raised no objections to the proposal as there would be no adverse highway safety implications, subject to conditions to secure the car and cycle parking. In terms of safe and easy access and appropriate levels of car and cycle parking, the proposal satisfies Policies EQ2 (Design) and EQ3 (Accessibility).

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6. Recreational Pressure

- 6.1 Natural England have commented on the application and advised that for residential developments in this area, proportionate assessment of recreational disturbance impacts on the coastal designated sites should be carried out.
- 6.2 Sefton's Information Note on Recreation Pressure sets out when impacts of recreational pressure need to be managed and mitigated. The trigger point is for schemes of 10 new dwellings or more (net).
- 6.3 The development would involve HMO rooms rather than individual dwellings and each room does not equate to 1 dwelling. It is accepted that HMO's can still cause an impact in terms of recreational pressure but a calculation is used based on the guidance set out in [Housing Delivery Test measurement rule book - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/441143/Housing-Delivery-Test-measurement-rule-book-2018.pdf) para 11) to determine the equivalent number of dwellings that would be created. The calculation is to divide the HMO units by 1.8 to get the equivalent dwellings. In this case 19 divided by 1.8 would give an equivalent of 10.56 units.
- 6.4 The existing lawful use as flats also needs to be considered to determine the net number of dwellings the development would result in. The previous application granted permission for 8 flats, although the council tax register only appears to list 6 flats at the address. Taking the lesser into consideration, the net increase in the number of dwellings would be the equivalent of 4.56. Therefore, based on the net figure the scale of the development does not meet the threshold and recreational pressure does not need to be considered.

7. Conclusion and Planning Balance

- 7.1 The principle of the development to convert the vacant property into an HMO is acceptable within the existing residential area.
- 7.2 The development would offer 19 ensuite single bedrooms with a range of communal rooms across four floors. The size of all the rooms would exceed the minimum standards set within Sefton's Conversion of Flats and Houses in Multiple Occupation SPD, many by a significant area. The recommendation for private outdoor amenity space would also be exceeded with the garden area proposed to the rear.
- 7.3 It is acknowledged that a small number of the rooms would fall below the recommended distance of 12m to a blank wall (or wall with no habitable windows) in order to provide a good outlook. However, where the minimum distance to a blank wall is not met it is on a position within the building where there are existing windows and therefore would not differ significantly from the existing arrangement. In addition, the shortfalls are not significant and when the range and sizeable nature of the communal space on offer are taken into account, it is not considered that the minor shortcoming would have a significant effect on the outlook and overall living conditions of the future residents of these particular rooms.

- 7.4 Sufficient separation would be retained to protect the outlook of the neighbouring dwellings and a condition could be used to secure obscure glazing where it would be necessary to preserve privacy.
- 7.5 While the development may intensify the use of the building, it is not anticipated that it would be substantially different to the current lawful use as flats. Therefore, it is not considered that it would give rise to a significant increase in terms of noise or disturbance.
- 7.6 The development is considered to be in an accessible location and does not raise any highway safety concerns.
- 7.7 On balance the development is considered to comply with the relevant policies in the Sefton Local Plan, Supplementary guidance and the National Planning Policy Framework. In the absence of any material factors which would suggest otherwise, it is recommended that the proposal is approved subject to conditions.

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 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 - Approve with Conditions.

Conditions & Reasons

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:

NH-231118-PL-001 Rev.P2 - Location and Block Plan

NH-231118-PL-011 Rev.P3 - Proposed Floor Plans

NH-231118-PL-012 Rev.P2 - Communal Spaces

NH-231118-PL-013 Rev.P2 - Roof Plan

NH-231118-PL-020 Rev.P2 - Sections

NH-231118-PL-031 Rev.P2 - Proposed Elevations
Management Plan (Received 20th March 2024)

Reason: For the avoidance of doubt.

Before the Development is Commenced

- 3) No development shall commence, including any works of demolition, until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period and shall include but shall not be limited to details of noise, dust and vibration suppression or mitigation methods to be used during demolition and construction as well as a scheme of piling methodology (if piling is used) providing a justification for the method chosen and details of noise and vibration suppression methods proposed.

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

- 4) No equipment, machinery or materials shall be brought onto the site for the purposes of the development until details of all fencing for the protection of trees, hedges and other landscape

features, including its location and type have been submitted to and approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details and shall be maintained throughout the construction period.

Reason: These details are necessary prior to the commencement of development to safeguard all existing trees on site.

During Building Works

- 5) The external surfaces of the building(s) shall be constructed of the materials as shown by plan NH-231118-PL-031 Rev.P2 (Proposed Elevations).

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

Before the Development is Occupied

- 6) Before the development hereby permitted is first occupied, the windows as annotated with OB on plan NH-231118-PL-011 Rev.P3 (Proposed Floor Plans) shall be fitted with obscured glazing to a specification of no less than level 4 of the Pilkington Glass Scale and any part of the windows that is less than 1.7m above the floor of the room in which it is installed shall be non-opening. The windows shall be permanently retained in that condition thereafter.

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

- 7) Before the development hereby permitted is first occupied, the parking spaces for cars and motorbikes as indicated on drawing no. NH-231118-PL-001 Rev.P2 (Main site plan) shall be laid out and the spaces shall thereafter be kept available for the parking of vehicles in perpetuity.

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

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

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

- 9) Prior to the occupation of the development hereby approved a plan indicating the positions, height, design, materials and type of boundary treatment to be erected to close of the existing access to 11 Millcourt, together with the details of the proposed bin store, shall be submitted

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to and approved by the local planning authority. The treatment shall be completed as approved before the development is occupied and retained at all times.

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

- 10) No part of the development shall be occupied until a scheme of hard and soft landscaping for the site has been submitted to and approved in writing by the local planning authority. The scheme shall also include details for provision within the rear garden area for use of the residents, to enable clothes drying and socialising.

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

Ongoing Conditions

- 11) Within the first planting/seeding season following completion of the development, all details within the approved landscaping scheme 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.

Informative

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

Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** 10th April 2024

Subject: **DC/2023/01911**
Site Of Former Bootle High School Browns Lane Netherton

Proposal: Erection of 53 dwellings, construction of vehicular access, open space, landscaping, and associated infrastructure works.

Applicant: Sandway Homes Ltd **Agent:** Mrs Joanne McGrath
SATPLAN

Ward: St Oswald Ward **Type:** Full application - major

Reason for Committee Determination: Chief Officer's Discretion

Summary

The proposal is for the erection of 53 dwellings, the construction of vehicular access, open space, landscaping and associated infrastructure works on the site of the former Bootle High School, Browns Lane in Netherton.

The site is allocated as a housing site in the Sefton Local Plan. The main issues to consider in respect of this application are the principle of development, highway safety, living conditions of the nearby residents, design, character and appearance in the area, including the trees and landscaping, drainage requirements, ecology requirements and contaminated land.

The proposal complies with the adopted local plan and in the absence of any other material considerations, the application is recommended for approval subject to conditions and a legal agreement.

Recommendation: Approve with conditions subject to the completion of a Section 106 legal agreement to secure financial contributions to mitigate the impact of recreational pressure on the Sefton Coast, agree details of affordable housing, a travel plan and employment and skills plan.

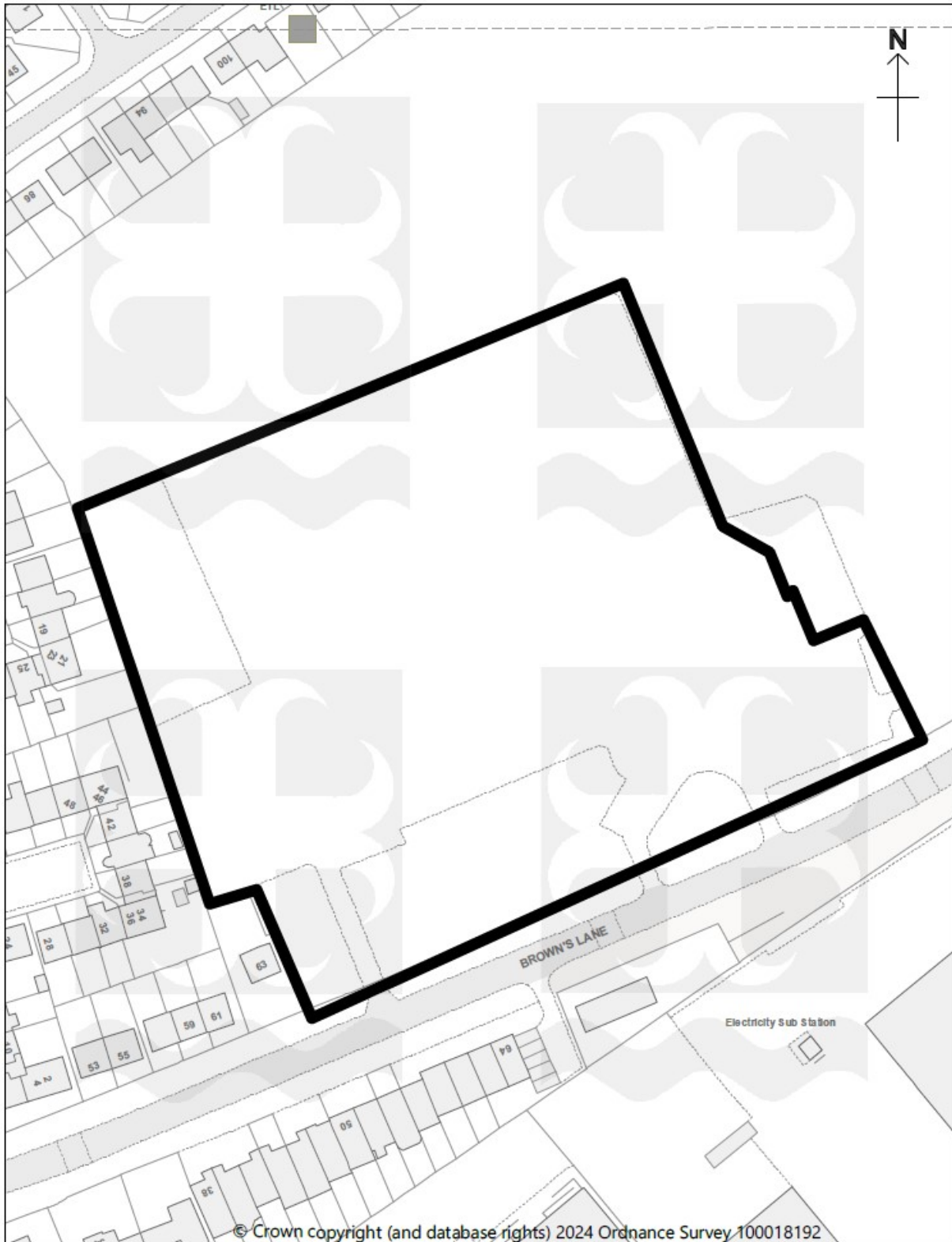
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Case Officer Liz Beard
Email planning.department@sefton.gov.uk
Telephone 0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S3KB77NWIL600>

Site Location Plan



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The Site

The site is 1.81 ha in area and is the site of the former Bootle High School, which is an area of hard surfacing, located on Browns Lane in Netherton. The site is bound to the west by residential properties, and the former school playing fields wrap around the site to the north and east and Browns Lane lies to the south, which is where the site is accessed from.

History

There was an outline planning application submitted for the redevelopment of the site for 59 dwellinghouses (ref: DC/2021/00926), which was withdrawn in July 2021.

Consultations

Canal And River Trust

No objection.

Community Fire Officer

No objections.

Local Plans

No objection. Employment and Skills Plan will need to be secured by a Section 106 Legal Agreement.

Environmental Health Manager

Noise

No objection. Recommended conditions for the submission of a Construction Environmental Management Plan (CEMP) and details of acoustic fencing.

Contaminated Land

The findings in the preliminary risk assessment and recommendation for a ground investigation are agreed with further conditions recommended.

Natural England

No objection.

United Utilities

No objection. Recommend a drainage condition.

Flooding & Drainage Manager

The plan showing the surface water must be updated along with the SuDS proforma and resubmitted. An update will be provided in the late representations report.

Highways Manager

No objection. Conditions recommended in relation to the details for off-site highways works, cycle parking, car parking, visibility splays, travel plan, construction traffic management plan, mud on the road and a Traffic Regulation Order (TRO) for a 20 mph speed limit.

Merseyside Environmental Advisory Service

No objection. Conditions recommended in relation to proposed lighting, tree and vegetation clearance, details of bird and bats boxes, hedgehog highways and in relation to invasive species.

Tree Officer

No objection.

Liverpool City Region

No objection.

Neighbour Representations

57 neighbours were notified by letter on 20th November 2023. A site notice was posted on 23rd November 2023 and a press notice was published on 22nd November 2023.

One letter of objection has been received raising the following issues:

- It is suited as a playing field and should remain as a green space, which is necessary in this time of air pollution from traffic.
- Browns Lane has a small narrow bridge going over the canal and an increase in traffic will be detrimental. At present only a modest amount of traffic uses that route to reach the motorways through Copy Lane.

A Statement of Community Involvement was submitted as part of the planning application, which provides a record of the consultation undertaken prior to the submission of the planning application.

Policy Context

The application site lies within an area allocated for housing (site ref: MN2.39 'Land at the former Bootle High School, Browns Lane, Netherton') in the Sefton Local Plan which was adopted by the Council in April 2017.

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Assessment of the Proposal

1. Introduction

- 1.1 The key issues for consideration include the principle of development, highway safety, design, character, and appearance in the area, including the trees and landscaping, living conditions of the nearby residents, drainage requirements, ecology requirements, affordable housing and contaminated land.

2. The Proposed Development

- 2.1 The proposal is for 53 dwellings, the construction of a new vehicular access, open space, landscaping and associated infrastructure works. The breakdown of the dwellings is 11 no. with two beds, 23 no. with three beds and 19 no. with four beds.

3. Principle of Development

- 3.1 The site is allocated for housing in the Sefton Local Plan. The principle of residential development has been established.

4. Highway Safety

- 4.1 A Transport Statement (TS) and Transport Note (TN) has been provided, along with a revised site plan.

Traffic Impact

- 4.2 The letter of objection received, raises the issue that Browns Lane has a small narrow bridge going over the canal and an increase in traffic will be detrimental. The Highways Manager has assessed the information provided and advises that the TS predicts that the proposed development would generate 29 to 27 two-way vehicle trips during the AM peak hour (8am-9am) and PM peak hour (5pm-6pm) respectively. This equates to 1 new trip every 2 minutes on average over each peak hour, which would not represent a significant traffic impact on the operation of the highway network in the vicinity of the canal bridge. In addition to the above any abnormal load deliveries would be required to be notified to the Canal & River Trust, which should be acknowledged in the Construction Traffic Management Plan for the site to ensure that the bridge is safeguarded.

Access

- 4.3 The revised site plan shows there are 3 no. existing vehicular accesses to the site. The middle and eastern accesses are to be removed. The western access is to be retained and improved as part of the development forming the main site access junction to the site via a priority junction.

- 4.4 The only other site accesses would be vehicular crossings for new dwellings on the frontage of the development along Browns Lane. There will need to be trees removed from the highways to enable the construction of the driveways, as this will impact on the adoption and maintenance of the highway. This is discussed in the report below. The site plan shows that the proposed driveways should not be affected by the existing traffic calming measures, lighting columns and the telegraph pole.
- 4.5 There is a 2 tonne weight limit on the Browns Lane bridge over the canal to the east of the site so the applicant must ensure that all heavy vehicles including temporary construction traffic would avoid using this bridge. A condition can be included to ensure that the Construction Traffic Management Plan (CTMP) is provided prior to the commencement of development.

Minimum Accessibility Standards Assessment (MASA)

- 4.6 The TS includes a Minimum Accessibility Standards Assessment (MASA), which shows a shortfall in relation to the site being accessible on foot. The applicant has agreed to provide tactile paving at the existing Browns Lane dropped kerbs near to its mini-roundabout junction with Copy Lane and in the vicinity of the bus stops on the southern arm of Copy Lane near this junction. This is deemed acceptable to overcome the shortfall. These improvements can be included in the Section 106 legal agreement.
- 4.7 The development score for cycling in the MASA also falls short of the requirement and so does the public transport element of the proposal. The nearest bus stops are on Copy Lane. These have raised kerbs, bus bay markings and bus stop pole/flags and the 2 no. bus stops on Glover's Lane have bus shelters. As there is limited footway width on Copy Lane to provide bus shelters at the bus stops on both sides of the road, on this occasion the applicant is not being requested to provide them at their own expense. However, agreed improvement to the pedestrian routes mentioned are considered to offset the shortfall on the public transport score.
- 4.8 The development fails to meet the minimum scores in the MASA for walking, cycling and public transport and therefore the development cannot be considered to have good accessibility. However, with the improvements requested, which are to be fully funded and delivered by the applicant via a Section 38/Section 278 highway agreement, the details of which can be included as part of the Section 106 legal agreement, then the proposal will be acceptable in accessibility terms.

Site Layout

- 4.9 Browns Lane is subject to a 20mph speed limit, and the development should be subject to a 20mph speed limit. A Traffic Regulation Order will be required at the full expense of the developer. This can be included as part of the Section 38/Section 278 highway agreement.

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- 4.10 The Transport Note shows that a 12.2m long large refuse vehicle could turn left into the site and turn within 2 no. turning heads within the site, but not the turning head at plot 42, which is required. This can be secured by a condition.
- 4.11 The access roads are all 5.5m wide with a 2m wide footway on either side, which is acceptable. A 3m wide pedestrian access route would be provided to the adjacent open space to the east of the site. This area is not currently accessible, but infrastructure will be put in place in case there is the opportunity in the future for the area to be used.

Parking

- 4.12 The TS and TN has not undertaken a parking assessment for the development. The Highways Manager has undertaken a parking review, taking into account the minimum requirements set out in the Sustainable and Travel Development Supplementary Planning Document (SPD) and noted the following:
- 4.13 For 11 no. 2 bedroom, 23 no. 3 bedroom and 19 no. 4 bedroom dwellings this equates to the following provision:
- 22 allocated and 2 unallocated spaces (11 no. 2 bed)
 - 46 allocated and 7 unallocated spaces (23 no. 3 bed)
 - 57 allocated and 6 unallocated spaces (19 no. 4 bed)
- Total 125 allocated and 15 unallocated spaces.
- 4.14 The proposed site plan shows that the 2/3 bed dwellings would each have 2 off-street parking spaces with the 4 bed dwellings each having 3 on-plot spaces, which complies with the parking standard of 125 allocated spaces. No provision has been made for unallocated parking but as the proposed carriageway widths within the development would all be 5.5m wide in accordance with the Council's minimum highway standards, this is deemed acceptable as visitor parking could be accommodated on-street.

Travel Plan

- 4.15 A Travel Plan (TP) has been provided, which is not acceptable in its current form as it does not provide sufficient detail on the benefits and temporary aims/objectives of the TP, which needs to be included. A web-based approach is recommended, and the TP needs to reflect the comments in relation to the MASA and the associated highway improvements.
- 4.16 The TP is not sufficiently site specific and more details on the measures, monitoring and an action plan is needed. It also needs to include information on when travel surveys will be repeated with residents taking into account occupancy of the development, and how the survey results will be used to revise and update challenging targets for modal shift away from private car use. This should be included in the action plan. A revised and updated Full Travel

Plan is required, this can be included as part of any Section 106 legal agreement.

- 4.17 Therefore, taking all the above into account there are no highway safety concerns associated with the development and no objections subject to the following conditions: off-site highways improvements, vehicle parking, cycle parking, visibility splays for pedestrians and vehicles, mud on carriageway (which can be included as part of a Construction Environmental Management Plan) and Construction Traffic Management Plan. The proposal complies with Local Plan Policy EQ3 'Accessibility'.

5. Design and Character of the Area

- 5.1 The proposal is for 53 dwellings, the construction of a new vehicular access, open space, landscaping and associated infrastructure works.

Layout & Built Form

- 5.2 Local Plan Policy EQ2 'Design' requires that new development responds positively to the character, local distinctiveness and form of its surroundings. In terms of built form, the surrounding area is characterised by semi-detached and terraced housing. The proposed layout will be accessed from a main access onto Browns Lane with other properties having individual driveways direct from Browns Lane. The layout is organic in nature, as opposed to having a strong grid type layout, which fits in with the surrounding area. The density and 'grain' are consistent with a suburban development.
- 5.3 The dwellings proposed are a mix of detached, semi-detached and terraced houses, all of which are two storeys in height. The properties are traditional in style and complement the dwellings in the surrounding area. Facing materials include red brickwork and red and grey tiles.
- 5.4 A pumping station is proposed as part of the development; however details of the design have not been provided. A condition can be included to request this information.
- 5.5 Overall, it is considered that the proposal responds positively to the character and form of its surroundings in terms of layout, density, style, height and form of dwellings. The proposal therefore complies with Local Plan Policy EQ2 'Design'.

Housing Mix

- 5.6 Local Plan Policy HC2 'Housing Type, Mix and Choice' requires that a minimum of 25% of the market dwellings should be 1 or 2 bedrooms and a minimum of 40% should be 3 bedroom properties. This proposal includes 45 market homes of which 11 (24.4%) are 2 bedroom homes and 18 (40%) are three bedroom. Whilst it is marginally below in relation to the 2 bedroom homes, overall the housing mix is considered to be acceptable.

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- 5.7 The proposal complies with the requirements that at least 20% of the market properties are designed to meet Building Regulations M4(2) 'accessible and adaptable' dwellings.

Trees and Landscaping

- 5.8 The tree report identifies that 15 individual trees and 1 group of trees are to be removed, which are a mixture of B category and C category trees, with one A category tree also to be removed. All the category A trees along the frontage of Browns Lane are to be retained, which maintains the character of the frontage of the site.
- 5.9 The planting plan provided shows that tree loss can be mitigated with 21 trees being planted within the site. This will be largely provided in the front gardens of the properties.
- 5.10 The trees located outside the fronts of plots 11/12 cannot be retained, due to the requirement for dropped kerbs and the potential service lowering. Replacement street trees can be provided as part of the Section 106 legal agreement.

Open Space

- 5.11 The site is within walking distance of Marian Gardens therefore there is no requirement to provide open space on site, for a development of this size.
- 5.12 On balance the information provided in the landscaping proposals and tree reports is acceptable and the requirement for replacement street trees will be included as part of the Section 106 legal agreement. The proposal therefore complies with part 7 of Local Plan Policy EQ9 'Provision of Public Open Space, Strategic Paths and Trees'.

Low Carbon Development

- 5.13 Design features have been incorporated to reduce the energy consumption of the properties as well as sustainability measures within the Design and Access Statement. The Sustainability Strategy includes fabric first approach providing highly insulated and airtight homes, which are easier and less costly to heat. It also includes the use of renewable energy sources within the development such as air source heat pumps and photovoltaic (PV) cells. The proposal complies with Local Plan Policy EQ7 'Energy Efficient and Low Carbon Design'.

Leeds & Liverpool Canal

- 5.14 The Leeds & Liverpool Canal lies to the east of the application site with an open field on the intervening land to the site boundary so this development will have no direct impact on the canal.
- 5.15 The surface water drainage will be to the mains sewer and the pumping station for the foul waste is located away from the canal. Therefore, the Canal & River Trust have no comment to

make in relation to the drainage aspects.

- 5.16 The Canal & River Trust state that access to the site during the construction phase would likely result in traffic crossing the canal via Browns Lane Bridge. This bridge is controlled by traffic lights, which aids protection from bridge strikes. The bridge is also assessed as having full weight capacity for normal traffic. Any abnormal loads deliveries would be required to be notified to the Canal & River Trust, which should be acknowledged in the Construction Traffic Management Plan for the site to ensure that the bridge is safeguarded.

6. Impact on Adjoining Occupiers and Residents

- 6.1 The application is subject to Local Plan Policy HC3 'Residential Development and Primarily Residential Areas' and the accompanying guidance within the New Build Homes Supplementary Planning Document (SPD), which provides standards and recommendations for suitable living conditions for future occupiers. The Council's guidance recommends 12 metres between two ground floor windows, 12 metres between non-habitable rooms or habitable rooms and blank elevations, 21 metres between windows serving habitable rooms and 18 metres where a habitable room is on an elevation that fronts onto a road or public footpath. The proposed development is well laid out to achieve the required distances between dwellings overall.
- 6.2 In relation to the proposed garden sizes, the Council's guidance recommends that 50 square metres is provided for two-bedroom properties and 60 square metres is provided for homes with three bedrooms or more, which can be met. It is considered that an acceptable standard of living has been provided for all dwellings. Overall, it is considered that the proposal provides a good standard of living space for future occupiers in terms of levels of light, outlook, privacy and outdoor private amenity space and complies with part 2c. of Local Plan Policy EQ2 'Design' and the New Build Homes SPD.

Noise

- 6.3 A revised noise assessment was submitted, which suggested appropriate mitigation in relation to potential noise impacts from the KTC Edibles factory, which backs onto Browns Lane. These are accepted by the Environmental Health Manager. It is recommended that an acoustic fence is provided to plots 13 & 14 as they are closest to the factory, however, there has been a brick wall 2.1m in height shown on the boundary treatment plan. This will work acoustically and is also acceptable in design terms.
- 6.4 It is also recommended that given the proximity to other occupied dwellings that a Construction Environmental Management Plan (CEMP) is provided prior to commencement of development, which can be secured by a condition.
- 6.5 The Environmental Health Manager also recommended that details of any proposed piling are submitted for consideration prior to commencement of development. The details should

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include the method chosen and the justification for this as well as the noise and vibration-suppression methods. This can be secured by a condition.

Impact on Existing Residents

- 6.6 The minimum interface distances are provided between the proposed housing and the existing housing.
- 6.7 A letter of objection has been received in relation to impact on traffic and air quality. The air quality in the vicinity of the development is considered to be of a good standard. However, a Construction Environmental Management Plan (CEMP) will ensure that development will be carried out within the appropriate guidelines and appropriate mitigation, which as set out above, can be secured by a condition.
- 6.8 A condition will also be included to ensure that a Highways Construction Management Plan is provided prior to the commencement of development. This will include the details of routes that the construction traffic will take when accessing and leaving the site.

7. Flood Risk and Drainage

- 7.1 A Flood Risk Assessment (FRA), Drainage Strategy Report & Indicative Drainage Layout Phase 1 have been provided and are considered to be acceptable to the Lead Local Flood Authority (LLFA). However, the indicative drainage layout does not include any exceedance flood route provision in the event of failure of the proposed surface water pumping station and/or where such exceedance flood volume can be safely temporarily contained until the system recovers. An updated Sustainable Urban Drainage System (SuDS) proforma is also required. The LLFA have therefore objected.
- 7.2 This objection can be overcome by marking the flow rates or the area where flood water will be stored on the surface water drawing and complete a revised SuDS proforma. A condition can be provided to ensure the details are in accordance with the principle of the Flood Risk Assessment (FRA), Drainage Strategy and updated drawing. The details will be provided in the late representations report.

8. Ecology

- 8.1 The ecological report was updated following comments provided by the Merseyside Environmental Advisory Service (MEAS). This confirmed that Cotoneaster and Rhododendron ponticum are present and as such an invasive species condition should be included.
- 8.2 Habitats on site or adjacent to the site may provide roosting, foraging, commuting habitat for bats. Lighting for development may affect the use of these areas. A lighting scheme can be designed so that it protects ecology and does not result in excessive light spill into habitats. This can be secured by a suitably worded condition. It is also recommended by MEAS that bat

roosting boxes and/or bat roosting bricks and bird nesting boxes are provided. This is in line with paragraph 186 of the National Planning Policy Framework and can be secured by conditions.

- 8.3 Hedgehog is a Priority Species and Local Plan Policy NH2 'Nature' applies. In order to maintain habitat connectivity for hedgehogs then it is recommended for 13cm x 13 cm gaps should be installed into any close boarded fence. There are gaps shown for hedgehogs on the close boarded timber fencing on the boundary treatment plan provided, which will be listed as an approved plan.

Recreation Pressure

- 8.4 The applicant has confirmed that they are 'opting-in' to pay the commuted sum of £18,444 and will provide a colour copy of the 'Respecting Nature in Sefton Information Leaflet' to all first-time occupiers of the homes.
- 8.5 A Habitats Regulations Assessment (HRA) has been undertaken as the site is accessible by foot, car and public transport to international and nationally designated nature sites. Due to the potential pathways and impacts on the sites without mitigation/preventative measures then there will be significant effects on the site. Therefore, an Appropriate Assessment is required in accordance with Regulation 63 (Habitats Regulations 2017). This was carried out by MEAS, where it is concluded that with the mitigation measures there will be no adverse effect upon the integrity of national and international sites.
- 8.6 The commuted sum of £18,444 for mitigation of recreational pressure can be included as part of the Section 106 legal agreement. The provision of the leaflet 'Respecting Nature in Sefton' can be secured by condition.
- 8.7 Taking the above into account the proposal complies with Local Plan Policy NH2 'Nature'.

9. Affordable Housing

- 9.1 An affordable housing statement was provided, which identifies 8 of the 53 homes will be affordable homes. This complies with the requirements of Local Plan Policy HC1 'Affordable and Special Needs Housing', where 15% of the total number of dwellings should be affordable. The units are proposed as follows:
- 3 x 3 bed detached will be available for shared ownership (plots 12, 21 & 22)
 - 2 x 3 bed detached will be available as first homes tenure (plots 2 & 7)
 - 3 x 3 bed detached will be available for social/affordable rent (plots 23, 28 & 29)
- 9.2 The affordable units will be indistinguishable from the market homes in terms of their location, appearance, and design standards to ensure that the communities are mixed. The spread of affordable housing throughout the site is considered to be acceptable.

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9.3 The details of the affordable housing will also be included as part of a Section 106 legal agreement.

10. Contaminated Land

10.1 The Environmental Health Manager has reviewed the reports provided in relation to contaminated land and has advised that there is one potential source of contamination, which is a former pond located in the southeast area of the site. Sutcliffe Investigations proposed excavating a series of trial pits to locate and delineate the former pond and the installation of a gas monitoring well. There is also the possibility that the basements of the former buildings have been infilled and that there may have been a heating oil tank also present on the site. Therefore, further investigation and assessment will be required.

10.2 Soil testing has taken place where lead and asbestos has been identified. Gas monitoring was also carried out and concluded that there were no gas protection measures required. However, it recommended that as the carbon dioxide readings increased the site classification to Characteristic Situation 2, then gas protection measures are required. This should include a structural barrier, ventilation, and a gas resistant membrane, which should form part of the remediation strategy.

10.3 Sutcliffe Investigations also recommend that site levels are reduced by 600mm within the proposed gardens and soft landscaping areas and this material is replaced with imported clean tested materials to accommodate a growing medium. The detailed design and validation methodology for this clean cover system will also need to be detailed in the remediation strategy, following completion and approval of the further site investigation and assessment.

10.4 A radiological walkover survey was undertaken, and the report provided refers to two localised areas of radiological interest that were identified for further investigation. A copy of the Radiological Survey Report on completion of the radiochemical analysis will need to be submitted for review.

10.5 The Environmental Health Manager agrees with the recommendations for a site investigation and recommends conditions in relation to a preliminary site investigation, site characterisation, the submission of a remediation strategy, a verification report, and the reporting of unexpected contamination. The proposal, with the inclusion of these conditions, would comply with Local Plan Policy EQ6 'Contaminated Land'.

11. Employment Skills

11.1 The Council has adopted a Social Value (Employment and Skills) Supplementary Planning Document (SPD). This sets out that proposals of a certain scale must be subject to an Employment and Skills Plan, which will set out how local employment and skills opportunities are secured. The proposal requires an Employment and Skills Plan to be devised, submitted

and secured by a planning obligation as part of the Section 106 legal agreement and then implemented.

12. Mineral Safeguarding

12.1 The site lies within a Minerals Safeguarding Area. The applicant has submitted a Minerals Safeguarding Statement, where the Merseyside Environmental Advisory Service (MEAS) agree with the conclusion and that there is sufficient information to comply with Part 1 of Local Plan Policy NH8 'Minerals'.

13. Section 106 Legal Agreement Requirements

13.1 The applicant has agreed with the opt-in approach in relation to the mitigation of the impact of recreation pressure on the Sefton Coast, which is a commuted sum of into a commuted sum of £348 per home, which is a total of £18,444.

13.2 The details of the affordable housing will also be included as part of the Section 106 legal agreement, which includes 3 x 3 bed detached will be available for shared ownership, 2 x 3 bed detached will be available as first homes tenure, 3 x 3 bed detached will be available for social/affordable rent.

13.3 The details of the off-site highways works, replacement street trees, the requirement for an employment and skills plan and the submission of a Full Travel Plan can also be included in the Section 106 agreement.

14. Planning Balance and Conclusion

14.1 The proposed development of the site for residential development is acceptable in principle given the site's allocation for housing in the Local Plan. The density, design and layout are acceptable with regard to the character of the area.

14.2 In terms of amenity, future occupiers will be afforded a good standard of living, and the proposal will provide 8 affordable homes, with the homes being 'accessible and adaptable' under the Building Regulations.

14.3 The site is considered on balance to be accessible from non-car based transport and the off-site highways requirements will ensure that the site is integrated with the surrounding area in transport terms. The Highways Manager is satisfied that the highways and transport requirements are met.

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14.4 The Lead Local Flood Authority has recommended that the drainage plan is updated to confirm that the surface water is successfully managed.

14.5 Therefore, taking all of the above into account there are clear benefits to the proposal contributing to the Council's housing land supply, including affordable housing. The proposal complies with the National Planning Policy Framework, adopted Local Plan and guidance, and is therefore recommended for approval subject to conditions and the completion of a Section 106 legal agreement.

15. Equality Act Consideration

15.1 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.

15.2 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 subject to the completion of a Section 106 legal agreement to secure financial contributions to mitigate the impact of recreational pressure on the Sefton Coast, agree details of affordable housing, a travel plan and employment and skills plan.

The application has been recommended for approval subject to the following condition and associated reasons:

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 reports:

Location Plan 1887-JMA-XX-OO-DR-A-0100
Proposed Site Plan 1887-JMA-XX-OO-DR-A-01 02 revision P13
Arboricultural Impact Assessment & Method Statement ref: 23/AIA/SEFTON/29
Phase I Desk Study & appendices
Phase II Interpretative Ground Assessment Sutcliffe ref: 33342-SUT-ZZ-00-RP-G-7202
Phase III Remediation & Validation Strategy Proposals ref: 33342-SUT-ZZ-00-RP-G-7301
Flood Risk Assessment and Drainage Strategy ref: 33342/LRD
Detailed Plot Landscape Plan ref: H23-0029_002A
Proposed Boundary Types ref: 1887-JMA-XX-OO-DR-A-0105 rev P02

House Types

Osprey wide variant ref: 1887-JMA-XX-OO-DR-A-0206 rev P01
Avocet ref: 1887-JMA-XX-OO-DR-A-0200 rev P02
Kingfisher 1887-JMA-XX-OO-DR-A-0204 rev P03
Sandpiper 1887-JMA-XX-OO-DR-A-0202 rev P03
Shearwater 1887-JMA-XX-OO-DR-A-0203 rev P03

Reason: For the avoidance of doubt.

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Before the Development is Commenced

- 3) No development shall commence, including any demolition works, until a Highways Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period.

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

- 4) No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted and approved in writing by the Local Planning Authority. The CEMP shall include:
- The proposed times when construction and demolition work shall take place.
 - Details of demolition and management of the activities associated with any demolition works.
 - Wheel washing/road sweeping measures.
 - Measures to control the emission of dust and dirt during construction and demolition.
 - Measures to control the emission of noise and vibration during demolition, slab break-up, piling and construction activities.
 - Details of external lighting to be used during construction and demolition.
 - The name and contact details of person(s) accountable for air quality and dust issues.
 - A programme for issuing information on demolition and construction activities to the occupiers of nearby dwellings.
 - A site waste management plan.
 - Details of any piling and the days and times when piling activity is proposed.

The approved CEMP shall be implemented throughout the period of site remediation and construction.

Reason: To safeguard the living conditions of local residents, protect the amenity of the workforce on the adjacent site and safeguard the conservation of protected species.

- 5) No development shall commence until a preliminary investigation report has been submitted to and approved in writing with the Local Planning Authority. The report must include:
- Desk study
 - Site reconnaissance
 - Data assessment and reporting
 - Formulation of initial conceptual model
 - Preliminary risk assessment

If the Preliminary Risk Assessment identifies there are potentially unacceptable risks a detailed scope of works for an intrusive investigation, including details of the risk assessment methodologies, must be prepared by a competent person (as defined National Planning Policy Framework, December 2023). The contents of the scheme and scope of works are subject to the approval in writing of the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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

- 6) No development shall commence until the approved scope of works for the investigation and assessment must be undertaken by competent persons and a written report of the findings shall be submitted to and approved in writing by the Local Planning Authority. The report shall include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. Remediation shall proceed in accordance with the approved details.

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

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

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

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

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

- 9) No development shall commence until a method statement showing the extent of the Cotoneaster and Rhododendron ponticum, prepared by a competent person, has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include:-

- i. A plan showing the extent of the plants.
- ii. The method(s) that will be used to prevent the plants spreading further, including demarcation.
- iii. The method(s) of control what will be used, including details of post-control monitoring.
- iv. a timetable for its implementation.

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

Reason: The details are required prior to commencement to ensure that Cotoneaster and Rhododendron ponticum is eradicated from the development site and to prevent the spread of the plant through development works.

During Building Works

- 10) No development shall commence above slab level until the details of the pumping station as shown on plan 1887-JMA-XX-00-DR-A-102 P13 has been submitted and approved in writing by the local planning authority. The infrastructure shall be installed prior to occupation.

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

- 11) No development shall commence above slab level until details of the swept path analysis of a 12.2m long refuse vehicle at the turning head of plot 42 has been submitted and approved in writing by the Local Planning Authority. This shall be maintained throughout the lifetime of the development.

Reason: In the interests of highway safety.

- 12) No development shall commence above slab level until details of the visibility splays of 2.4m x 2.5m at all junctions on the site, including the site access junction and pedestrian intervisibility splays of 2m x 2m on both sides of each driveway/vehicular access have been submitted and approved in writing by the local planning authority. This shall be maintained throughout the lifetime of the development.

Reason: In the interests of highway safety.

Before the Development is Occupied

- 13) Before any part of the development hereby permitted is occupied/brought into use a verification report that demonstrates compliance with the agreed remediation objectives and criteria shall be submitted to and approved in writing by the Local Planning Authority.

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

- 14) A brick boundary wall of 2.1m in height shall be installed prior to occupation of plots 13 and 14 and maintained throughout the lifetime of the development.

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

- 15) No dwelling shall be occupied until space has been laid out within the curtilage of all dwelling for cars to be parked and that space shall thereafter be kept available for the parking of vehicles during the lifetime of the development.

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

- 16) No dwelling shall be occupied until facilities for the secure storage of cycles have been submitted and approved in writing by the Local Planning Authority and retained for the lifetime of the development.

Reason: To ensure that enough cycle parking is provided for the development and ensure the safety of highways users.

- 17) No dwelling shall be occupied until details of the proposed external lighting scheme including measures to reduce light spill onto foraging habitats for bats are submitted and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full and retained throughout the lifetime of the proposal.

Reason: To safeguard conservation of bats in the area.

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- 18) No dwelling shall be occupied until a scheme and appropriately scaled plan identifying suitable locations on the site for the erection of bat roosting boxes/bat roosting bricks and bird nesting boxes together with a timetable for implementation have been submitted to and approved in writing by the local planning authority. The approved scheme shall be installed with the approved details and timetable and retained throughout the lifetime of the proposal.

Reason: To safeguard the conservation of bats and birds in the area.

- 19) No dwelling shall be occupied until the boundary treatment as shown on 1887-JMA-XX-OO-DR-A-0105 rev P02 is erected. The gaps of 13cm x 13cm as shown within the base of each length of boundary fencing serving the respective plot in order to maintain connectivity for hedgehog shall be retained throughout the lifetime of the proposal.

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

- 20) No dwelling shall be occupied until a leaflet 'Respecting Nature in Sefton' is submitted and approved in writing by the local planning authority. The approved leaflet shall be provided to the first occupiers of each dwelling.

Reason: In order to comply with the Habitats Regulations Assessment Regulations and mitigate increased recreational pressure in international and regional sites.

- 21) No part of the development shall be occupied until details of both hard and soft landscaping works have been submitted to and approved in writing by the local planning authority. These details shall include: i) A statement setting out the design objectives and how these will be achieved; ii) earthworks showing existing and proposed finished levels or contours; iii) means of enclosure and retaining structures; iv) other vehicle and pedestrian access and circulation areas; v) hard surfacing materials; vi) minor artefacts and structures (e.g furniture, play equipment, refuse or other storage units, signs, and vi) water features. Soft landscaping works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate; an implementation programme (including phasing of work where relevant). Any trees or plants, which within a period of 5 years from the completion of the development die, are removed or become damaged or diseased shall be replaced in the next planting season with others of similar size.

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

Ongoing Conditions

- 22) In the event that previously unidentified contamination is found at any time when carrying out the approved development immediate contact must be made with the Local Planning Authority and works must cease in that area. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which shall be submitted to and approved in writing by the Local Planning Authority. Following completion of the remedial works identified in the approved remediation strategy, verification of the works must be included in the verification report required by condition 7.

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

- 23) No tree felling is to take place between the period of 1st March to 31st August inclusive. If it is necessary to undertake any works during the bird breeding season then all trees 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 to and approved in writing by the Local Planning Authority.

Reason: To safeguard conservation of protected species.

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

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

Informatives:

- 1) The applicant is advised that the proposal will require the formal allocation of addresses. Contact the Development and Support team on 0151 934 4569 or E-Mail snn@sefton.gov.uk to apply for a street name/property number.
- 2) The applicant is advised that all works to the adopted highway must be carried out by a Council approved contractor at the applicant's expense. Please contact the Highways Development and Design Team at HDD.Enquiries@sefton.gov.uk for further information.
- 3) No development other than that required to be carried out as part of an approved scheme of remediation shall commence until conditions 6 & 7 above have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing, until condition 9 has been complied with in relation to that contamination. Contaminated land planning conditions must be implemented and completed in the order shown on the decision notice above.

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- 4) A Traffic Regulation Order (TRO) to introduce a 20 mph zone is required and a programme for its implementation shall be proposed. Please contact the Highways Development and Design Team on HDD.Enquiries@sefton.gov.uk for further information and to progress this process.
- 5) There is a requirement for the applicant to enter into a S278 Highways Act 1980 Legal Agreement to facilitate works to the adopted public highway. Please contact the Highways Development and Design Team on HDD.Enquiries@sefton.gov.uk for further information

Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** 10th April 2024

Subject: **DC/2024/00229**
1 Harris Drive Bootle L20 6LD

Proposal: Change of use from Class E to a drinking establishment (Sui Generis) with the provision of outdoor seating and live music

Applicant: Mr Michael Parkes **Agent:** Mr Andrew Stott
The Feathers group NW Ltd The Plan Centre

Ward: Litherland Ward **Type:** Full Application

Reason for Committee Determination: Deferred from 15th April 2024 to allow further discussions with the applicant regarding how the proposal could be made safer both for the customers using the outdoor space and pedestrians using the shopping parade.

Summary

The proposal seeks to change the use of 1 Harris Drive, Bootle, from a retail use to a drinking establishment 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 vehicle 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

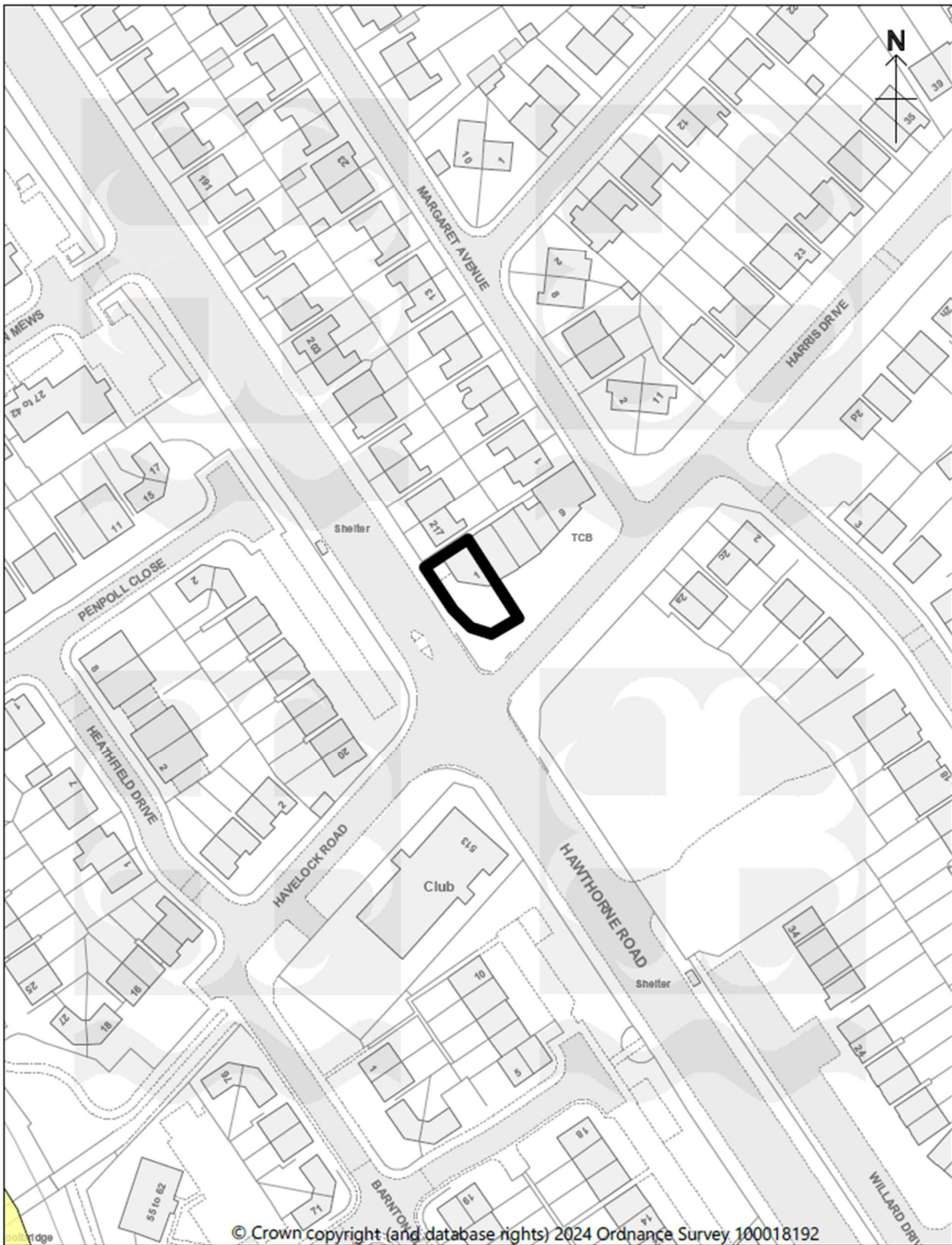
Telephone 0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S8DQTONWJEJ00>

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Site Location Plan



Assessment of the Proposal

This application was originally deferred from 13th March 2024 Planning Committee for the following reason:

To allow further discussions with the applicant regarding how the proposal could be made safer both for the customers using the outdoor space and pedestrians using the shopping parade.

The full report to 13th March 2024 Planning Committee is attached as an Annex.

Discussions have taken place with the applicant to attempt to make the outside seating area a safer space for both customers using the outdoor space and pedestrians also using the shopping parade. The applicant has submitted amended plans to show a revised layout of the seating area. The layout shows how the seating area would be set away from the main entrance, this would prevent pedestrians being forced to walk around the seating area closer to the junction and would instead allow them to freely move between the outside seating space and the main entrance. It is considered that this arrangement would help to improve the safety of pedestrians using the shopping parade.

Further information has also been provided in relation to the perimeter structure of the outside seating area. The applicant has confirmed that Tensator's Café Barriers will be utilised which will provide a rigid structure to the seating area. The barrier system consists of a weighted base plate and vertical posts connected with horizontal rods. The bar has also stated that a management policy to monitor customers/public will be implemented to ensure the barriers are not tampered with. This is considered to improve the safety of customers using the seating area.

Concerns were also raised by the committee with regard to vehicles crashing into the barriers located at the junction of Hawthorne Road with Harris Drive along the edge of this forecourt. Only one incident in the last three years has been recorded which relates to the replacement of 2 panels of guardrail and this was identified in September 2022.

Amendments are made to conditions 2 and 3 within Annex 1 and will read as follows:

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

1865/02 (Rev D, submitted 02/04/2024) - Proposed Site Plan

1865/03 (Rev D, submitted 02/04/2024) - Proposed Ground Floor Plan

1865/07 (Rev A) - Proposed Harris Drive Elevation

1865/08 (Rev A) - Proposed Hawthorne Road Elevations

1865/09 (Rev /) - Proposed Rear Elevation

1865/10 (Rev /) - Location Map & Site Plan

Reason: For the avoidance of doubt.

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- 3) *The outdoor seating plan shall be carried out in accordance with the Proposed Site Plan ref. 1865/02 (Rev D, submitted 02/04/2024).*

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

To conclude, the amendments to the scheme along with the supplementary information is considered to provide acceptable safety measures to both pedestrians and customers using the outside seating area. The previous recommendation to approve the application subject to conditions still stands.

Annex 1 – Report to 15th March 2023 Planning Committee

(late representations included)

Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** Wednesday 13th March 2024

Subject: [DC/2024/00229](#)
[1 Harris Drive Bootle L20 6LD](#)

Proposal: Change of use from Class E to a drinking establishment (Sui Generis) with the provision of outdoor seating and live music

Applicant: Mr Michael Parkes
The Feathers group NW Ltd **Agent:** Mr Andrew Stott
The Plan Centre

Ward: Litherland Ward **Type:** Full Application

Reason for Committee Determination: Called in by Cllr. Trish Hardy

Summary

The proposal seeks to change the use of 1 Harris Drive, Bootle, from a Class E use to operate within a “sui generis” use class as a drinking establishment 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 vehicle 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

Agenda Item 5b

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S8DQTONWJEJ00>

The Site

The application site comprises the shop unit and external area to the front of 1 Harris Drive which is a single storey building located at the junction with Hawthorne Road in Bootle. The premises are located at the end of a shopping parade which runs from the corner of Hawthorne Road, towards Harris Drive and accommodates a number of different commercial uses. The Mell Inn Social club is located beyond the parade on the opposite side of Hawthorne Road. The wider area is predominantly residential.

History

DC/2023/01975 – Pre-application advice was sought for this application.

DC/2024/00230 – Advertisement consent for the display of 2 No. illuminated signs (Pending Decision)

Consultations

Highways Manager

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

Environmental Health Manager

No objection subject to conditions.

Neighbour Representations

The application has been 'called-in' to be determined by Planning Committee by Councillor Trish Hardy. The call-in is made on the grounds that the proposal is harmful to residential amenity by way of noise.

23 neighbouring properties were notified by letter on 9th February 2024. One representation has been received objecting to the proposal on the following grounds:

- Noise concerns
- Highway Safety and Parking concerns
- Increase in traffic
- Increase in anti-social behaviour

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

Introduction

The proposal seeks to change the use of 1 Harris Drive from Class E use to operate as a “sui generis” use (i.e. a use of its own kind) as a drinking establishment with an outside seating area to the front of the premises.

The main issues to consider are the principle of development, impacts on neighbouring residents and matters relating to parking and highway safety.

Principle of Development

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. In terms of character, the shopping parade consists of various commercial uses at ground floor level including a barbers, a café, a convenience store and an estate agents. All of these uses have been established for some time. The nearest drinking establishment is the Mell Inn Social Club which is located south of the site. 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. Subject to conditions suggested below the proposal is considered to meet the requirements of policy HC3 part 2.

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 would 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.

Impact on Neighbouring Residents

The application site occupies a corner plot where Harris Drive meets Hawthorne Road. The nearest property to the site is no. 21 Hawthorne Road and its flank wall is 2.7m from the rear of the application site across the entrance to the rear alleyway. There are also two properties located on Willard Drive which face towards the site at a distance of approximately 30.0m.

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The premises are small-scale with a seating capacity of approximately 16 people internally and 14 people externally. A key consideration is noise and disturbance associated with both internal and external activities.

The Mell Inn Social Club is the only use near to the local shopping parade which operates outside of standard business hours. Noise, particularly fuelled by drinking and live entertainment, has been cited as a cause for concern in the councillors call-in reasons. 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.

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 and amplified music 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.

Following advice from the Environmental Health Manager, it is considered that opening hours of 09:00 – 23:00 Monday to Saturday and 14:00 – 22:00 on Sunday and Bank Holidays inside the property would be reasonable. Opening hours of 09:00 – 22:00 Monday to Saturday and 14:00 – 22:00 outside the property are also considered to be reasonable. In terms of general comings and goings, 23:00hrs is considered to be a reasonable cut off point through the week when compared with other late evening and night time uses in the immediate vicinity of the site. Based on the context of relatively high levels of environmental noise from the high levels of road traffic noise as noted by the Environmental Health Manager, it is not considered that the proposal, would lead to any unacceptable impacts on neighbouring amenity.

The proposed bin store is internal, and bins would need to be kept inside until the time of collection which is proposed to be between 09:00 and 17:00 as stated on the proposed ground floor plan. Given the potential noise associated with bottles being emptied into bins, a condition would be recommended specifying the location of storage and the times within which collection can take place to prevent noise nuisance.

As set out above, internal noise levels, opening hours and management of noise from waste storage arrangements have been considered and can be satisfactorily management by condition. The management of customers attending the premises would be covered by licensing, the Licensing Act 2003 requires consideration of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. If these requirements and any other conditions of a license aren't followed a license can be reviewed with the possibility of it being revoked or restricted, such as a reduction of opening hours.

Overall, it is considered that the small-scale proposal would not have an unacceptable impact on neighbouring properties through noise and disturbance.

Parking and Highway Safety

The Council's Highways Manager has raised no objection to the proposal. Amended plans have been received removing the illegal parking space from the existing and proposed plans. Further information has also been received in relation to the proposed chairs and tables which would be put away each evening and the barriers to demarcate the seating area within the private forecourt. The indicative seating in the forecourt is for 14 people and it is similar in space to the internal bar area. The barriers are proposed to be set in from the edge of the public highway leaving 1.6 metres on Hawthorne Road and 2.1m on Harris Drive. The pavement around the site is also in itself sufficient to allow unobstructed pedestrian access at 3.0 metres on Hawthorne Road and 5.0 metres on Harris Drive.

There are double yellow lines which encompass the junction at Harris Drive and Hawthorne Road to prevent dangerous parking. It is acknowledged that illegal parking in front of units within the parade still takes place and does not appear to be managed. There are bollards which prevent the pedestrian crossing on Harris Drive from being used as a vehicular access to the forecourts and fencing around the junction protecting pedestrians and encouraging the use of the formalised crossing points. There is no concern in highway safety terms to the lawful use of the forecourts in relation to the commercial units.

The Highways Manager does not envisage that the loss of the illegal parking arrangements in front of the unit, would have a significant impact on the wider area, as parking can be accommodated by the informal on-street parking provision on the east side of Hawthorne Road to the north within 100m desirable walking distance of the site. It should also be noted that there would be less demand for parking later into the evening with the majority of uses closing by 18:00.

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

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2010, that no one with a protected characteristic will be unduly disadvantaged by this development.

Conclusion

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 that 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.

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:

1865/02 (Rev D) - Proposed Site Plan
1865/03 (Rev B) - Proposed Ground Floor Plan
1865/07 (Rev A) - Proposed Harris Drive Elevation
1865/08 (Rev A) - Proposed Hawthorne Road Elevations
1865/09 (Rev /) - Proposed Rear Elevation
1865/10 (Rev /) - Location Map & Site 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. 1865/02 (Rev D).

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

During Building Works

- 4) Prior to the commencement of the use

a) A scheme of sound insulation to protect existing residential dwellings from the proposed drinking establishment shall be submitted to and approved in writing by the Local Planning Authority prior to the proposed change of use taking place.

b) The soundproofing shall be carried out in accordance with the scheme approved under (a) before the drinking establishment is brought into use and shall be retained for the lifetime of the development.

Reason: To prevent unreasonable noise and disturbance to neighbouring occupants in the interests of residential amenity.

- 5) 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.

Ongoing Conditions

- 6) The premises shall not be open for business outside the hours of 09:00 to 23:00 Monday to Saturday and 14:00 to 22:00 Sunday and Bank Holidays.

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

- 7) The outdoor seating area shall not be open for business and shall be removed from the external pavement outside the hours of 09:00 to 22:00 Monday to Saturday and 14:00 to 22:00 Sunday and Bank Holidays.

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

- 8) 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.

- 9) 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

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noise above a level that would be detrimental to the aural amenity of the area.

Informatives

- 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.
- 2) New plant must not exceed the existing background L90 when assessed in accordance with current guidance such as BS4142.
- 3) A licence is required from the Highway Authority for the pavement cafe and the number of tables and chairs would be agreed under the terms of the licence. Please contact Sefton Council Network Management on telephone number 0151 934 4321.

Agenda Item 6

Report to:	Planning Committee	Date of Meeting:	Wednesday 10 th April 2024
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.

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Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets): There are no resource implications	
Legal Implications: There are no legal implications	
Equality Implications: There are no equality implications.	
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.7618/24.....) and the Chief Legal and Democratic Officer (LD.5718/26....) 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 26 February 2024 and 21 March 2024

Appeal Decisions

5 Hillcrest Road Crosby Liverpool L23 9XS

Reference: EN/2023/00275 (APP/M4320/C/23/3327621)

Appeal against without planning permission, the erection of a single storey extension to the rear of the dwellinghouse.

Procedure: Written Representations

Start Date: 19/10/2023

Decision: Quashed

Decision Date: 18/03/2024

12A Carlisle Road Birkdale Southport PR8 4DJ

Reference: DC/2023/00700 (APP/M4320/W/23/3332483)

Change of use from dwellinghouse to children's home, to provide care for up to 3 No. children, with the erection of a single storey and dormer extension to the rear.

Procedure: Written Representations

Start Date: 24/01/2024

Decision: Withdrawn

Decision Date: 14/03/2024

79 Scarisbrick New Road Southport PR8 6LJ

Reference: EN/2022/00597 (APP/M4320/C/23/3315793)

Appeal against unauthorised change of use of a residential dwellinghouse and outbuilding to commercial offices and for the storage and distribution of goods associated with the business operating from the property.

Procedure: Written Representations

Start Date: 14/02/2023

Decision: Allowed

Decision Date: 12/03/2024

38 Blundell Road Hightown Liverpool L38 9EQ

Reference: EN/2023/00135 (APP/M4320/C/23/3326344)

Appeal against without planning permission, the installation of seven (7) no. air conditioning units to the side of the dwellinghouse.

Procedure: Written Representations

Start Date: 04/10/2023

Decision: Dismissed

Decision Date: 12/03/2024

Land To The Rear Of 10 Queens Road Southport PR9 9HN

Reference: DC/2022/01349 (APP/M4320/W/23/3326362)

Erection of 3 number dwellings with the construction of a new vehicular access fronting onto Hawkshead Street with associated parking and upgrading of 2 coach houses

Procedure: Written Representations

Start Date: 23/11/2023

Decision: Dismissed

Decision Date: 04/03/2024

102 The Serpentine North Blundellsands L23 6TJ

Reference: DC/2023/01326 (APP/M4320/X/23/3332059)

Procedure: Written Representations

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Appeals received and decisions made between 26 February 2024 and 21 March 2024

Certificate of lawfulness for the proposed erection of a single storey garden room to the rear of the dwellinghouse.

Start Date: 02/01/2024
Decision: Dismissed
Decision Date: 04/03/2024

New Appeals

65 Scarisbrick New Road Southport PR8 6LF

Reference: DC/2023/01092 (APP/M4320/W/23/3335615)

Creation of a new driveway, vehicular access to Curzon Road, a new external door and reconfiguration of fire escape.

Procedure: Written Representations
Start Date: 27/02/2024
Decision:
Decision Date:

Proposed Telecommunications Site Slaidburn Crescent Southport

Reference: DC/2023/01727 (APP/M4320/W/24/3336617)

Prior notification procedure for the erection of 1 No. 20m monopole with 6 No. apertures mounted at 18.65m, 4 No. 600mm dishes at 14.65m, the installation of 5 No. cabinets and ancillary apparatus.

Procedure: Written Representations
Start Date: 14/03/2024
Decision:
Decision Date:

90 Gores Lane Formby Liverpool L37 7DF

Reference: DC/2021/01383 (APP/M4320/W/23/3332119)

Erection of one padel court with floodlights (Alternative to DC/2021/00304 withdrawn 27/04/21).

Procedure: Written Representations
Start Date: 13/03/2024
Decision:
Decision Date:

Land At The Junction Of Derby Road And Strand Road Bootle Liverpool L20 8EE

Reference: DC/2023/01407 (APP/M4320/Z/24/3337440)

Advertising consent to display a freestanding internally illuminated 48 sheet digital LED advertisement display sign to replace the existing sign.

Procedure: Householder Appeal
Start Date: 07/03/2024
Decision:
Decision Date:

27 Scarisbrick Street Southport PR9 0TU

Reference: DC/2023/01726 (APP/M4320/X/24/3339953)

Certificate of lawfulness for the continuation of use as a 6 bed HMO

Procedure: Written Representations
Start Date: 14/03/2024
Decision:
Decision Date:

Appeal Decision

Site visit made on 19 February 2024

by **A Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 March 2024

Appeal Ref: APP/M4320/C/23/3327621 **5 Hillcrest Road, Crosby, Liverpool L23 9XS**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Adam Ramsey against an enforcement notice issued by The Sefton Metropolitan Borough Council.
- The enforcement notice was issued on 13 July 2023.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey extension to the rear of the dwellinghouse, in the approximate position shown cross-hatched on the attached plan.
- The requirements of the notice are: You must demolish the single storey rear extension and remove all materials arising as a result of the demolition works.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.

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

Preliminary Matter

1. The issue date on the enforcement notice (the notice) is 13 July 2023. However, notwithstanding the ground (e) appeal, the notice was served on 6 July 2023. Therefore, the issue date on the notice is clearly incorrect. As there is no statutory requirement to include the date the notice was issued, I will delete the date from the notice. The parties have been given the opportunity to comment on this and have not raised any objection.
2. Since the appeal was submitted, a revised version of the National Planning Policy Framework (the Framework) has been published and this is a material consideration which should be taken into account from the date of its publication. I have therefore determined the appeal in light of the revised Framework. As there is no change in the revised Framework relevant to the appeal, it has not been necessary to seek comments from the parties on the revised version.

The ground (e) appeal

3. An appeal on ground (e) is whether copies of the notice were served as required by section 172 of the Town and Country Planning Act 1990 Act (the Act). Section 172(2) states '*A copy of an enforcement notice shall be served— (a) on the owner and on the occupier of the land to which it relates; and (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice*'.

Agenda Item 6

Appeal Decision APP/M4320/C/23/3327621

4. The appellant contends that the notice was not served at the appellant's place of residence at the time and was left with someone who was not authorised to accept service on their behalf.
5. Section 329(1)(b) of the Act states that any notice or other document required or authorised to be served or given under this Act may be served or given...by leaving it at the usual or last known place of abode of that person or, in a case where an address for service has been given by that person, at that address.
6. The Council carried out a land registry search prior to the notice being issued, which showed the appellant as being the owner of the appeal property. However, this does not prove it was their place of abode or an address for service. Nevertheless, the Council confirms the application form for planning application reference DC/2023/00244 had 5 Hillcrest Road as the appellant's address.
7. The appellant contends they did not become aware of the notice until a later date, after it was issued. However, the Council disputes this, stating the appellant was informed via telephone on the morning of 6 July 2023, prior to the copies of the notice being served at 5 Hillcrest Road. The appellant did not advise the Council that there was an alternative address for service. Moreover, the Council also confirm that during the telephone conversation with the appellant later that day they confirmed they had received the copies of the notice. A copy of the notice was also emailed to the appellant on the same day.
8. Given the above, the Council could have done more to confirm the correct address on which to serve the notice. However, the appellant had sufficient opportunity to request it be served at a different address prior to copies of the notice being served. The appellant had used the address of 5 Hillcrest Road on the planning application form as their address and the Council had sent previous correspondence to there. Therefore, on this basis, I consider the Council fulfilled the statutory requirements for the service of the notice.
9. Even if the Council did not correctly serve the notice, section 176(5) of the Act states that 'Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.' The appellant clearly received a copy of the notice to have made this appeal. Consequently, they have not been prejudiced by a copy of the notice not being served at their correct home address.
10. The ground (e) appeal therefore fails.

The ground (a) appeal and the deemed planning application

Main issue

11. The main issue is the effect of the development on the living conditions of the occupants of 3 Hillcrest Road, with regard to outlook and daylight.

Reasons

12. The appeal property is a two-storey, semi-detached dwelling. The single-storey extension the subject of this appeal is located on the rear elevation of the dwelling. The rear garden boundary treatment with the adjoining property, 3 Hillcrest Road, is a close boarded timber fence with high, evergreen hedging along part of the boundary.
13. The Sefton Council House Extensions Supplementary Planning Document 2023 (SPD) states that the 45 degree guideline will establish whether the single-storey extension will have a significant effect on neighbouring properties, with regard to outlook. If the extension breaks the 45 degree line by more than 3m then the extension will be considered unacceptable unless it can be demonstrated that the proposal will not result in unacceptable harm to residential amenity. Examples of mitigating factors include the width of the window on the neighbouring property (for example large patio doors which span the entire rear elevation).
14. No 3 has French doors with side lights either side in the rear elevation that serve a habitable room, within proximity of the boundary fence. There is no evidence before me of any other windows serving this room. The extension projects approximately 4.7m beyond the ground floor rear elevation of No 3, which itself projects approximately 0.7m beyond the original rear elevation of the appeal property. Taking the 45 degree measurement from these French doors, the extension breaches the guide.
15. The appellant has provided a drawing¹ indicating that approximately 1.6m of the extension would be in breach of the 45 degree guide. However, the drawing indicates the extension projecting approximately 5.4m from the rear elevation of no 3. This does not appear to factor in the rear elevation of No 3 projecting approximately 0.7m from the rear elevation of the appeal property. If it did then it would indicate the breach being reduced by approximately 0.7m, to less than 1m.
16. The examples of mitigating factors for breaching the 45 degree guide in the SPD is not a closed list. Other factors can be considered. The French doors with side lights do not span the entire length of the rear elevation of No 3. Nevertheless, they span a large part of the elevation, providing a significant outlook from the habitable room they serve. The extension would clearly be visible from the room and, due to it rising above the boundary fence and projecting along the boundary, it would reduce the outlook to some extent. However, the size of the fenestration serving the room would ensure the outlook is not reduced to such an extent that it would materially harm the living conditions of the room by creating an undue sense of enclosure, even taking into account the existing outrigger on No 3.
17. Moreover, the extension replaces a conservatory that was set on the boundary as opposed to the extension, which is set back slightly from it. The conservatory did not project out as far as the extension and its flank wall was not as high. However, the set back position of the extension from the boundary and the fact it is only slightly longer in depth overall results in it only having a moderately greater effect on the outlook of No 3.

¹ Dwg no. 23-079-120 revision B

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18. Overall, although the extension breaches the 45 degree guide, I am satisfied there are mitigating factors that result in it not having an unacceptable harmful effect on the outlook of No 3.
19. With regard to daylight, although the extension will have reduced the amount of daylight serving the habitable room, the French doors and sidelights provide a significant surface area to ensure adequate daylight serves the room. I do not find the loss of daylight to be so significant that it creates a gloomy residential environment that would materially affect the living conditions of its occupants.
20. I find therefore, the extension does not unacceptably harm the living conditions of the occupants of 3 Hillcrest Road, with regard to outlook and daylight. As such, it complies with Policy HC4 of the Sefton Local Plan 2017, which seeks to ensure development causes no significant reduction in the living conditions of the occupiers of neighbouring properties. It also complies with the SPD.

Conditions

21. I have not been presented with any suggested conditions to impose, in the event I allow the ground (a) appeal. Given the development has already been carried out and I find it causes no unacceptable harm, I am satisfied that conditions are not necessary.

Conclusion on the ground (a) appeal and the deemed planning application

22. For the reasons given above, having considered the development plan as a whole and all material considerations, the ground (a) appeal and the deemed planning application should succeed and planning permission will be granted for the development described in the notice. The enforcement notice will be quashed.
23. Given the success on the ground (a) appeal there is no need to go on to consider the ground (f) and (g) appeals.

Formal Decision

24. It is directed that the enforcement notice is corrected by the deletion of "Dated 13 July 2023".
25. Subject to the correction, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the construction of a single-storey rear extension at 5 Hillcrest Road, Crosby, Liverpool L23 9XS as shown on the plan attached to the notice.

A Walker

INSPECTOR



Appeal Decision

Site Visit made on 27 February 2024

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 12th March 2024

Appeal Ref: APP/M4320/C/23/3315793

79 Scarisbrick New Road, Southport, PR8 6LJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Vincent Luke, ife - audio against an enforcement notice issued by Sefton Metropolitan Borough Council (the LPA).
- The enforcement notice was issued on 10 January 2023.
- The breach of planning control as alleged in the notice is – unauthorised change of use of a residential dwellinghouse and outbuilding to commercial offices and for the storage and distribution of goods associated with the business operating from the property.
- The requirements of the notice are:
 1. Cease the use of the residential dwellinghouse and outbuilding as commercial offices and for the storage and distribution of goods associated with the business operating from the property.
 2. Only use the dwellinghouse and outbuilding for residential purposes.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

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

Costs

1. An application for costs was made by Mr Vincent Luke, ife – audio, against Sefton Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matters

2. The LPA's statement refers to an appeal on ground (e) of S174(2) of the Act. No ground (e) appeal has been made, however. Nonetheless, the appellant has made submissions regarding defects in the notice in respect of the list of persons served. Those submissions go to the validity of the notice rather than a ground (e) appeal. I have dealt with them accordingly.

The Enforcement Notice

3. An enforcement notice is a nullity if it is defective on its face, usually by missing some vital element that a notice should include under S173 of the Act. It is a fundamental error in the notice which renders it a nullity as there is, in effect, no enforcement notice as such.

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4. S173 of the Act sets out the content that an enforcement notice shall include. S173(10) states that a notice shall specify such additional matters as may be prescribed. Regulations may require every copy of an enforcement notice served under S172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under S174 of the Act.
5. Regulation 4 of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 (ENAR) sets out those additional matters. Regulation 5 sets out that every enforcement notice served under S172(2) of the Act shall be accompanied by an explanatory note.
6. ENAR5(a) says the note shall include a copy or summary of S171A, S171B and S172-S177 of the Act. ENAR5(a)(iii) states the note shall include the grounds under S174 on which an appeal can be brought. ENAR5(b) states the notice shall include the requirement on appeal to give the Secretary of State a statement in writing specifying the grounds on which a person is appealing and the facts on which they rely. ENAR5(c) states that a notice shall include a list of names and addresses of the persons on whom a copy of the enforcement notice has been served.
7. The enforcement notice here contains some form of an explanatory note, including that there is a right of appeal, that it shall be made to the Secretary of State, the date by which it shall be made and the fee.
8. However, the notice does not contain a copy or summary of the relevant sections of the Act specified by ENAR5(a) nor does it contain the grounds of appeal under S174. Likewise, it does not contain a note explaining the need to provide a written statement to the Secretary of State on appeal in accordance with ENAR5(b). Finally, there is no list of the names and addresses of those on who the enforcement notice was served.
9. The notice is thus flawed. Nonetheless, I do not consider the omission of the requirements of ENAR 5(a), ENAR 5(a)(iii), ENAR 5(b) and ENAR 5(c) to be a fundamental error which renders the notice null. Nor is it flawed sufficient to render the notice invalid. Ultimately, an appeal has been validly made and the appellant has not thus suffered injustice or prejudice by the omission of the information. Moreover, the LPA has provided the list of persons on which the notice was served which was simply omitted from the notice. Since an appeal has been made, there is no need to correct the notice to include the relevant parts of the explanatory note.
10. The appellant also argues that the notice is defective because it is said planning permission has previously been granted for the alleged use of the outbuilding. However, such a point does not go to the validity of the notice. Rather, it is an argument that what is alleged to constitute a breach of planning control, is not a breach of planning control. Whilst ground (c) was not selected on the appeal form, the appellant's submissions on this matter effectively pertain to an appeal on ground (c) and I will deal with them accordingly.
11. There are two further defects in the notice which the parties have not identified. Firstly, the heading of the notice states it relates to operational development. However, the alleged breach is a material change of use. It is clear from the four corners of the notice that it is directed against a material change of use. I can therefore correct the notice to replace the words in the heading without injustice to the appellant or the LPA.

12. Secondly, the notice is directed against a change of use. However, it is a material change of use which is defined as development in the Act. The alleged breach should refer to it as such to reflect the terminology in statute. I can correct the notice to insert the word "material" without injustice to the appellant or the LPA.

The appeal on ground (c)

13. An appeal on ground (c) is made on the basis that those matters stated in the notice as constituting a breach of planning control, do not constitute a breach of planning control.
14. The appellant submits that the alleged use of the outbuilding does not constitute a breach of planning control, since planning permission was granted for it in 2021¹. The 2021 permission granted approval for the erection of a detached workshop to the rear of the dwellinghouse, following the demolition of existing workshop. The planning permission does not specify the use of the workshop, either expressly or by condition. The LPA's statement indicates that the previous workshop was demolished. The notice is directed against the use of the new detached workshop for which planning permission was granted.
15. The LPA argue, however, that, at the time the planning permission was granted, the Land was a single planning unit in residential use and thus, the planning permission was granted for a detached workshop which is incidental to the enjoyment of the dwellinghouse.
16. The appellant argues that, if the planning permission was for a building incidental to the primary residential use of the planning unit, then it would have stated so. It is said that there is a long history of commercial activity on the footprint of the former workshop. The LPA indicates that a previous workshop existed for which a lawful development certificate was granted for the manufacture of garden and household furniture in 1996.
17. For the 2021 permission to have granted the workshop for commercial use, then that part of the Land would have had to have been in lawful commercial use, either as a separate planning unit to the dwelling, or within a single planning unit put to a mixed use comprising residential and commercial.
18. However, beyond the aforementioned statements from the appellant and the LPA, no further evidence of the historic use of this part of the Land is offered by the parties. The evidence is thus not sufficiently precise or unambiguous to determine, on the balance of probabilities, whether the 2021 permission granted planning permission for the erection of a workshop with lawful commercial use as opposed to residential use.
19. In any event, even if the 2021 permission was granted for a commercial workshop in accordance with the previous lawful use for the manufacture of furniture, that could be materially different from the alleged use of the workshop as a commercial office with associated storage and distribution.
20. Ultimately, the onus is on the appellant to prove their case, on the balance of probabilities. In this instance, the evidence is not sufficiently precise or unambiguous to conclude that the alleged material change of use of the

¹ LPA Ref: DC/2022/01587

outbuilding to a use for commercial offices and storage and distribution of goods does not amount to a breach of planning control.

21. The appeal on ground (c) therefore fails.

The appeal on ground (a)

22. An appeal on ground (a) is brought on the grounds that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. Where an appeal is brought on ground (a), an application for planning permission is deemed to have been made. Planning permission may only be granted for the matters stated in the alleged breach, in whole or in part.

Main Issue

23. The main issue is the effect of the material change of use to offices and storage and distribution on the living conditions of neighbouring occupiers with particular regard to noise.

Reasons

24. The Land comprises a detached building between two detached properties in residential use, 77 and 81 Scarisbrick Road. The adjacent properties contain front and rear gardens which adjoin those of the Land.

25. The LPA's reason for issuing the notice is that the use of the Land as an office would give rise to unacceptable impacts on the living conditions of the occupiers of the neighbouring properties. The notice was issued following the refusal on planning permission on 5 December 2022 for the change of use of the dwellinghouse and outbuilding to an office². At the time the notice was issued and consideration of the previous application, no noise assessment report was before the LPA. A noise survey and additional information in relation to the outbuilding and parking provision was subsequently submitted in support of this appeal.

26. In response the LPA states that the noise assessment uses inappropriate criteria, standards and methodology on which to base its conclusion that the development does not cause noise pollution.

27. However, the LPA does state that, subject to conditions restricting the use of the Land to an office use within Class E(g)(i) and (ii) of Part A of Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 and restricting the hours the use can operate to between 0800 and 1830 Mondays to Fridays, the development would be acceptable. Both on the evidence before me and from what I was able to observe on my site visit, I see no reason to disagree.

28. Ultimately, the conditions would ensure that the use would solely be for the office and storage use specified in the breach and could not be changed under S55(2)(f) to another potentially more harmful use in Class E of the UCO. They would also ensure that adjacent residents would not be subject to noise from the property on weekends, early mornings or an evening, when occupiers would have reasonable expectations for quieter background noise levels.

² LPA Ref: DC/2022/01587

29. I conclude, therefore, that the development will not have a harmful effect on the living conditions of neighbouring occupiers with particular regard to noise. Consequently, the development complies with Policy HC3 of the Local Plan for Sefton April 2017 (the LP) which states that non-residential development will be permitted in Primarily Residential Areas where it will not have an unacceptable impact on the living conditions of neighbouring properties. It will also comply with Policy EQ4 of the LP which states that development should demonstrate that risks of adverse impacts in terms of noise have been evaluated and appropriate measures taken to minimise those impacts.

Conditions

30. As set out above, the LPA has suggested a condition is imposed to restrict the hours of use of the property between 0800 and 1830 Mondays to Fridays. I agree such a condition is necessary to prevent harm to the living conditions of neighbouring residents. Likewise, a condition restricting the use of the Land to a use within Class E(g)(i) and (ii) is necessary to prevent harmful noise impacts on neighbouring residents.

31. The appellant also submits that a condition restricting noise levels to the rear of the building to 55db is necessary. However, the submitted noise assessment indicates that noise levels recorded to the rear at no time exceeded recommended thresholds to maintain living conditions of neighbours. Moreover, the LPA indicate that such a restriction would be unnecessary as the 55db level would potentially be harmful. In any event, the hours and use restrictions imposed would prevent harmful noise levels on neighbouring residents. On that basis, a condition restricting noise levels would not be necessary.

Conclusions

32. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the use as described in the notice as corrected.

33. The appeal on ground (f) does not fall to be considered.

Formal Decision

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

- deleting the words, "operational development" from the header of the notice and substituting them with the words, "material change of use"; and,
- inserting the word, "material" between the words, "unauthorised" and "change", in section 3 of the notice.

35. Subject to the corrections, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under S177(5) of the 1990 Act as amended for the development already carried out, namely the material change of use of a residential dwellinghouse and outbuilding to commercial offices and for the storage and distribution of goods associated with the business operating from the property at 79 Scarisbrick New Road, Southport, PR8 6LJ as shown on the plan attached to the notice and subject to the following conditions:

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- 1) The use hereby permitted shall only take place between the following hours: 0800 to 1830 on Mondays to Fridays.
- 2) The premises shall be used for Class E(g)(i) and Class E(g)(ii) use only and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification)).

J Whitfield

INSPECTOR



Appeal Decisions

Site visit made on 19 February 2024

by **A Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 March 2024

Appeal A Ref: APP/M4320/C/23/3326344

38 Blundell Road, Hightown, Liverpool L38 9EQ

- The appeal is made by Mr Matt Agrimi against an enforcement notice issued by The Sefton Metropolitan Borough Council.
- The enforcement notice was issued on 4 July 2023.
- The breach of planning control as alleged in the notice is without planning permission, the installation of seven (7) no. air conditioning units to the side of the dwellinghouse.
- The requirements of the notice are: You must remove the seven (7) no. air conditioning units to the side of the dwellinghouse as shown cross hatched on the attached plan.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B Ref: APP/M4320/C/23/3326345

38 Blundell Road, Hightown, Liverpool L38 9EQ

- The appeal is made by Mrs Stephanie Amanda Agrimi against an enforcement notice issued by The Sefton Metropolitan Borough Council.
- The enforcement notice was issued on 4 July 2023.
- The breach of planning control as alleged in the notice is without planning permission, the installation of seven (7) no. air conditioning units to the side of the dwellinghouse.
- The requirements of the notice are: You must remove the seven (7) no. air conditioning units to the side of the dwellinghouse as shown cross hatched on the attached plan.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matter

1. Since the appeals were submitted, a revised version of the National Planning Policy Framework (the Framework) has been published and this is a material consideration which should be taken into account from the date of its publication. I have therefore determined the appeals in light of the revised Framework. As there is no change in the revised Framework relevant to the appeals, it has not been necessary to seek comments from the parties on the revised version.

The ground (a) appeals and the deemed planning application

Main issue

2. The main issue is the effect of the development on the living conditions of the occupants of the neighbouring residential properties, in particular 36 Blundell Road, with regard to noise.

Reasons

3. The air conditioning units are situated adjacent to the boundary timber fence with 36 Blundell Road. Although No 36 is set back from the boundary fence, it has several windows in the elevation facing it, which serve habitable rooms.
4. At the time of my site visit, none of the air conditioning units appeared to be in active use. Although the Council has provided me with details of the make and model of the units (5 x Daikin RXM 35R9 units and 2 Daikin RXM60R units) there is no evidence before me of how much sound the units generate. The Council confirm their Environmental Health team reviewed a noise report submitted with the planning application for the units¹ and found there to be a number of inadequacies and shortcomings with the report such that it failed to demonstrate the units would not cause unacceptable harm to neighbouring residents. Although I have not been presented with this noise report, the appellants do not dispute the Environmental Health team's findings.
5. Given the number of units, the fact they are clustered together and their proximity to No 36, it is reasonable to conclude that they would generate a level of noise that would be discernible to the occupants of No 36. The noise generated would likely be particularly discernible at night and during the summer months when the units are used more frequently and the neighbouring occupants may have their windows open. Such noise could unduly disrupt their sleep during the night.
6. The appellants state they are designing an acoustic enclosure to go around the units. However, there is no evidence of such an enclosure before me to consider whether or not it would adequately mitigate any unacceptable noise generated by the air conditioning units.
7. Although not advanced by the appellant, I have nevertheless considered the imposition of a condition requiring an enclosure to be installed to reduce noise. However, in the absence of any evidence regarding the level of noise generated by the units, or a possible enclosure design, I am not sufficiently satisfied that such an enclosure would adequately mitigate the harm.
8. I find therefore, based on the evidence before me, it has not been sufficiently demonstrated that the air conditioning units would not have an unacceptably harmful effect on the living conditions of the occupants of neighbouring residential properties, particularly No 36, with regard to noise. As such, the development is contrary to Policies HC3 and EQ4 of the Sefton Council Local Plan 2017, which, amongst other matters, seek to ensure development protects the living conditions of residents from significant noise impacts. It would also fail to comply with paragraph 135 (f) of the Framework, which seeks to promote a high standard of amenity for existing users.

¹ Council reference DC/2022/02397

Other Matters

9. The appellants contend that the air conditioning units were only noted by the Council officers during a site visit for something else and that they assume no neighbours have complained about the noise. Even if that is the case, I have considered the effect of the development on existing and future occupants of neighbouring properties.

Conclusion on the ground (a) appeals and the deemed planning application

10. For the reasons given above, having considered the development plan as a whole and all material considerations, I conclude that planning permission should not be granted in response to either the ground (a) appeals against the enforcement notice and the deemed application. Therefore, the ground (a) appeals fail.

The ground (g) appeals

11. This ground of appeal is that the period for compliance is unreasonably short. The appellants argue that two months is not sufficient time to arrange for an engineer to remove the air conditioning units as they are too busy installing them during the summer months. However, whilst that may have been the case when the enforcement notice (the notice) was issued in July, this argument holds very limited weight now. As it is no longer summer, I consider two months to be a reasonable period of time to comply with the requirements of the notice.
12. The ground (g) appeal fails.

Conclusion

13. The appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

A Walker

INSPECTOR

Appeal Decision

Site visit made on 15 February 2024

by J D Westbrook BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4TH March 2024

Appeal Ref: APP/M4320/W/23/3326362

Land To The Rear Of 10 Queens Road, Southport, PR9 9HN

- 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 Simon Levene against the decision of Sefton Metropolitan Borough council.
 - The application Ref DC/2022/01349, dated 30 June 2022, was refused by notice dated 23 January 2023.
 - The development proposed is the construction of three dwellings, and the upgrading of two coach houses on land to the rear of 10 Queens Road.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has made reference to a Supplementary Planning Document on New Housing. This has apparently been revoked. There is also reference to a more recent Supplementary Planning Document on New Build Homes, and I have referred to this document in my consideration.
3. The submitted 'Existing and Proposed Site Plan' shows the outline of a car port for three vehicles near the entrance to the site. There would not appear to be any plans to show the elevations of this building.

Main Issues

4. The main issues in this case are the effects of the proposed development on:
 - The safety and security of the current and future occupiers of the development by way of surveillance, access and movement, and
 - The living conditions and residential amenities of the occupiers of the proposed new dwellings by way of amenity space, outlook and privacy.

Reasons

5. The appeal site includes an unused parcel of land to the rear of Nos 1-7 Hawkshead Street, with access from a pathway to the side of No 10b Queen Street. The appeal site also includes the existing dwellings at Nos 10a and 10b Queen Street, and the existing access and parking areas associated with those houses. Vehicular and pedestrian access is obtained from Hawkshead Street.

The proposal is for the construction of 3 dwellings on the portion of unused land, minor alterations to Nos 10a and 10b, and the demolition of a number of small buildings currently around those houses.

6. Policy EQ2 of the Council's Local Plan (LP) indicates that development will only be permitted where the proposal responds positively to the character, local distinctiveness and form of its surroundings. In addition it should ensure safe and easy movement into, out of, and within the site for everyone; protect the amenity of those within and adjacent to the site; and ensure the safety and security of those within through natural surveillance. Policy EQ3 indicates that new development should ensure that the needs of all residents and users of buildings, including those with limited mobility, are met.
7. The Council's Supplementary Planning Document on New Build Homes (SPD) indicates that, amongst other things, new dwellings should avoid overshadowing, being over-dominant, and causing a poor outlook for neighbouring properties; provide a 12 metre interface distance between a ground-floor habitable room window and a two-storey blank wall (or a two-storey wall that only includes non-habitable room windows); provide a minimum of 50 sq metres of amenity space per unit, generally in the form of a private garden at the rear of the property. It also indicates that backland development may be acceptable but, if so, should respect the living conditions of future residents in the new properties.
8. The Council contends that the proposal would fail to ensure the needs of all residents and users of the dwellings, including those with limited mobility, are met; would not provide safe and easy movement into, out of and within the site for everyone; and would fail to provide safety and security for those within and outside of the development through natural surveillance. In addition, the proposal would fail to provide an adequate level of private amenity space for future occupiers.
9. The appellants contend that security measures would be put in place, including video cameras, to ensure safe access; that a minimum of 50 sq metres of amenity space would be provided for each unit; and that the proposal would not result in any of the harm to residential amenities raised by neighbouring objectors.

Safety and security by way of surveillance, access and movement

10. The development would involve the upgrading and use of an existing passageway to the side of No 10b to provide access to the three new dwellings proposed on the unused part of the site. Beyond the passageway, there would be a path running along the side of the three dwellings providing access to each property. The passageway would have a security door within a new front entrance and the appellants indicate that further security would be provided by video cameras and lighting of the passageway and access path.
11. The Council contends that the security matters could not be enforced by way of condition or by the developers. The appellant has noted the existence of an appeal decision from 2014 that relates to conversion of a four-storey House in Multiple Occupation (HMO) into two separate HMOs. In her decision letter, the inspector indicated that measures, including video entry, could be secured by condition. However, in that case, it would appear that the developer would have retained control over the property, whereas in this case, it would appear

that the developer may not retain control of the dwellings and I have concerns that such a condition may not, therefore, be enforceable.

12. The passageway to the side of No 10b would be long, narrow and covered. It would also provide access to the rear of No 10b, and would therefore be used in conjunction with 4 dwellings. Despite the existence of lighting, I do not consider that it would be an attractive entry point to the houses, although a locked entrance would provide some degree of safety to the occupants. The path alongside the new houses would be around 2 metres wide and would also be lit. By virtue of the amount of built structure associated with the houses within a constrained space, there would be some parts of the pathway that would not be overlooked by habitable room windows. However, given that there would be only three houses and most of the path would be visible, I do not consider that surveillance of this path would necessarily be inadequate.
13. I have significant concerns regarding the proposed parking provision for cars and cycles. The proposal would involve the demolition of three outbuildings in order to create car parking spaces, cycle parking provision, and a footpath from the road access to the entrance passageway. There would be two car parking spaces, provided in tandem formation, for each of Nos 10a and 10b to the northern side of the houses. There would also be three further spaces provided for occupants of the new houses in a car port on the site of an existing garage/outbuilding. Finally, there would be 8 cycle parking racks sited in the rear portion of the car port behind the car parking spaces.
14. From the submitted 'Existing and Proposed Site Plan', which shows selected large vehicle tracking movements, it would appear that it would not be possible for certain cars to manoeuvre into or out of car parking bays within the spaces available. In addition, the cycle parking spaces would not be readily accessible if cars were to be parked in the bays in front of them.
15. The appellant has subsequently provided further diagrams showing entry and egress swept path analyses for each car parking space. I note that certain manoeuvres would seemingly require a car to barely miss, or effectively touch, hard surfaces or other parked cars in order to get into or out of a space (eg those from 10a and 10b). Moreover, from the positions of the cars shown, it would appear that in certain spaces (eg P1 and P3) they would need to change position within the parking space between entry and egress, in one case potentially using space taken up by an electric charging point. Such complex manoeuvring would highly likely lead to the rear parking spaces at 10a and 10b being unsuitable or unattractive, while even the relatively more usable spaces would experience significant difficulties. Finally, I note that the large car dimensions used for the analysis would still be narrower than many modern SUV vehicles, which would therefore render allocated spaces unusable.
16. The overall impression gained from the plans and diagrams submitted with the planning application and with the appeal statement, is that the parking area is too constricted and cramped to allow for convenient and safe manoeuvring. Even if cars were to attempt to use allocated spaces, many of the turning movements would be in very close proximity to the fronts of the houses, especially No 10b, raising potential noise and disturbance issues. In addition, although there would be a separate footpath to the side of the vehicle access and parking areas, pedestrian movements could still be compromised by the likelihood of vehicles transgressing onto the footpath in error, and also by

vehicular movements outside of, and in close proximity to, the entrances to Nos 10a and 10b.

17. In conclusion on this issue, I find that the proposal would have a harmful impact with regard to the safety and security of the current and future occupiers of the development by way of access and movement, although any negative impacts relating to surveillance issues would be, at most, minor. In consequence, the proposal would conflict with policy EQ2 of the LP.

Living conditions and residential amenity

18. Each of the three new dwellings proposed would be constructed in a U-shape, with a two-storey element at the northern end of the plot, a single-storey element at the southern end, and a linking single-storey corridor along the western side. They would effectively be link-detached houses. Plots 2 and 3 would have an amenity space of around 50 sq metres, while Plot 1 would have an amenity space of around 56 sq metres. The overall site for the three houses would have the nature of backland, being located between existing residential properties immediately to both the north-east and south-west.
19. Whilst each house would have at least the minimum amount of amenity space required by the SPD, I have concerns regarding the quality of that space. Each amenity area would face north-east and would have two-storey buildings at either end. The distance between the ground-floor habitable room windows in the two-storey elements of the houses on Plots 2 and 3 and the rear of the two-storey element of the house immediately to the south, would be significantly less than the 12 metre interface requirement. On this basis, with the exception of Plot 1, there would be two-storey buildings to the south-east of each property and in close proximity, which would result in an oppressive outlook and potentially a degree of overshadowing.
20. In addition, the two-storey element of the house on Plot 3 would appear to encroach to a small degree across the rear elevation of No 10b such that it would likely result in a degree of overshadowing to that neighbouring property, and adversely affect the outlook from the rear of the house and its garden.
21. I note that the distance between the first-floor habitable room windows in the proposed houses would also fail to meet the requirement in the SPD for a 10.5 metre interface with the rear gardens of neighbouring gardens. However, in this case, it would not affect those parts of the gardens close to the rear elevations of the neighbouring dwellings and would not, in my opinion, result in any significant harm to privacy.
22. The submitted plans show the boundary of the plots adjacent to the access pathway as comprising horizontal panels with gaps. This would slightly reduce the oppressive outlook from the amenity space that would otherwise result from a solid fourth side to the Plot. However, it also reduces privacy, albeit by only a small amount given the few likely passers-by. Nevertheless, the SPD indicates that the 50 sq metres requirement relates to provision in the form of a private garden at the rear of the property, which would not be the case here.
23. The appellant has made reference to the RIBA response to the Letwin report, "Places where People want to Live." This relates primarily to a context of much larger developments, but the appellant contends that certain principles are applicable to this case. I accept this point, but I also note that one of the

principles relates to enclosed private gardens which, amongst other things, optimise solar orientation and are productive gardens for growing. By virtue of the orientation and limited size and nature of the amenity spaces I do not consider that the proposal would be likely to comply with this particular principle.

24. In conclusion on this issue, I find that the orientation of the proposed houses and the effect of the design and siting of the houses on their plots would result in inadequate private amenity space for the occupiers of Plots 2 and 3, in qualitative terms if not quantity, with concomitant adverse effects on outlook and overshadowing. These effects would also apply to the relationship between the house on Plot 3 and the neighbouring No 10b. In general terms, and for the reasons outlined above, I consider that development would be cramped on the site, resulting in harm to the living conditions and residential amenities of the occupiers of the proposed houses by way of space, outlook and privacy. Moreover, as backland development, it would not respect the living conditions of future residents. On this basis, the proposal would conflict with Policy EQ2 of the LP and with guidance in the SPD.

Conclusion

25. I find that the proposal would have a harmful impact with regard to the safety and security of the current and future occupiers of the development by way of access and movement through the site, both with regard to pedestrian and vehicular movements. In addition, I find that the development would be cramped on the site, resulting in harm to the living conditions and residential amenities of the occupiers of the proposed houses by way of space, outlook and privacy. Accordingly, I dismiss the appeal.

J D Westbrook

INSPECTOR



Appeal Decision

Site visit made on 19 February 2024

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2023

Appeal Ref: APP/M4320/X/23/3332059

102 The Serpentine North, Blundellsands, Crosby, Liverpool L23 6TJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr P Finnegan against the decision of Sefton Metropolitan Borough Council.
 - The application ref DC/2023/01326, dated 27 July 2023, was refused by notice dated 23 October 2023.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is the erection of a single storey garden room to the rear of the dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of the proposed development as set out in the Council's Decision Notice as it is more concise than that set out in the application form.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

4. Planning permission was granted in October 2022¹ for various works to the appeal property. The permission was subject to a number of conditions. Condition 12 states 'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order with or without modification), no extensions shall be erected other than those expressly authorised by this permission and shown on the plans listed within Condition 2.'
5. The National Planning Policy Guidance (NPPG) states that when imposing conditions restricting the future use of permitted development, 'the scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015, so that it is clear exactly which rights have been limited

¹ Council Reference DC/2022/01269

or withdrawn.² I have no power to vary or remove condition 12 under this section 195 appeal. I can only determine whether or not the proposed development would contravene it.

6. Condition 12 does not specify which class of permitted development it restricts the use of; it simply states 'no extensions'. The Council contends that the reference to 'extensions' also includes outbuildings. On the face of it, and on its ordinary reading, it is reasonable to infer that 'no extensions' means extensions physically attached to the dwellinghouse. I have been referred to the case of *Warwick District Council v Secretary of State for Levelling Up, Housing And Communities* [2022] EWHC 2145 (Admin). However, this case focused on whether an outbuilding could be considered as an extension for the purposes of Green Belt policy. In the appeal before me, there is no consideration of such policy. Moreover, the judgement found that 'an extension can be detached from the building which it is an extension.' That does not mean an outbuilding is always to be considered an extension.
7. For the purposes of condition 12, if 'extensions' includes outbuildings, and by inference restricts permitted development under Schedule 2, Part 1, Class E of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO) then it fails to precisely define what development the condition seeks to restrict. If the condition did indeed restrict the use of Class E permitted development rights then this would be precisely defined as, at the very least, 'no extensions or outbuildings'. However, that is not what it says. Accordingly, I do not find that the proposed outbuilding would contravene condition 12.
8. Notwithstanding the above, Class E.1.(f) states that development is not permitted by Class E if the height of the eaves of the building would exceed 2.5 metres. The permitted development rights for householders: Technical Guidance 2019 states that for a flat roof, 'Eaves height is measured from the ground level at the base of the outside wall to the point where that wall would meet the upper surface of the flat roof - the overhang and the parapet wall should be ignored for the purposes of measurement.'³
9. The appellant confirms the outbuilding would have a flat roof and be at a height of 3m. Therefore, the eaves would exceed 2.5m and as such it would fail to comply with Class E.1.(f) and would not be permitted development.

Conclusion

10. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the erection of a pool annex ancillary to the existing dwelling is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act.

A Walker

INSPECTOR

² Paragraph: 017 Reference ID: 21a-017-20190723

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Planning Committee
Visiting Panel Schedule

Date Monday 8th April 2024
Start: 10:00 am at BOOTLE TOWN HALL

Agenda Item	Time	Application Details	Ward
5A	10:15	DC/2023/01911 Site Of Former Bootle High School Browns Lane, Netherton	St Oswald
4D	10:35	DC/2024/00004 9 Chesterfield Road, Crosby L23 9XL	Manor
4B	10:55	DC/2024/00147 18 Wills Avenue Maghull L31 0AX	Sudell
4C	11:05	DC/2024/00170 55 Kendal Drive Maghull L31 9AX	Sudell
4A	11:40	DC/2021/00924 Land Off Bankfield Lane Churchtown Southport	Meols

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